

15th April 1939

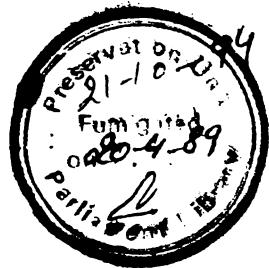
THE LEGISLATIVE ASSEMBLY DEBATES

(Official Report)

Volume IV, 1939

(30th March to 15th April, 1939)

NINTH SESSION OF THE FIFTH LEGISLATIVE ASSEMBLY, 1939



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LEGISLATIVE ASSEMBLY.

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Deputy President :

25 AUG. 1939

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LEGISLATIVE ASSEMBLY.

Saturday, 15th April, 1939.

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

STARRED QUESTIONS AND ANSWERS.

(a) ORAL ANSWERS.

CONDUCT OF A EUROPEAN MILITARY OFFICER AND HIS WIFE TOWARDS THAKUR KALYAN SINGH, AIDE-DE-CAMP TO HIS HIGHNESS THE MAHARAJA OF JODHPUR, WEARING A DHOTI, WHILE TRAVELLING IN THE FRONTIER MAIL.

1731. *Mr. T. S. Avinashilingam Chettiar: Will the Defence Secretary state :

- (a) whether he has received the judgment of court that he referred to in his answer to question No. 1412 on the 30th March, 1939; and
- (b) if so, what action have Government taken against the European military officer concerned?

Mr. C. M. G. Ogilvie: (a) Yes.

(b) I refer the Honourable Member to the information laid on the table on the 11th April, 1939, in reply to starred question No. 1412 asked by Mr. Brojendra Narayan Chaudhury on the 30th March, 1939.

Mr. T. S. Avinashilingam Chettiar: It is now the 15th April, and we have not got copies of the statement; will the Honourable Member read it over again?

Mr. C. M. G. Ogilvie: I am afraid, I have not got the statement laid on the table, but I have got the facts here, if the Honourable Member would like to hear them.

Mr. T. S. Avinashilingam Chettiar: Yes, I should like to hear them.

Mr. C. M. G. Ogilvie: The idea that there was a complaint against the gentleman wearing a *dhوتي* is entirely wrong. It was not a question of wearing a *dhوتي* at all; it was a question of undressing himself in public in a railway carriage in the presence of a lady and shielding himself, as far as that was possible, with a *dhوتي* which did not appear to the persons occupying the carriage to be sufficient. He refused to go into the toilet

room for the purpose when asked to do so, and the Magistrate in his judgment has said that:

While it would have been more decent on the part of Thakur Kalyan Singh to have undressed in the toilet room and thus respected the sentiments of his fellow passengers, his act of undressing in the compartment and covering himself with a *dhoti* cannot amount to an offence punishable under section 120 of the Railways Act, and I acquit him."

Mr. Brojendra Narayan Chaudhury: Will any compensation be paid to the Thakur Saheb for this unnecessary harassment?

Mr. C. M. G. Ogilvie: As far as the Defence Department is concerned, most certainly not.

Mr. Brojendra Narayan Chaudhury: May I know if the Defence Department will ask the complainant officer to pay compensation?

Mr. C. M. G. Ogilvie: Certainly not.

Mr. Badri Dutt Pande: May I know if they will object to short skirts worn by ladies?

Mr. C. M. G. Ogilvie: That is a hypothetical question.

Mr. S. Satyamurti: Do the Defence Department accept the position that it is open to their employees travelling on the railways to enforce what they consider ideas of decency against fellow passengers, instead of calling the police and the railway authorities?

Mr. C. M. G. Ogilvie: The officer concerned very properly informed the Guard and, in my opinion, had ample reason for so doing.

Mr. S. Satyamurti: Did the Guard interfere?

Mr. C. M. G. Ogilvie: The Guard was informed and ultimately the Railway Police were responsible for the case being instituted against this person.

Mr. S. Satyamurti: I am asking about the earlier event. Do the Defence Department accept the position that it is open to their employees to use force against fellow passengers on alleged grounds of decency, in order to eject them?

Mr. C. M. G. Ogilvie: No force of any kind was used and the passenger was not ejected. He was merely politely asked to undress himself in the toilet room.

Qazi Muhammad Ahmad Kazmi: Was any charge of undressing in the compartment specifically laid against that gentleman when the prosecution was launched and is there any definite finding by the court whether he was or was not really undressing himself?

Mr. C. M. G. Ogilvie: Yes; I have already answered this question fully.

Mr. Sri Prakasa: Is the Honourable Member aware that it is possible to change decently from *dhoti* to *dhoti* but not from trouser to trouser?

ALLEGATIONS AGAINST SOLDIERS STATIONED IN THE FEROZEPORE CANTONMENT.

1732. *Mr. T. S. Avinashilingam Chettiar: Will the Defence Secretary state :

- (a) whether there have been cases of the soldiers stationed in the Ferozepore Cantonment having gone out of their place and assaulted or molested the civilians in the last two months;
- (b) if so, what are the cases, and how many soldiers have been involved; and
- (c) what steps have Government taken in the matter?

Mr. C. M. G. Ogilvie: (a) and (b). There have been two cases in which British soldiers are alleged to have been concerned. I referred to one in my reply on the 11th April, 1939, to starred question No. 1599. In the second case two chowkidars living in a hut near Ferozepore Fort are said to have been assaulted.

(c) One case is *sub judice*, and the other in the hands of the police. No further steps are at present contemplated.

Mr. T. S. Avinashilingam Chettiar: Is it the position of the Defence Department that they ought not to take any disciplinary action against people who have been parties to this, unless they are convicted?

Mr. C. M. G. Ogilvie: I cannot possibly say what action they will take if or if not they are convicted. One case is *sub judice* and the other is being inquired into by the police. That is all that in the circumstances I can possibly say about this.

Mr. T. S. Avinashilingam Chettiar: Apart from law, do the Defence Department take disciplinary action in these matters?

Mr. C. M. G. Ogilvie: Yes, constantly.

Mr. T. S. Avinashilingam Chettiar: What action has been taken in these two cases?

Mr. C. M. G. Ogilvie: None. As I have already said twice, one case is *sub judice* and the other is in the hands of the police. We shall see what they do.

ALLEGATIONS AGAINST BRITISH ARMY OFFICERS TRAVELLING TO EUROPE IN S.S. "CONTE BIANCAMANO".

1733. *Mr. Mohan Lal Saksena: (a) Will the Defence Secretary be pleased to state whether the attention of Government has been drawn to the communication sent to the President of the Indian National Congress by certain Indians travelling to Europe by the S.S. "Conte Biancamano"?

of the Lloyd Triestino Line making complaints against the unruly and insulting behaviour of British Army officers and published in the *National Herald*, dated the 30th March, 1939?

(b) Have Government made any enquiries into the matter as to whether it is true that these officers forcibly stopped Indian music and used insulting and derogatory language towards Indian music and Indian travellers?

(c) What action, if any, have Government taken to put a stop to the repetition of such incidents?

Mr. C. M. G. Ogilvie: (a) Yes.

(b) and (c). I am making enquiries but the Honourable Member will no doubt realise that some time must elapse before these are completed.

LAND OWNED BY THE MILITARY DEPARTMENT IN BEHĀLA NEAR CALCUTTA.

1734. *Dr. Sir Ziauddin Ahmad: (a) Will the Defence Secretary please state whether the Military Department owned 27 acres of land in Behala (near Calcutta)?

(b) Was it offered for sale? If so, through whom?

(c) Did the Government of India try to sell it through the Local Government? If so, will Government be pleased to lay the correspondence on the table?

(d) Why did Government not sell the land but lease it out for 99 years at nine annas *per cotta per annum*?

(e) Is it a fact that the maximum rent prevailing in that locality is Rs. 9 *per cotta*?

(f) If the reply to part (d) above be in the affirmative, will Government please state who is responsible for the loss of money to the Central Government?

Mr. C. M. G. Ogilvie: (a) No.

(b)–(f). Do not arise.

DISABILITY PENSION TO MILITARY EMPLOYEES INVALIDED DURING THE GREAT WAR.

1735. *Mr. Muhammad Azhar Ali: Will the Defence Secretary please state if the intention of Government has been and is to honour (i) the recommendations of the Informal Committee on War Pensions, and (ii) the definition of the term 'attributable to military service' given in the Medical Regulations, 1925 edition as distinct from the one lately altered in other editions?

Mr. C. M. G. Ogilvie: (i) I refer the Honourable Member to India Army Order No. 560, dated the 25th September, 1933, a copy of which is in the Library.

(ii) There is no material change in the definition of the phrase "attributable to military service" since 1925.

Mr. Muhammad Azhar Ali: With regard to part (i) of the question, in honouring the recommendations will the department look seriously to the recommendations of the informal committee?

Mr. C. M. G. Ogilvie: The Army Order was based upon the recommendations of that committee. If the Honourable Member will see the Army Order he will see how far they have been followed.

DISABILITY PENSION TO MILITARY EMPLOYEES INVALIDED DURING THE GREAT WAR.

1736. *Mr. Muhammad Azhar Ali: Will the Defence Secretary please state the reasons as to why the unconditional family pensions, once granted for life, were lately stopped and then restored and the consequent arrears were given only for a limited period (disallowing arrears from eight to fifteen years) and not for the full period of suspension of such pensions?

Mr. C. M. G. Ogilvie: No pensions have been lately stopped. They are, moreover, never unconditional. I refer the Honourable Member to paragraph 248 of the Pension Regulations for the Army in India, a copy of which is in the Library of the House.

Cases for restoration of pensions are regulated in accordance with recommendation No. VII of the War Pensions Committee and the orders of Government thereon.

INCOME AND EXPENDITURE OF THE CURRENCY DEPARTMENT.

†1737. *Babu Baijnath Bajoria: Will the Honourable the Finance Member kindly state:

- (a) whether it is a fact that the profits to Government from currency have been lower since the Reserve Bank has taken control of its management than those that accrued when Government were themselves the currency authority; if so, what are the causes of such decrease in profits;
- (b) whether it is a fact that the expenses of management of the Currency Department have gone up from forty lakhs to one crore since the Reserve Bank has taken over the charge of management; if so, what are the reasons for such abnormal increase;
- (c) what advantages, if any, have resulted by this transfer of management of currency from Government to the Reserve Bank; and
- (d) what profits from currency to Government and the cost of management of Currency Department have been during each of the last five years?

The Honourable Mr. A. J. Raisman: (a), (b) and (c). I would invite the attention of the Honourable Member to my speech in the Council of State on the 28th March last.

(d) I would refer the Honourable Member to the Finance and Revenue Accounts and the annual reports of the Reserve Bank.

IMMIGRATION OF JEWISH DOCTORS INTO INDIA.

1738. *Mr. Kuladhar Ohaliha: (a) Will the Honourable the Home Member please state if his attention has been drawn to an article published in the *Hindusthan Standard* of Calcutta, dated the 21st March, 1939, under the heading "The Jew question in India" by Mr. Habibur Rahman?

(b) Is the Honourable Member aware that a medical delegation waited on the Congress President to represent that the immigration of Jewish doctors to India must be stopped and that they should not be naturalised in India?

(c) Is the Honourable Member aware that in Bombay Jewish doctors are daily gaining ground jeopardising the position of Indian doctors?

(d) Did the All-India Medical Conference protest against the invasion of Jewish doctors and ask the Central Government to stop the immigration?

(e) If so, are Government prepared to see that Jewish doctors are not allowed to practise in India to the detriment of the Indian medical interest?

The Honourable Sir Reginald Maxwell: (a) Yes.

(b) Government have no information.

(c) Such information as I have received does not bear out the Honourable Member's suggestion.

(d) and (e). I refer the Honourable Member to the reply given by Sir G. S. Bajpai to part (c) of Mr. Lalchand Navalrai's starred question No. 52 of the 4th February, 1939.

LEASE AND PURCHASE OF LAND IN KOHAT CANTONMENT.

1739. *Mr. Abdul Qaiyum: Will the Defence Secretary please state:

(a) whether Government have taken any land on lease close to Kohat Cantonment; if so, the area so leased, and the amount which is being paid per acre both the minimum and the maximum;

(b) whether Government are about to or propose to buy land near the Royal Air Force landing ground Kohat; and

(c) if so, whether Government are aware that this will involve great hardship to private owners, and whether Government have considered that the same cannot be avoided; if not, the reasons therefor?

Mr. C. M. G. Ogilvie: (a) The following lands near Kohat Cantonment are held on lease by Government:

(1) 13-14 acres hired for the Military Grass Farm Stock Yard on payment of an annual rent of Rs. 48-9-0 per acre.

(2) 17-23 acres which form part of the Royal Air Force Landing Ground, aerodrome and camp on a 99 years' lease from the 1st April 1929 on payment of an annual rent of Rs. 84-2-0 per acre, and

(3) 26-787 acres for the accommodation of No. 40 Animal Transport Company. This area is temporarily held on a yearly basis. The actual rent paid is not known.

(b) Proposals are under consideration which may involve the purchase of land near the Air Force Landing Ground at Kohat.

(c) The purchase of any land likely to involve hardship to private owners will, if possible, be avoided.

Mr. Abdul Qaiyum: I am thankful for the information, but I should like to ask about (c), whether it would not be possible to take the land on long lease instead of purchasing it?

Mr. C. M. G. Ogilvie: In consideration of that and all other matters connected with the inconvenience which may be caused to local owners, the whole of this case is still being held up and a decision has not yet been arrived at.

Mr. Abdul Qaiyum: May I know if the alternative of the land being taken on lease is also being considered by the Government?

Mr. C. M. G. Ogilvie: I cannot say whether that is being considered or not, but I am prepared to inquire.

LEASING OUT OF THE FOOTBALL GROUND BETWEEN THE PESHAWAR SADAR POLO GROUND AND THE DAIRY FARM.

1740. *Mr. Abdul Qaiyum: Will the Defence Secretary please state:

- (a) whether he has received a representation from the Vice-President, the Peshawar Cantonment Gymkhana Football Club, dated the 8th March, 1939, requesting that the football ground between the Peshawar Sadar polo ground and the dairy farm be leased to the said club;
- (b) whether he has considered the request and come to any decision; if so, the nature thereof;
- (c) whether this club had been formerly using this ground for twenty to twenty-five years; and
- (d) whether he is prepared to give this ground on lease to the said club on suitable terms?

Mr. C. M. G. Ogilvie: (a) Yes.

(b), (c) and (d). I am collecting the information and will lay it on the table in due course.

Mr. Abdul Qaiyum: May I know whether this ground was leased to a hockey club, while the football club has been asking the Government all along to lease this land to them?

Mr. C. M. G. Ogilvie: I understand that there is another club called the Frontier Hockey Club which is also an applicant for this land. Whether it has ever been leased to it or not I do not know.

Mr. Abdul Qaiyum: In view of the fact that this football club has used this ground for twenty to twenty-five years, will Government consider their claim also when the question of lease is being considered?

Mr. C. M. G. Ogilvie: Government will certainly consider their claims, yes.

BAN ON THE ENTRY OF CERTAIN NEWSPAPERS AND JOURNALS IN ARMY CIRCLES.

1741. *Qazi Muhammad Ahmad Kazmi: (a) Will the Defence Secretary be pleased to state whether the Army authorities ban the entry of newspapers and journals in Army circles, the policy of which is regarded by them as anti-loyalist?

(b) Are any lists maintained by the Army Department, and, if so, what is their nature, *viz.*:

(i) are they the lists of papers which are banned; or

(ii) are they the lists of papers which are allowed; or

(iii) do the lists contain the names of both?

(c) Are these lists ever revised, if so, who revises them?

(d) Have the military authorities received any representations in respect of their decisions in the matter of banning newspapers?

(e) What are the papers and journals issued from Delhi the entry of which is banned in the Army circles?

Mr. C. M. G. Ogilvie: (a), (b), (c) and (e). I refer the Honourable Member to the reply given by my predecessor to starred question No. 1552, asked by Mr. T. S. Avinashilingam Chettiar on the 14th April, 1936.

(d) No.

Mr. Badri Dutt Pande: Is it a fact that nobody can read a Hindi newspaper in the Lansdowne Cantonment Bazaar Area?

Mr. G. M. G. Ogilvie: I must ask for notice of that.

BAN ON THE ENTRY OF CERTAIN NEWSPAPERS AND JOURNALS IN ARMY CIRCLES.

1742. *Qazi Muhammad Ahmad Kazmi: (a) Will the Defence Secretary be pleased to state whether the Army authorities considered the views of the newspapers and journals advocating Congress policy as anti-loyalists?

(b) If the answer to part (a) above be in the negative, has the ban against the entry of such journals and newspapers in Army circles been removed?

Mr. C. M. G. Ogilvie: The question is not sufficiently explicit to enable me to give a reply. If the Honourable Member will state what he means by "Congress Policy" in this connection, I will be in a position to do so.

(b) I refer the Honourable Member to the reply I have just given to part (a) of his previous question.

Mr. S. Satyamurti: Does my Honourable friend seriously suggest that he does not know what the Congress policy is?

Mr. C. M. G. Ogilvie: Personally I have always been in grave doubts as to what it is. Certainly in this connection I cannot say possibly what Congress policy is, unless a precise definition was given to me.

Mr. S. Satyamurti: Has my Honourable friend not read the resolutions of the Congress published wide and broadcast in the press from year to year?

Mr. C. M. G. Ogilvie: I have read very many resolutions passed by the Congress.

Mr. S. Satyamurti: What is it due to then,—that he cannot understand what the policy of the Congress is?

Mr. C. M. G. Ogilvie: I want to know what the Congress policy is in this connection.

Qazi Muhammad Ahmad Kazmi: It is the attainment of independence.

Mr. President (The Honourable Sir Abdur Rahim): He has not put down any question about it.

Mr. S. Satyamurti: My friend asked about journals advocating Congress policy, and my Honourable friend the Defence Secretary says he does not know what it is.

Mr. President (The Honourable Sir Abdur Rahim): The Honourable Member, Mr. Kazmi, wanted to define what the policy was, and the Chair suggested that in that case he had better put it down in the question itself.

CHANGE IN THE TIME OF OUTSIDE WORK OF INCOME-TAX OFFICERS AND INSPECTORS.

1743. *Qazi Muhammad Ahmad Kazmi: (a) Will the Honourable the Finance Member please state if it is a fact that income-tax officers and inspectors are required by the Commissioners of Income-tax to do 'outside work' in May and June—the hottest months of the year—unlike the practice in other departments?

(b) Is it a fact that during this 'outside work' the income-tax officers and inspectors have to visit and enter into the business premises?

(c) If the answer to part (a) above be in the affirmative, have Government considered the advisability of changing the time for the outside work?

The Honourable Mr. A. J. Baisman: (a) There is no fixed period of the year in which survey work is undertaken. Inspectors make outside enquiries throughout the year and Income-tax Officers when their other work leaves them free to do so, which often happens to be the months of May and June.

(b) In the course of their enquiries Income-tax Officers and Inspectors do visit and enter business premises.

(c) Government are making enquiries and will consider the advisability of revising any orders which involve hardship on the officers concerned.

'TERRITORIAL RE-DISTRIBUTION FOR INCOME-TAX PURPOSES OF CERTAIN PLACES.

1744. *Qazi Muhammad Ahmad Kazmi: (a) Will the Honourable the Finance Member please state how many times during the last fifteen years changes in the territorial distribution for income-tax purposes have been made with respect to the districts of Bulandshahr, Saharanpur and Mirzapur?

(b) What are the principles on which territorial re-distribution for income-tax purposes is so often made?

(c) Are Government aware of the great inconvenience both to the public and the staff, resulting from such changes, and have Government considered the advisability of appointing at least one Inspector in each district and making the territorial distribution more stable?

The Honourable Mr. A. J. Raisman: (a), (b) and (c). The information is being obtained and will be laid on the table of the House in due course.

MAKING OF ADVERSE REMARKS AGAINST THEIR SUBORDINATES BY THE COMMISSIONERS OF INCOME-TAX.

1745. *Qazi Muhammad Ahmad Kazmi: (a) Will the Honourable the Finance Member please state by what rules the conduct of the Commissioners of Income-tax and lower gazetted staff of the Income-tax Department is regulated?

(b) Are the Commissioners of Income-tax entitled to, or as a matter of practice actually enter, remarks against their subordinates without first calling for their explanations?

(c) If the answer to part (b) above be in the affirmative, have Government considered the advisability of directing Commissioners of Income-tax not to make adverse remarks against their subordinate gazetted staff without first calling for their explanations?

The Honourable Mr. A. J. Raisman: (a) The Government Servants' Conduct Rules and the Civil Services (Classification, Control and Appeal) Rules.

(b) and (c). I would refer the Honourable Member to the reply given by the Honourable the Home Member on the 8th March, 1939, to parts (a) and (b) of question No. 871, put by Khan Bahadur Shaikh Fazl-i-Haq Piracha, and would add that the standard instructions of the Government of India referred to therein were communicated, among others, to the Commissioners of Income-tax for their guidance.

CONSTITUTION OF THE MANAGING COMMITTEES OF THE FATEHPURI MOSQUE AND JUMA MASJID IN DELHI.

†1746. *Pandit Sri Krishna Dutta Paliwal: (a) Will the Honourable the Home Member be pleased to state under what law or arrangement the managing committees of the Fatehpuri Mosque and Juma Masjid in Delhi have been constituted?

(b) Are these committees required to get their accounts audited and publish the information, or to submit them to Government?

(c) Is it or is it not a fact that these committees do not publish their accounts and that there has been great agitation amongst the Muslim public against the management and accounts of these committees, and the said committees do not enjoy the public confidence?

(d) Have Government considered the advisability of:

(1) getting the committees to submit their accounts to Government and publishing them; and

(2) changing the constitution of the committees in such a way as to make them representative of the public, and make the management efficient?

The Honourable Sir Reginald Maxwell: (a) The Committees are constituted under agreements or acknowledgments entered into by some Muslim members of the public with Government in 1862 for the Juma Masjid and 1877 for the Fatehpuri Masjid.

(b) No.

(c) I understand that accounts are not regularly published and that there has been some agitation among the Muslim public on this account. But whether the committees enjoy the public confidence or not is a matter on which Government cannot express a definite opinion.

(d) Government have not considered the suggestion made in the first part of the question. A Bill to change the constitution of the committee has recently been introduced in the Council of State and circulated for eliciting opinions thereon. Government will consider their attitude in the matter on receipt of the opinions elicited.

STOPPAGE OF RECRUITMENT IN THE GOVERNMENT OF INDIA OFFICES AND RAISING OF AGE-LIMIT FOR CANDIDATES ON THE WAITING LIST.

1747. *Bhai Parma Nand: (a) Will the Honourable the Home Member state if it is a fact that the Central Government issued an Economy Order in 1938 stopping recruitment in its offices till 31st March, 1940?

(b) Are Government prepared to raise the maximum age-limit in respect of such candidates at least whose names are on the waiting list for appointment in offices of the Government of India, e.g., a Civil Accounts Office who would otherwise be ineligible due to being over age?

(c) If not, why not?

The Honourable Sir Reginald Maxwell: (a) No. The orders are that recruitment is to be stopped until the number of vacancies reaches ten per cent. of the strength of the cadre, after which recruitment may be made to any further vacancies that may arise.

(b) and (c). If, as I presume, the Honourable Member refers to the recruitment of the ministerial establishment of the Government of India offices, I may explain that no waiting list is maintained in respect of offices which recruit their staff through the Home Department from the list of candidates successful at examination held periodically by the Federal Public Service Commission. These examinations are being held as heretofore and the question of taking action such as that suggested does not arise.

HOUSE SCAVENGING TAX IN KASAULI CANTONMENT.

1748. ***Mr. K. Santhanam** (on behalf of Mr. Sham Lal): Will the Defence Secretary be pleased to state:

- (a) if it is true that the Cantonment Board, Kasauli, has undertaken the house scavenging of all the buildings and lands situated in notified bazar area under section 131 of the Cantonment Act, 1924 and in consideration thereof has imposed a tax at the rate of 6½ per cent. on the annual rental value of the houses of lands;
- (b) if it is true that this has been done without any notice to the persons affected as required by section 131 (1) of the Cantonment Act;
- (c) if it is true that notwithstanding the undertaking of house scavenging the Cantonment Board has made no arrangement for house scavenging as defined in section 131 (3) of the Cantonment Act;
- (d) if it is true that on account of strong representation of the inhabitants of the notified bazar area last year a similar proposal was dropped and this year this step has been taken without any opportunity having been given to the persons concerned as to why this should not be done;
- (e) if it is true that as a protest against the above mentioned imposition the inhabitants of the said area have refused to pay the tax; and
- (f) what action, if any, Government proposed to take in this matter?

Mr. C. M. G. Ogilvie: (a) to (f). I am collecting the necessary information and will lay it on the table in due course.

SUMMONING OF A CONFERENCE OF FINANCE MINISTERS.

1749. ***Mr. S. Satyamurti:** Will the Honourable the Finance Member please state:

- (a) whether he proposes to summon a conference of the Finance Ministers of the various Provinces with a view to discussing and exploring the possibilities of settlement of all outstanding questions of finance and of taxation between the Central Government and the Provinces;
- (b) if so, when; if not, why not;
- (c) whether the agenda for the conference will include the possibility of joint consultation as suggested by the Chief Justice of the Federal Court in respect of concurrent fields of taxation in the future; and
- (d) whether the conference will also consider the question of evolving as far as possible a uniform taxation policy from the point of view of just incidence of taxation in respect of central and provincial and local taxation?

The Honourable Mr. A. J. Raisman: (a) to (d). This is a question which will receive my early attention, but I am not yet in a position to make any announcement.

Mr. S. Satyamurti: May I know whether this answer covers the particular points mentioned by me in clauses (c) and (d) of the question, namely, the possibility of joint consultation as suggested by the Chief Justice of the Federal Court in respect of concurrent fields of taxation in the future, and the question of evolving a uniform taxation policy?

The Honourable Mr. A. J. Raisman: The determination of what problems should be discussed as well as the decision about having a conference are both matters which will receive my early attention. I cannot give an answer now.

Mr. S. Satyamurti: May I take it therefore that no problem has been decided by my Honourable friend as fit for consultation or ripe for consultation between the Central and Provincial Governments?

The Honourable Mr. A. J. Raisman: Not yet.

Mr. S. Satyamurti: May I know whether my Honourable friend realises the urgency of the point raised by me in clause (c) of the question about co-operation between the Centre and the provinces in view of the advice of the Chief Justice of the Federal Court?

The Honourable Mr. A. J. Raisman: I think I do, but there are other parties too who will have to realise the urgency of that question before the discussion can be successful.

Mr. S. Satyamurti: Does my friend refer to the Provincial Governments, and does he suggest that they are not willing to co-operate?

The Honourable Mr. A. J. Raisman: I do not suggest that they are not willing to co-operate, but I do suggest that it will be necessary to have a certain amount of preliminary consultation.

Mr. S. Satyamurti: Are these consultations going on now between the Central Government and the Provincial Governments?

The Honourable Mr. A. J. Raisman: I cannot say that I have set the machinery in motion within the last two or three days.

Mr. K. Santhanam: May I know, Sir, whether any steps are being taken to consult the Provincial Governments regarding the tax on sale of electricity sold to the Central Government which is sought to be taken over to the Federal List in the new India Bill?

The Honourable Mr. A. J. Raisman: I should require notice.

DECREASE IN IMPORTS OF SALT FROM NON-INDIAN SOURCES.

1750. ***Mr. S. Satyamurti:** Will the Honourable the Finance Member please state:

- (a) whether according to the latest information of Government the answer of the Honourable the Finance Member to my supplementary questions to starred question No. 1226 of the 22nd

March, 1939 that imports of salt from non-Indian sources have decreased is correct;

- (b) whether it is a fact that in 1930-31, 3,27,028 tons of foreign salt were imported, that is during pre-protection days;
- (c) whether it came down during the days of protection and whether it was only 36,688 tons in 1937-38;
- (d) whether the imports of foreign salt have increased to 2,68,114 in the first 9½ months only from 1st May, 1938 to 15th February, 1939;
- (e) what are the latest figures in this behalf; and
- (f) whether Government are prepared to re-examine the question in the light of the increase of imports of foreign salt?

The Honourable Mr. A. J. Raisman: (a) Yes.

(b) to (c). A statement which explains the position is laid on the table. The figures given in parts (c) and (d) of the Honourable Member's question are not comparable because the figure in (c) excludes exports from Aden while the figure in (d) includes them.

(f) Does not arise.

Imports of salt into British India.

Year.	Imports in Tons.			Remarks.
	From Aden and its Dependencies.	From other countries.	Total.	
1930-31 (Full year)	188,456	515,167	703,623	Pre-protection.
1937-38 (Full year)	305,637	41,233	3,46,870	Last year of protection.
1937-38 (May to February) (10 months).	262,377	37,951	300,328	Do.
1938-39 (May to February) (10 months) . .	135,351	146,937	282,288	Post-protection. Latest information available.

Mr. S. Satyamurti: With reference to part (f) of the question, I have not had the time to compare the statement that was laid on the table the other day; but may I know if Government have satisfied themselves that there is no increase in the import of foreign salt and therefore there is no need to re-examine this question?

The Honourable Mr. A. J. Raisman: We have satisfied ourselves that there has been no increase in the imports of foreign salt, and therefore, as I said in part (f) of the question, this question does not arise.

Mr. Mann Subedar: May I know, Sir, if Government have received any communication on the subject of a duty on foreign salt from the Government of Bengal?

The Honourable Mr. A. J. Raisman: We have received communications on the subject at various times. If the Honourable Member is referring to any particular recent communication, I shall require notice.

APPLICATIONS FOR EXPANSION OR CREATION OF UNIVERSITY TRAINING CORPS.

1751. *Mr. S. Satyamurti: Will the Defence Secretary please state :

- (a) how many applications were received from the several Universities during the last five years for the expansion or the creation of University Training Corps in their areas;
- (b) how many of them have been granted, how many refused; the causes of the refusal in all cases in which either the creation of University Training Corps or its expansion has been refused;
- (c) how many applications are now pending with Government from several Universities in this behalf; and
- (d) whether Government propose to take steps to grant the demands of all the Universities who want either to create or expand University Training Corps satisfying the military authorities on necessary conditions; if not, why not?

Mr. C. M. G. Ogilvie: (a) Six from all sources.

(b) All of them have been rejected owing to lack of funds.

(c) None.

(d) Government are anxious to provide for expansion of University Training Corps wherever there is a genuine demand, and will take steps to do so when the provision of funds can be arranged.

Mr. S. Satyamurti: With reference to the six applications to which my friend referred in answer to part (a) of my question as having been rejected, may I know, Sir, whether Government rejected them on the ground that there was no finance but were satisfied that they were all genuine demands?

Mr. C. M. G. Ogilvie: In one or two cases they were doubtful whether there was a sufficient number of possible applicants to make the formation of an U. T. C. possible, but in the others they were satisfied the demand was genuine.

Mr. S. Satyamurti: May I take it, with regard to the others to which my friend made reference, that they were genuine, the reason why Government did not make provision for finance, whether it was a case of the finance required being too much, or they did not want at all to provide for any finance for the expansion of the U. T. C.?

Mr. C. M. G. Ogilvie: I have answered that plainly, and I do not think there is any need for the insinuation in the latter part of the Honourable Member's supplementary question. The money was not forthcoming. As the Honourable Member well knows, it has been difficult to provide finance during the last few years.

Mr. S. Satyamurti: How much is the money required for these four or five, or whatever the number may be, of applications which my Honourable friend's Department considered genuine for which they wanted money, and did they make any application to the Finance Department, and was it turned down?

Mr. C. M. G. Ogilvie: Certain sums are at our disposal at present for this purpose, and as regards the rest I cannot exactly say what was the amount required in each of these cases, but as a general guide the Honourable Member may be interested to know that it costs approximately Rs. 1,88,000 initial expenditure to found a U. T. C., and if it is of the ordinary size, the recurring expenditure is about Rs. 54,000 a year.

Mr. S. Satyamurti: May I know, Sir, whether Government propose to provide for at least one or two University Training Corps in the near future, and take steps to find the money for these?

Mr. C. M. G. Ogilvie: I cannot say anything more clearly than what I have stated in my reply.

Mr. M. S. Aney: May I know, Sir, whether these applications were received simultaneously or they were received in separate years?

Mr. C. M. G. Ogilvie: They were received in separate years.

Mr. M. S. Aney: Was it impossible to make provision for at least one University Training Corps when the applications were received in separate years?

Mr. C. M. G. Ogilvie: That is the inference the Honourable Member must draw.

WORKING OF NEW SYSTEM OF THE RELATIONS BETWEEN THE CHIEF ACCOUNTS OFFICER AND THE GENERAL MANAGERS ON CERTAIN STATE RAILWAYS.

1752. ***Mr. S. Satyamurti:** Will the Honourable the Finance Member please state:

- (a) whether he has received any reports from the Financial Commissioner for Railways about the working of the new system of the relations between the Chief Accounts Officer and the General Managers on the Great Indian Peninsula and the North Western Railways;
- (b) whether these reports will be placed on the table of the House;
- (c) what the experience of the working of this system so far has been; and
- (d) whether Government have received any communications from the Auditor General in this behalf; if so, whether they will place it on the table of the House?

The Honourable Mr. A. J. Raisman: (a) to (d). A report will be submitted to the Public Accounts Committee in due course. It is yet too early to draw any conclusions about the results of the experiment.

Mr. S. Satyamurti: With reference to the answer to clause (b) of my question, may I know, Sir, whether the Government of India have received any communication from the Auditor General in this behalf?

The Honourable Mr. A. J. Raisman: No, I have not yet received reports from the Financial Commissioner or the Auditor General.

Mr. S. Satyamurti: With reference to the fact that this arrangement is entered into on the distinct understanding that the Auditor General must keep a close watch on the working of this experiment, may I know whether the Government have any means of judging for themselves from time to time that the Auditor General is as a matter of fact keeping a close watch in this respect?

The Honourable Mr. A. J. Raisman: I see no reason why means should be devised for seeing that the Auditor General carries out his function.

Mr. S. Satyamurti: With reference to the Financial Commissioner who is directly under my friend, may I know whether the Financial Commissioner is keeping a close watch on this experiment?

The Honourable Mr. A. J. Raisman: I think he is.

WAR PREPARATIONS IN INDIA.

1753. *Mr. S. Satyamurti: Will the Defence Secretary please state :

- (a) whether in respect of the present situation in Europe and the attitude of England towards the affairs in Central Europe the Government of India have received any specific communication from His Majesty's Government with regard to war preparation; and
- (b) if so, what they are?

Mr. C. M. G. Ogilvie: (a) and (b). It is not in the public interest to answer this question.

Mr. F. E. James: With reference to the reply to clause (a) of the question, may I know, Sir, whether Government have received any intimation from the President of the All-India Muslim League as to the Muslim reaction to Italy's invasion of Albania?

Mr. C. M. G. Ogilvie: Not so far as I am aware.

Mr. F. E. James: Is the Honourable Member aware as to whether the All-India Muslim League, as was the case with regard to Palestine, has taken any steps to make known its opinion upon the invasion of Albania?

Mr. C. M. G. Ogilvie: I am not personally aware of that.

Mr. Manu Subedar: In view of the fact that His Majesty's Government are frequently calling the Leaders of Opposition in conference over foreign and defence policy, may I know whether the Government of India have decided to take the party leaders in confidence over the defence issues?

Mr. C. M. G. Ogilvie: That does not arise out of this question.

Maulvi Syed Murtuza Sahib Bahadur: Is the Honourable Member aware of the fact that the Provincial Muslim League Conference which was held in Delhi last week passed a resolution regarding the Italian invasion of Albania?

Mr. C. M. G. Ogilvie: I am not myself aware, but at any rate it does not arise out of this question.

Mr. Manu Subedar: I submit, it does arise out of this, Sir, because the question asks whether in respect of the present situation in Europe the Government of India have received any communication from His Majesty's Government with regard to defence preparations, and the Honourable Member said that he cannot place before this House any information in public interest, then my question is whether the Government will place these communications or any information before the leaders of parties?

Mr. C. M. G. Ogilvie: I am not at present in a position to add anything further to my reply.

Mr. S. Satyamurti: May I take it, therefore, that Government propose to carry on their war preparations, without consulting the public at any stage?

Mr. C. M. G. Ogilvie: The Honourable Member should, I submit, by this time be aware that war preparations are never discussed in public.

Mr. S. Satyamurti: I am not suggesting that there should be a public discussion, but I am merely asking whether Government will be prepared to take the leaders of the parties in confidence and place the information before them.

Mr. C. M. G. Ogilvie. I am not at present in a position to say anything about that.

Mr. S. Satyamurti: May I know if my friend will be able to say something a little later as to whether Government will take at any stage leaders of parties in consultation, whenever they want the co-operation of the people, otherwise they won't get it.

Mr. C. M. G. Ogilvie: I do not know whether the Honourable Member is informing or threatening me or asking me a question.

Mr. S. Satyamurti: I am asking him a question.

Mr. C. M. G. Ogilvie: I can only answer that at present I have nothing further whatever to add to what I have already stated. Whether circumstances in future may arise which will necessitate consulting party leaders or others, I cannot at present say.

Mr. F. E. James: May I know whether Government have discussed war preparations with Dr. Schacht?

Mr. C. M. G. Ogilvie: Not to my knowledge.

DELAY IN THE SUPPLY OF APPLICATION FORMS FOR APPOINTMENTS OF ACCOUNTING ASSISTANTS UNDER THE SUPERINTENDENT OF INSURANCE.

1754. ***Maulvi Syed Murtuza Sahib Bahadur:** (a) Will the Honourable the Home Member please state if it is a fact that in December 1938, some qualified candidates from Madras sent for the application forms and other details regarding the five appointments of Accounting Assistants, under the Superintendent of Insurances, Government of India?

- (b) If so, when were the application forms despatched?
- (c) What was the last date for the applications to reach the Federal Public Service Commission, New Delhi?
- (d) Why were not the application forms despatched immediately after the receipt of those letters?
- (e) Was there any complaint from the candidates to the higher authorities concerned and what steps did they take in that connection?
- (f) Has the Chairman, Federal Public Service Commission, allowed an extension of time to the aggrieved candidates to submit their applications within a reasonable time?
- (g) What steps are the Government of India taking or propose taking to prevent such irregularities from being repeated in future?

The Honourable Sir Reginald Maxwell: Enquiries are being made and the information will be laid on the table in due course.

STATEMENTS LAID ON THE TABLE.

Information promised in reply to part (c) of starred question No. 348, asked by Prof. N. G. Ranga on the 13th February, 1939.

ELECTION OF A NON-OFFICIAL CHAIRMAN TO THE BEAWAR MUNICIPAL COMMITTEE.

(c) A resolution demanding that the notification should be cancelled was passed and forwarded to the Chief Commissioner late in 1936.

Information promised in reply to starred question No. 444 asked by Babu Kailash Behari Lal on the 15th February, 1939.

WANT OF LATRINES IN THIRD CLASS COMPARTMENTS ON THE BIHAR BAKHTIARPUR LIGHT RAILWAY.

(a) and (b). A statement showing the total number of coaches on the line and the number provided with latrines is attached.

(c) Government have had no complaints. As the line is only 33 miles in length, they do not consider that the existing latrine accommodation with that to be provided during 1939-40 is inadequate.

Statement showing the Number of Carriages fitted with Latrines on the Bakhtiarapur Bihar Light Railway.

Type of carriages.	Number of line.	Number fitted with latrine.	Remarks.
Third class bogie carriages .	8	5	The balance of 3 will be provided with latrines during 1939-40.
First, second, Intermediate bogi	3	3	
Intermediate, male and female	1	..	Female compartment only has latrine.
Intermediate and third .	3	..	All have latrines, excepting one third class compartment.
R. M. S. and Brake van .	1	1	R. M. S. only has latrine.
R. M. S. and third female .	1	1	Third female only has latrine.
Brake van and third female .	2	2	Third female only have latrines.
Brake van and third .	2	1	

Information promised in reply to parts (a) to (e) of starred question No. 905 and parts (a) to (e) of starred question No. 908 asked by Mr. K. S. Gupta on the 9th March, 1939.

TEMPORARY OFFICERS IN THE VIZAGAPATAM PORT.

Starred question No. 905.—(a) There are 62 temporary posts, three of which are at present vacant, and in addition ten persons are temporarily officiating in permanent posts.

(b) It is not possible to say at present if or when the 62 temporary posts will be made permanent or the ten temporary holders of permanent posts will be confirmed.

(c) A statement showing the rates of pay of each of the temporary men in question is laid on the table. I cannot predict what rates of pay would be fixed for the temporary posts if they were made permanent.

(d) Of the ten officers temporarily officiating in permanent posts, eight have been so officiating since February, 1937, one since July, 1938, and one since August, 1938.

(e) It is not clear to what Report the Honourable Member refers. No change has been made in the system of administering the Port of Vizagapatam since 1937.

Statement showing Officers holding temporary posts.

Group.	Designation.	No. of Posts.	Grade.
			Rs.
1. Traffic Department	Revenue Officer	1	125—10/2—175 + Rs. 26/4 C. T. allowance.
	Junior Revenue Inspector	2	30—3/2—45—2/2-55 + Rs. 10 vehicle allowance.
	Ditto	1	30—3/2—45—2/2—55.
2. Medical and Health	Manganese Overseer	2	40—2—60.
	Medical Officer	1	215—25—415 + 50 A.M. Allowance + 50 M.C. Allowance.
	Assistant Medical Officer	1	80—10—120 + 13/2/ (Vacant) C. T. Allowance.
	Compounder	1	45—5—70.
	Health Inspector	1	50—5—70 + 13-2-0 Con. Allowance.
	Assistant Health Inspector	1	30—2—50.
	Ditto	1	28—1—46.
3. Clerical.	Junior Inspector	1	1 per day.
	Senior Clerk	2	55—5/2—70.
	Do.	2	55—5/2—70.
	Junior Clerk	6	30—3/2—45—2/2—55.
	Checker	1	20—1—30.
	Do.	1	20—1—30.
4. Drawing Office.	Do.	1	20—1—30.
	Do.	1	20—1—30.
	Junior Draughtsman	1	45—3—90.
	Do.	1	45—3—90.
	Tracer	1	28—1—42—1/2—45.

Group.	Designation.	No. of Posts.	Grade.
		Rs.	
5. Executive Subordinates.	Overseer	1	100—2½—150.
	Inspector Watch and Ward	1	30—3½—45—2½—55 + 3 Con. Allowance.
5. Executive Subordinates—contd.	Stock Verifier	1	100—2½—150 + 3 Con. Allowance.
	Electrical Foreman.	1	180—7—250.
	Assistant Electrical Foreman	1	100—2½—150 + 3 Con. Allowance.
6. Dredging Staff	Dredging Master	1	300—7½—390—10—450 + 100 Allowance for Master's certificate.
	Do.	1	260—7½—350.
	Do.	1	260—7½—350. (Vacant).
	Gunner	1	75—2½—100 (Vacant)
	Overseer	1	100—2½—150.
	Sub-Overseer	2	45—3—90.
	Do.	1	45—3—90.
	Chargehand	1	50—2—80.
	2nd Engineer S. D. "Vizagapatam"	1	600—25—675 + 50 House Allowance.
	Ditto	1	600—25—675 + 50 House Allowance.
	Ditto	1	450—25—550 + 50 House Allowance.
	3rd Engineer S. D. "Vizagapatam"	1	450—25—550.
	Ditto	1	320—15—350.
	4th Engineer "Vizagapatam"	1	295.
	5th Engineer	1	250—15—295.
	Junior Assistant Engineer	1	40—70.
	Ditto	1	40—70.
	Ditto	1	40—70.
	Driver—I Class	4	50—1½—65 + 10 Allowance.
	Sub-Station Attendant	4	40—2—60.
Total		62	

Statement showing Temporary Officers officiating in permanent posts.

Group.	Designation.	No. of Posts.	Grade.
		Rs.	
1. Traffic Department.	Typist	1	30—3½—45.
	Junior Clerk	1	30—3½—45—2½—55.
2. Engineering Department.	Welder, 1st Class	1	100—2½—150.
	Rivetter	1	30—1—40.
	Greaser	6	22—(fixed) + 10 Allowance.
		10	

SIGNAL STATIONS IN THE VIZAGAPATAM PORT.

Starred question No. 908.—(a) One signal station, and three observation stations.

(b) Two for each station, in addition to a signaller, a head signaller and one man for relief duty for all stations—a total staff of eleven.

(c) No. For topographical reasons it is reported to be impossible to control the movement of vessels in and out of the Port with fewer stations.

(d) and (e). No.

Information promised in reply to parts (a) and (d) of starred question No. 1037 asked by Mr. K. Santhanam on the 14th March, 1939.

GOVERNMENT GRANT TO THE NEW DELHI MUNICIPAL COMMITTEE, ETC.

(a) Yes, so far as is consistent with the special conditions of New Delhi.

(d) No.

Information promised in reply to starred question No. 1109 asked by Choudhri Raghbir Narayan Singh on the 16th March, 1939.

CRACKS IN THE NEW BUILDING OF HARDWAR RAILWAY STATION.

(a) Certain cracks have appeared, but they are neither numerous nor serious.

(b) No.

(c) The building has not suffered serious damage.

REPORTS LAID ON THE TABLE.

The Honourable Mr. A. J. Raisman (Finance Member): Sir, I lay* on the table :

- (1) Central Government Appropriation Accounts (Civil) 1937-38 and the Audit Report, 1939;
- (2) Central Government Commercial Appendix to the Appropriation Accounts (Civil) 1937-38 and the Audit Report, 1939;
- (3) Central Government Appropriation Accounts (Posts and Telegraphs) 1937-38 and the Audit Report, 1938.

Mr. S. Satyamurti (Madras City: Non-Muhammadan Urban): This is the first time in the history of the House that I know of, that these reports are being placed on the table. I hope that they will be published for public criticism and that they will be circulated to Members.

The Honourable Mr. A. J. Raisman: I have laid these documents on the table and the question whether they will become part of the proceedings is, I think, one for you to decide.

Mr. President (The Honourable Sir Abdur Rahim): They want to know whether they would be circulated to Members. If there are sufficient copies supplied, the Legislative Assembly Department will undertake to circulate them to Members.

* Not printed in these debates. Copies have been placed in the Library of the House—E. of D.

Sir Muhammad Yamin Khan (Agra Division: Muhammadan Rural) : When they are placed on the table of the House they form part of the proceedings and they must be supplied.

The Honourable Mr. A. J. Raisman: I will consider the point, but if they were to be printed as part of the proceedings they would automatically become available to Members. If they are not so printed, then the question will be for our consideration whether we should circulate copies to Members.

Mr. President (The Honourable Sir Abdur Rahim): But these are very bulky.

Mr. S. Satyamurti: I suggest that Government should make arrangements to supply copies to Honourable Members. Placing on the table of the House involves, as it has always done in the case of all documents placed on the table of the House, circulation to all Members of the House. I suggest to the Chair and to the House that copies of these reports placed on the table of the House should be circulated to all Honourable Members of the House as early as possible.

Mr. President (The Honourable Sir Abdur Rahim): Yes, if the Government supply a sufficient number of copies. In any case, they will place copies in the Library of the House.

The Honourable Mr. A. J. Raisman: Copies will certainly be placed in the Library of the House.

Mr. M. S. Aney (Berar: Non-Muhammadan): May I submit to you for your kind consideration that it has always been held that there is a distinction between laying a copy of a document in the Library of the House and placing it on the table of the House. Whenever a document is placed on the table of the House, it becomes the property of the House in the sense that every Honourable Member is entitled to get a copy of that document either as part of the proceedings, that is, the debates here, or separately circulated to Members. When it is in the Library anybody can come in and read it as he likes. That distinction is always observed.

Mr. President (The Honourable Sir Abdur Rahim): The ordinary procedure is undoubtedly that any document when placed on the table of the House is incorporated in the proceedings, but there are cases where documents are very bulky and it would be expensive and costly to incorporate them in the proceedings, then they are not incorporated. It is not the invariable rule. It all depends upon whether the Government are prepared to supply sufficient copies for circulation to Members.

Sir Muhammad Yamin Khan: If the Government do not supply, will the Assembly Department get them printed and supply copies to Members?

Mr. President (The Honourable Sir Abdur Rahim): The Assembly Department is not expected to assume the responsibility of supplying them unless they get sufficient copies. But as regards the proceedings of the House that is a different matter altogether.

Mr. S. Satyamurti: I submit you may suggest to Government to make a sufficient number of copies available to your Department for being circulated.

Mr. President (The Honourable Sir Abdur Rahim): That is what the Chair has been enquiring of the Government, whether they are prepared to supply sufficient copies. Perhaps they will consider the matter.

Mr. S. Satyamurti: They should be asked to supply.

Mr. B. Das (Orissa Division: Non-Muhammadan): I wish to submit another point. So far these reports were not available to the press, but now that they have been laid on the table of the House, my submission is that as soon as they are laid on the table of the House, these documents must become available to the press and the public, and that means, four months ahead.

Mr. President (The Honourable Sir Abdur Rahim): The press representatives may apply to Government for copies.

MESSAGE FROM THE COUNCIL OF STATE.

Secretary of the Assembly: Sir, the following Message has been received from the Council of State :

"I am directed to inform you that the Council of State, at its meeting held on the 14th April, 1939, agreed without any amendment to the Bill to make further provision for safety in coal mines which was passed by the Legislative Assembly at its meeting held on the 4th April, 1939."

MESSAGE FROM H. E. THE VICEROY AND GOVERNOR GENERAL.

Mr. President (The Honourable Sir Abdur Rahim): The Chair has to inform the House that it has received a Message from His Excellency the Viceroy and Governor General:

"Whereas by its vote of the 14th April, 1939, the Legislative Assembly has refused to take into consideration a Bill entitled further to amend the Indian Tariff Act, 1934, for certain purposes (Third Amendment);

NOW THEREFORE, I, Victor Alexander John, Marquess of Linlithgow, in pursuance of the provisions of sub-section (1) of section 67B of the Government of India Act, as set out in the Ninth Schedule to the Government of India Act, 1935, do recommend to the Legislative Assembly that it do pass the Bill in the form hereto annexed.

(Signed) LINLITHGOW,
Viceroy and Governor General."

THE INDIAN TARIFF (THIRD AMENDMENT) BILL.

The Honourable Sir Muhammad Zafrullah Khan (Member for Commerce and Labour): Sir, I move for leave to introduce a Bill further to amend the Indian Tariff Act, 1934, for certain purposes (Third Amendment), in the form recommended by the Governor-General.

Mr. N. M. Joshi (Nominated Non-Official): Let us get a copy of the recommended Bill.

Mr. President (The Honourable Sir Abdur Rahim): It is exactly the same Bill.

Mr. Mohan Lal Saksena (Lucknow Division: Non-Muhammadan Rural): There is already another Bill under discussion and Mr. Chettiar is in possession of the House, and this motion cannot be brought forward before that is over.

Mr. President (The Honourable Sir Abdur Rahim): The Government can arrange their business in any way they like.

Mr. M. Ananthasayanam Ayyangar (Madras ceded Districts and Chittoor : Non-Muhammadan Rural): But there is no notice.

Mr. President (The Honourable Sir Abdur Rahim): It is the ordinary practice. A point of order was raised on the last occasion and the Chair gave its ruling.

Mr. Sri Prakasa (Allahabad and Jhansi Divisions: Non-Muhammadan Rural): An exception was made in the case of the Finance Bills.

Mr. Mohan Lal Saksena: May I know whether any Honourable Member can introduce a Bill when an Honourable Member has not finished his speech.

Mr. President (The Honourable Sir Abdur Rahim): That is not the Bill now under consideration. Something has been interposed before that.

Mr. Mohan Lal Saksena: Can it be done without notice?

Mr. President (The Honourable Sir Abdur Rahim): Yes. It is done every day.

Mr. Mohan Lal Saksena: There is no precedent.

Mr. President (The Honourable Sir Abdur Rahim): Motion moved:

"That leave be granted to introduce a Bill further to amend the Indian Tariff Act, 1934, for certain purposes (Third Amendment), in the form recommended by the Governor General."

Mr. Bhulabhai J. Desai (Bombay Northern Division: Non-Muhammadan Rural): Mr. President, on behalf of those who rejected the motion yesterday for the consideration of the Bill, called the Tariff Amendment Bill, I wish to enter an emphatic protest against the procedure that has been adopted in this case. We are of the view that the interests of this country did not require or demand that the power which His Excellency may have and has under the Statute should be used on this occasion and that this was a fit subject for its exercise. There is one thing more which I wish Government to take seriously into consideration. It has often been said here and quite rightly that the elected representatives of the Indian people who sit here, notwithstanding the fact that there are 39 votes commanded by the Government under the Statute, are the only people whose vote ought to count in a matter of this kind. It is not merely that. I wish to warn Government and the British Government who are behind them in this matter that they are taking a most suicidal and dangerous step. It may appear to them that our action is futile, and time alone will prove whether it is going to be really futile. After all, you can bring goods into a country under any conditions of favour you like, but to sell them is a very different

[Mr. Bhulabhai J. Desai.]

proposition. Hitherto, the Indian people, partly by reason of ignorance, and largely by reason of apathy, have, without considering the issues at stake, accepted things, merely because they are brought within the geographical bounds of this country. Government must take note of the changed conditions of public opinion in this matter, and it is a matter of extreme regret, painful regret to me that those in charge of this Bill in the Government of India and His Excellency the Governor General have failed to appreciate the changing conditions in this country and the public opinion that exists. The goods may come in, but let them also remember that perhaps a re-exporting of them would be a much worse humiliation than if they had left us to this expedient. It may appear to my Honourable friends here who represent Government to be a futile thing or even a threat. It is nothing of the kind. It is a statement which every patriotic statesman in a country makes and which is entitled to be accepted and adopted by his countrymen. Without that confidence in his countrymen, it is not worth his while to stand here and speak in the name of his country, and, therefore, it is that I do warn Government that, in a matter of this kind, relating to economic independence, we are as much, if not in a better position, to count the gain or loss. It must be remembered that our vote, irrespective of any constitutional right or absence of right, ought to have been respected, not on any ground of self-respect—it is a thing which we have said often—but because Government must recognise the realities of the situation and the changed condition of opinion in this country, and when all is said and done, as I remarked on a previous occasion during the course of the debate on the Indo-British Trade Agreement, it is one thing to bring goods, and another thing to be able to sell them. It is that voluntary act and subservient apathy on which alone British trade in this country has survived, and if it is further strained and taxed in the manner in which it is sought to be strained and taxed, you will have to face the consequences. Willing subservience has served its purpose and passed its day, and, therefore, we oppose this motion.

Mr. President (The Honourable Sir Abdur Rahim): The question is. . . .

Some Honourable Members: We want to speak.

Mr. President (The Honourable Sir Abdur Rahim): No more speeches can be made. That is the Standing Order.

Sir Syed Raza Ali (Cities of the United Provinces: Muhammadan Urban): May I point out that under the rules this House is entitled to go into the whole matter as if it was a Bill introduced.

Mr. President (The Honourable Sir Abdur Rahim): If the Honourable Member will look at Standing Order 37, he will find that only one speech from the Mover and one speech in opposition are allowed.

The question is:

“That leave be granted to introduce a Bill further to amend the Indian Tariff Act, 1934, for certain purposes (Third Amendment), in the form recommended by the Governor General.”

The Assembly divided:

AYES—37.

Abdul Hamid, Khan Bahadur Sir.
 Ahmad Nawaz Khan, Major Nawab Sir.
 Aiyar, Mr. T. S. Sankara.
 Ayyar, Mr. N. M.
 Bewoor, Mr. G. V.
 Bhagchand Soni, Rai Bahadur Seth.
 Buss, Mr. L. C.
 Chanda, Mr. A. K.
 Christie, Mr. W. H. J.
 Clow, The Honourable Mr. A. G.
 Dalal, Dr. B. D.
 Dalpat Singh, Sardar Bahadur Captain.
 Ghuznavi, Sir Abdul Halim.
 Hardman, Mr. J. S.
 James, Mr. F. E.
 Jawahar Singh, Sardar Bahadur Sardar Sir.
 Lillie, Mr. C. J. W.
 Maxwell, The Honourable Sir Reginald.

Menon, Mr. P. A.
 Menon, Mr. P. M.
 Metcalfe, Sir Aubrey.
 Mukerji, Mr. Basanta Kumar.
 Nur Muhammad, Khan Bahadur Shaikh.
 Ogilvie, Mr. C. M. G.
 Pillai, Mr. N. B.
 Rahman, Lieut.-Col. M. A.
 Raisman, The Honourable Mr. A. J.
 Rajah, Raja Sir Vasudeva.
 Row, Mr. K. Sanjiva.
 Scott, Mr. J. Ramsay.
 Sircar, The Honourable Sir Nripendra.
 Sivaraj, Rao Sahib N.
 Slade, Mr. M.
 Spence, Mr. G. H.
 Sukthankar, Mr. Y. N.
 Surdaram, Mr. V. S.
 Zafrullah Khan, The Honourable Sir Muhammad.

NOES—50.

Abdul Qaiyum, Mr.
 Abdur Rasheed Chaudhury, Maulvi.
 Aney, Mr. M. S.
 Ayyangar, Mr. M. Ananthasayanam.
 Banerjee, Dr. P. N.
 Basu, Mr. R. N.
 Chaliha, Mr. Kuladhar.
 Chattopadhyaya, Mr. Amarendra Nath.
 Chaudhury, Mr. Brojendra Narayan.
 Chettiar, Mr. T. S. Avinashilingam.
 Chunder, Mr. N. C.
 Das, Mr. B.
 Das, Pandit Nilakantha.
 Datta, Mr. Akhil Chandra.
 Desai, Mr. Bhulabhai J.
 Deshmukh, Mr. Govind V.
 Gadgil, Mr. N. V.
 Govind Das, Seth.
 Gupta, Mr. K. S.
 Hegde, Sri K. B. Jinaraja.
 Hosmani, Mr. S. K.
 Jedhe, Mr. K. M.
 Jhangir, Sir Cowasji.
 Jogendra Singh, Sirdar.
 Joshi, Mr. N. M.
 Kailash Behari Lal, Babu.

Lahiri Chaudhury, Mr. D. K.
 Laljee, Mr. Husenbhai Abdullahai.
 Maitra, Pandit Lakshmi Kanta.
 Malaviya, Pandit Krishna Kant.
 Mangal Singh, Sardar.
 Manu Subedar, Mr.
 Misra, Pandit Shambhu Dayal.
 Muhammad Ahmad Kazmi, Qazi.
 Pande, Mr. Badri Dutt.
 Raghbir Narayan Singh, Chaudhri.
 Ramayan Prasad, Mr.
 Ranga, Prof. N. G.
 Rao, Mr. M. Thirumala.
 Saksena, Mr. Mohan Lal.
 Sant Singh, Sardar.
 Santhanam, Mr. K.
 Satyamurti, Mr. S.
 Sheodass Daga, Seth.
 Singh, Mr. Gauri Shankar.
 Singh, Mr. Ram Narayan.
 Sinha, Mr. Satya Narayan.
 Som, Mr. Suryya Kumar.
 Sri Prakasa, Mr.
 Varma, Mr. B. B.

The motion was negatived.

THE CHITTAGONG PORT (AMENDMENT) BILL—concl'd.

Mr. President (The Honourable Sir Abdur Rahim): The Assembly will now resume consideration of the following motion moved by the Honourable Mr. Clow, viz.:—

"That the Bill further to amend the Chittagong Port Act, 1914, for a certain purpose, be taken into consideration."

Mr. T. S. Avinashilingam Chettiar (Salem and Coimbatore *cum* No 10 Arcot: Non-Muhammadan Rural): Sir, this is a small Bill. I want to ask only a few questions so that certain points might be elucidated. As I stated yesterday, Sir, the Statement of Objects and Reasons states that:

"The recent changes in the constitutional position, however, have caused the Government of India to modify their loans policy considerably and it is felt that it is no longer possible to continue to lend to the Commissioners while the statutory right of premature repayment conferred by section 80 remains in force."

I would like to know what is the modification of their loans policy which they have referred to and what is the constitutional change that they have referred to in the Statement of Objects and Reasons. I have not had time to look up the law with regard to the other Port Trusts, exhaustively, but I have got one other Act here and this is the law about the Madras Port Trust. That Port Trust occupies an exactly similar position. If I may read section 80 of the Chittagong Port Act, 1914:

"The Commissioners may apply any sums which can be so applied without prejudicing the security of the other debenture-holders of the Commissioners in repaying to any Government any sum which may remain due to it in respect of the principal of any loans, although the time fixed for the repayment of the same may not have arrived: Provided as follows:

'no such repayment shall be made of any sum less than five thousand rupees'.',
etc.,

The Madras Port Trusts Act has an exactly similar provision:

"The Board may apply any sums, which can be so applied without prejudicing the security of the other holders of Port Trust securities in repaying to the Secretary of State for India in Council any sum which may remain due to him in respect of the principal of any loan although the time fixed for the repayment of the same may not have arrived"—

subject to the same provisos as is contained in section 80 of the Chittagong Port Trust. May I know the reason why, if there is a general modification in the lending policy of the Government, why they have come forward with an amending Bill, only with regard to the Chittagong Port Trust. If it is a general modification of policy, it must be with regard to all other ports in which the same conditions prevail. I know that the general principle involved in this amendment is something to be supported. They might create a sinking fund if necessary to provide for the repayment of the loans which they might have borrowed but what I would like to suggest is that a uniform policy may be followed.

Dr. Sir Ziauddin Ahmad (United Provinces Southern Divisions: Muhammadan Rural): Sir, the Bill is in the interest of the taxpayer. Supposing Government borrowed money at six per cent. interest for a definite period of ten years for Chittagong Port Trust. If during this interval at any time money became cheap, then the Port Trust, as the matter now stands, can refund the whole amount before the expiry of ten years. But the Government of India will not be able to pay back to their creditors, and the result will be that the difference of the interest between cheap money and the money at which the loan had been originally borrowed would have to be paid by the taxpayers of the country. Therefore, in order to relieve the taxpayers of the country and in order that the obligation of the Government of India may be fulfilled, I think, a Bill of this kind is necessary and I support the motion.

Mr. Kuladhar Chaliha (Assam Valley: Non-Muhammadan): Sir, we are much interested in this Bill. The tea industry also is interested in this Bill inasmuch as we find that about eighty million pounds of tea are passing through this port. Apparently a small Bill has been introduced with the idea that the Port Trust will not be allowed to repay the loans it may have taken within a lesser time than was stipulated, although all over the world debtors are encouraged to pay up as early as possible. We have not been able to follow the principle by which even if there is a capacity to pay, they are not to pay. This Bill penalises that it should not be paid even if they are capable of paying it. This is a new proposition which has been enunciated in this little Bill and about which we have not heard anywhere in the world. In the Statement of Objects and Reasons, Government have not been able to give us any reasons why such a legislation is necessary. It is a short statement, and I shall read it to the House. It says:

"Under section 80 of the Chittagong Port Act, 1914, the Commissioners for the Port of Chittagong are competent to repay Government loans before the time fixed for such repayment without the consent of the creditor Government. In the past the Commissioners have borrowed freely from the Central Government for the purpose of supplying their capital requirements for improving and developing the port, and they desire to continue to do so. The recent changes in the constitutional position, however, have caused the Government of India to modify their loans policy considerably and it is felt that it is no longer possible to continue to lend to the Commissioners while the statutory right of premature repayment conferred by section 80 remains in force."

I do not understand whether the intention is that they should not pay at all or that they should not take as much interest as is possible. We know this that the Port Trust is a public utility service and it is also a social service, and, as such, it is in the interests of the Government that they should not pay more than is absolutely necessary. So, unless they give us cogent reasons for this change, we are not inclined to support this Bill.

We are told by some of our friends that the money comes to the Indian Government, and, as such, the money paid by the Port Trust to the Indian Government is our money, and, therefore, we should pay it. With all due deference, we do not agree with this view. We are now the Indian Government, but we resent it. Honourable Members noticed only a few minutes ago how our votes are flouted, and yet we are asked that we should consent to this Bill, because the Government of India will get more money. When the Government of India become a national Government, possibly we can think of doing it. But, at the present moment, it is a utility service which the irresponsible Central Government has asked to pay more than they should, as such, I oppose this Bill and I request the Honourable Members of this House to throw it out.

Mr. L. O. Buss (Nominated Non-Official): Mr. President, this is a very simple Bill and it contains only one operative clause. The Statement of Objects and Reasons sets out clearly the case for modifying the Chittagong Port Act and I merely wish to say that I accord my full support.

I think, however, that before we disperse it would be the wish of all of us to express our sense of loss when we realise that this is the last occasion on which we shall have Sir Nripendra Sircar amongst us. It has been my privilege to be a Member of this House during almost the whole of the Law Member's terms of office. It was my further privilege to be closely associated with him, both in the Select Committee and during the discussion of the Bills in the House, while we were considering the Companies Bill and

[Mr. L. C. Buss.]

the Insurance Bill. None of us who were present during the Simla Sessions of 1936 and 1937 will forget the indefatigable energy which Sir Nripendra displayed on those occasions, often in most difficult circumstances owing to ill-health. In spite of that, his courtesy and kindness never deserted him. He was always accessible to anyone who had anything to say to him. His name will go down to posterity as the creator of those two outstanding pieces of legislation, but we shall remember him more intimately for his inimitable humour and his imperturbable good nature. I should like, on behalf of my colleagues and myself, to offer Sir Nripendra Sircar at the close of his very distinguished term of office in the Governor General's Executive Council, not only our thanks for his unfailing courtesy and assistance at all times during our association with him, but also our very sincere good wishes for his health and happiness in the years yet to come.

Mr. Bhulabhai J. Desai (Bombay Northern Division: Non-Muhamadan Rural): Mr. President, in view of the statements made by my Honourable friends here on the question of this Bill, I wish to make clear what our position is with regard to it. I am aware that there are a large number of ports which are governed by their own Acts, particularly the Ports of Bombay and Calcutta with which I am familiar. They raise moneys on their own credit, and, therefore, questions like the one which have arisen in this Bill do not arise there. The amending Bill before the House seeks merely to remove one condition which gave an advantage and which might have been considered a desirable advantage to a port that is just in the making. I can well understand that even though the lender's term may be that the loan is not to be returned within a certain period of time, it is somewhat of an indulgence when the Government, either the Provincial Government or the Central Government, as a lender says by way of assistance that the term may be relaxed in order that there may be no undue strain on the finances of that particular growing body. This Chittagong Port has now long been in existence, and therefore, the condition which is sought to be now taken out had better be taken out. In other words, I understand the meaning of the amendment to be that, whereas it was competent to the Port Commissioners to repay a loan before its time, now they will not be able to do so except in terms of the contract or on some other special grounds as the case may be. Viewing it from that standpoint, we feel that we are in a position to support it.

I also wish to take this opportunity, as my Honourable friend, Mr. Buss, has done, to say a few words relating to the retirement of my Honourable friend, the Leader of the House. In doing so, I think it would be right for me to point out that, generally speaking, an opponent is a very much better judge of the other side if he manages to detach himself and consider the merits of different issues or even the individuals concerned. In that way, though I have not had the advantage of the close association of his colleagues, I have had the advantage of a constant recurring opponent, and that we have remained during the period of four years and a half. My Honourable friend has special gifts of a very rare character which he has used to support the cause which naturally he was bound to support, and I think his victims—and there are many of them in this House—will probably remember him not unkindly at all notwithstanding it. But if one may read human character, I am inclined to think myself—and I do not want any confession by way of reply from

my Honourable friend—that, generally speaking, people who use this kind of qualities, capacities and abilities have always a sneaking and lurking regard for their own victims, because I have not the slightest doubt that the constant reference to my friend, Mr. Bajoria, or Mr. Lalchand Navalrai—both of them are unfortunately absent today, and I think they enjoyed more what Sir Nripendra Sircar said than those of us who laughed it out for the moment—is an index of it. But it is the manner of it, and not the matter of it to which I refer. I commend the manner. As regards the matter, it depended on the issues which were raised on it by the opposite side.

There is one other thing which I would like to say about Sir Nripendra Sircar before he leaves us, and that is this. While the abilities he has hitherto used for supporting what we think, at all events, were lost causes, I hope I shall be able to welcome him in the larger life outside as a colleague whom we can always here as well as outside regard with esteem, confidence and deep personal regard.

Sir Muhammad Yamin Khan (Agra Division: Muhammadan Rural): Sir, the Bill before the House is really a simple measure, and I do not want to make any more comments thereon. I endorse every word that has been said about the Bill by my Honourable friend, Dr. Sir Ziauddin Ahmad.

Like my other Honourable friends, I should like to take this opportunity of putting forward the views of myself and my Party about the Honourable Sir Nripendra Sircar. We are all really very sorry that he is leaving us within a short time, and we feel the loss to this House. With the great knowledge that he possesses, he enlightened the House, and on all great occasions he showed his great capacity in meeting the arguments of his opponents which we all enjoyed when we were not in the Opposition. My Honourable friend, the Leader of the Opposition, said that Babu Baijnath Bajoria and Mr. Lalchand Navalrai enjoyed the jokes of the Honourable Sir Nripendra Sircar even though they were the victims. Similar was the case when the duel was going on between the Honourable Sir Nripendra Sircar and the Honourable the Leader of the Opposition. The other Parties were enjoying it a great deal. The great gifts which he possesses are rarely to be found anywhere. He kept his head cool when there was great excitement, and in that cool-headedness, he gave what I may call tit for tat. The great gifts which he possessed are very seldom seen in this House. I will assure him that he will take with him the good wishes of every one of us in this Party and we earnestly hope that the great knowledge and experience he has gained in his capacity as the Law Member of the Government of India will not be lost when he is out of office, and I hope he will freely give the benefit of his knowledge and experience to the advancement of the country in the best manner that he can think of. We wish him good luck, good health and prosperity and success in his future life.

Mr. M. S. Aney (Berar: Non-Muhammadan): Sir, I do not want to make it a pretence that I want to speak on this Bill. But as the motion is before the House, I want to say that I support it. The real object of my rising is to express my appreciation in the same way, in which my other colleagues have shown, of the services which the Honourable Sir Nripendra Sircar rendered to this House. During his tenure of office as

[Mr. M. S. Aney.]

Law Member for the past five years, his personality has been looming large in this House and has served to mould the work here in a manner that will be of great use to those who follow him later on. His humour has been referred to as a rare gift. That was no doubt also his greatest weapon, and with that weapon he has dealt very hard blows, and those who received those blows will not easily forget them. But his charming manners served as a healing balm, and, therefore, we found in him not only a keen and hard debater, but a very amiable gentleman who could be relied upon for advice and guidance in any moment of difficulty. We know, Sir, that he has been extremely accommodating to various Groups in this House and he never failed to give assistance whenever that was sought for the convenience of Members of this House in spite of any difficulties that Government might feel in doing so. His courtesy as well as his readiness to accommodate Members of this House are matters which have no doubt left a deep impression about his personal character on our minds. But more than that we have found, on occasions of important debate, it was not merely a Government Member that was sitting on the Treasury Benches in the person of Sir Nripendra Sircar, but we had in him an Indian patriot of a high order. We cannot forget the memorable speech and observations which he made during the course of the debate on the Indian Companies Act (Amendment) Bill when, in reply to certain statements from the European Group as regards the right of Indians to have the right to do everything for their own industries, he observed "why should we not try to do everything we can for the promotion of our companies?" That memorable passage in his speech will always be ringing in the ears of every one of us here and it showed that it was not merely a Government Member, but it was an Indian patriot who was sitting on the Treasury Benches in whose hands the portfolio of Law was placed for the time being. We also know that he was a man of principles. There were occasions when as a Government Member his position was very difficult, but he stood firmly to his principles and refused to record his vote on a very important occasion when he knew that if he gave, his vote in a particular manner, it would be against his cherished principles. On that occasion, the real man was seen. We, naturally, feel as a man who has served both his country and done justice to his job with an ability of a very rare character is leaving this House very shortly and that loss is bound to be felt by all of us deeply. I, therefore, want to say that while he is leaving us, he is leaving behind a fragrant memory of great ability and great achievements and great courtesy uniformly shown to all sections of the House. I hope that his abilities will still be available and will be placed at the disposal of the country in as great a measure as it was till now placed at the disposal of the Government. We wish that his experience, during the last five years must have so enamoured him of the atmosphere of this House that we may expect him to come back to adorn this side of the House and not the Treasury Benches.

The Honourable Sir Nripendra Sircar (Leader of the House): Sir, my speech will be extremely brief, but my gratefulness to Honourable Members for the kind sentiments and good wishes expressed by them should not be judged by the length of my speech. I very much appreciate and shall always cherish the goodwill and friendliness shown to me. That reminds me of what my Honourable friend, Sir Muhammad

Yamin Khan, said when he wished me a happy future life. I have had blessings not only for a good life here, but I have your blessings also for the future life. For this I am very grateful. I can assure the House that I have not only learnt a great deal from my association here for the last five years during which I have received nothing but friendly co-operation from all quarters, but I shall miss very many attractive features of this House. Life will be fairly dreary without the supplementary questions from my Honourable friend, Mr. Satyamurti, I shall no more have any chance of watching the movements of the hands of my Honourable friend, Mr. Badri Dutt Pande. One has got to put up with life as one finds it, and whether I can be of any use to my country in future remains to be seen. Once more I express my deep gratefulness to the Honourable Members who have spoken to express their kindness and friendliness to me.

The Honourable Mr. A. G. Clow (Member for Railways and Communications): Sir, I must thank Honourable Members for the support given to this Bill. I do not think it is necessary for me to enter into any long explanation, but I feel that in courtesy I should say a word in reply to the direct questions put to me by one or two Members. Mr. Avinashilingam Chettiar referred to the reference to a change in the loans policy and asked what that meant. Actually the position is that since the closing of the Provincial Loans Fund, Government expect the Port Trusts to raise their requirements as far as possible in the open market. In the present case it has appeared rather unlikely that the Chittagong Port Trust would be able to get the small loan they require on advantageous terms, and it has, therefore, been thought better by both parties that this sum should be lent by Government. As regards the equity of the position, that has been clearly explained by the Honourable the Leader of the Opposition and Sir Ziauddin Ahmad and I need not expand on that. The real point is that Government are both lenders and borrowers: they are, in fact, lending money that they have borrowed, and as they borrow normally on long term loans without the right of repayment, it is hardly equitable that a Port Trust, particularly when it is well established, as the Honourable the Leader of the Opposition pointed out, should be able to hand back the money which it got, at any moment it chooses that is convenient for them.

Finally, a question was asked about the position of other Port Trusts. It is perfectly true that not only in the Madras Act quoted but in one or two others there are similar provisions. Actually, however, the major Port Trusts tend now to borrow their money in the open market, so that the condition has ceased to be of importance. If the question arises in connection with any other Port Trust of a loan in the future from Government we should probably approach this House for sanction to the amendment of the Act concerned.

If I may say just one word about the unwritten clause of this Bill--and that is the clause which expresses our deep regret at the loss of our Leader and our good wishes for his future happiness—I would say that that clause is as heartily supported on this side of the House as on every other.

Mr. President (The Honourable Sir Abdur Rahim): Before putting the question, I think I shall exercise the privilege of the Chair that is vested in me, and which I have seldom allowed myself to use, of making a statement. I am afraid it will not be on the merits of the Bill—and so the Honourable Members need not feel concerned about it. I wish only to add my appreciation and admiration of the manner in which Sir Nripendra Sircar, the Leader of the House, has discharged his high responsibilities—I wish also to mention that whenever Sir Nripendra Sircar was on his feet, I could take it quite easy: I knew that very few opponents of his would be able to give him so much trouble as to require the Chair to intervene.

The question is:

“That the Bill further to amend the Chittagong Port Act, 1914, for a certain purpose, be taken into consideration.”

The motion was adopted.

Clause 2 was added to the Bill.

Clause 1 was added to the Bill.

The Title and the Preamble were added to the Bill.

The Honourable Mr. A. G. Clow: Sir, I move:

“That the Bill further to amend the Chittagong Port Act, 1914, for a certain purpose, be passed.”

The motion was adopted.

POSITION OF THE INDIAN OATHS (AMENDMENT) BILL AND THE COMMERCIAL DOCUMENTS EVIDENCE BILL.

The Honourable Sir Nripendra Sircar (Leader of the House): May I, Sir, with your permission, intervene for getting a ruling from you on a question which has arisen? There are two Bills before the Assembly—The Indian Oaths (Amendment) Bill and the Commercial Documents Evidence Bill—which were referred to a Select Committee in the Delhi Session of 1938 and in respect of which no motion other than a motion for the effecting of changes in the composition of the Select Committee has been made in either of the subsequent Sessions. It will be impossible in either case to present the report of the Select Committee before the termination of the present Session, with the result that both Bills will lapse on the termination of the present Session, unless a motion for the effecting of changes in the composition of the Select Committee ranks as “a motion in regard to the Bill” for the purposes of the proviso to sub-order (2) of Standing Order 4. The question on which I seek your ruling is whether such motion so ranks.

I should explain that the question is not academic. If your ruling is that the making, during the current Session, of the motion for the effecting of changes in the personnel of the Select Committee saves the Bill from lapsing on the termination of the present Session, Government will take steps to convene the Select Committee on at least one of the two Bills in the interval between the termination of the present Session and the commencement of the next following Session. If, on the other hand, your ruling is in the contrary sense, the Bills will lapse on the termination of the current Session, and it will be impossible to convene the Select Committee on either Bill until after the adoption of a continuing motion at the commencement of the Simla Session.

I have no desire to discuss the merits of the question at issue at any length. A motion for the effecting of changes in the composition of a Select Committee on a particular Bill is a motion in regard to the Bill, with the result that on a literal construction of the proviso to sub-order (2) of Standing Order 4 the asking of such motion is effective to keep the Bill alive. But I would not regard as wholly unreasonable a contention that a subsidiary motion for the substitution of names on a Select Committee is not within the intendment of the proviso, and it is for this reason that I have ventured to ask for your ruling.

Mr. President (The Honourable Sir Abdur Rahim): The Chair has considered this matter and its ruling is that a motion like this, that is, for effecting any changes in the composition of a Select Committee, is a motion which would save the Bill within the meaning of Standing Order 4(2). On any such motion the vote of the House has to be taken and only if the House decides in favour of any change in the composition, such change can be effected. The Chair holds that a motion like this saves the Bill from lapsing.

THE CRIMINAL LAW AMENDMENT BILL.

The Honourable Sir Reginald Maxwell (Home Member): Sir, I move:

"That the Bill further to amend the Indian Penal Code and the Code of Criminal Procedure, 1898, for a certain purpose, as reported by the Select Committee, be taken into consideration."

The amendments made by the Select Committee are merely drafting changes which a consideration of the opinions received in circulation suggested to be necessary. They have imported no new matter into the Bill or any change of principle; and since the principle of the Bill has already been considered and accepted by the House I do not think I need take up the time of the House by further explanation. Sir, I move.

Mr. President (The Honourable Sir Abdur Rahim): Motion moved:

"That the Bill further to amend the Indian Penal Code and the Code of Criminal Procedure, 1898, for a certain purpose, as reported by the Select Committee, be taken into consideration."

Mr. M. Ananthasayanam Ayyangar (Madras ceded Districts and Chittoor: Non-Muhammadan Rural): Sir, I am opposed to the very object of the Bill and as it has emerged from the Select Committee it has not made any improvement. Section 565 enables a court, if it is a first class court or superior court which tries an offender for a second time for a similar offence; to pass an order that he should, for a period of five years or less after he is released or after he undergoes his sentence, report himself to the police authorities or any other authority about his change of residence from time to time, and if he fails to do so, he is liable under section 176 of the Indian Penal Code for simple imprisonment for a period of six months or fine for not giving information he was directed to give under section 565. By this Bill it is sought to convert this period of simple imprisonment into one of rigorous imprisonment. Thus, when this Bill is enacted into law, it will be open to the judge if he convicts a man for a second time to give a substantial punishment by way of rigorous imprisonment or transportation for life, and in addition, add a further rider that for a period of five years he shall be a helot or slave not being free to go from place to place or change his residence, except after notice to the police authorities. That provision is already there in the Criminal Procedure Code. I take exception to the provision itself.

[Mr. M. Ananthasayanam Ayyangar.]

The Criminal Procedure Code and the Indian Penal Code were enacted a number of years ago. The provisions in the Penal Code of 1864 were conceived at a time when things were quite different from what they are today; it was then assumed that everybody was guilty. They were old statutes which did not place a proper value upon the liberties of man. Now, on account of change of circumstances and times, it is no longer desirable that any man should, however low a position he may occupy, if he should err once, at all times he should be considered irredeemable. Sir, a change has come over, and the Provincial Governments are busy effecting jail reforms so that these people may spend their lives, when in jail, not as prisoners but as men who may reform themselves and pursue useful occupations after coming out of the jail, so that they may come out of the jails as better citizens, but if this provision is allowed to continue, just think of the consequences. A man is there in jail for a period of five years, coupled along with a number of others who have committed similar sins, who are not able to lift themselves much above that level and after coming out their position is much worse. I have known of persons who, after coming out of the jail, were asked to intimate their changes of residence to the police authorities; in fact, some of them were asked to stay in front of police stations. They are tied down, as if they were cattle, to the police stations, not by a physical rope, but by the mental and moral rope, and this is worse than the physical rope which ties down the animal. Sometimes the animal can kick against this and run away, but these fellows are morally bound down, and the moment a man goes out in search of employment, if he does not report himself to the police authorities, he is liable to imprisonment and what not. The Government do not assure him of any employment. The occupations in which the man is engaged, while in jail, are sometimes of no use to him when he leaves the jail, and, as such, he cannot eke out a living when he comes out of the jail. So, if he happens to go from place to place in search of occupations, he is always under restraint. The moment he goes out in search of work to avoid hunger, starvation and death, not only for himself, but for his wife and children, the man has to report himself to the police authorities who keep a watch over him wherever he goes. No person who has seen the lot of these people would have a good word to say about any of these sections.

There is a strong movement in my presidency for reforming the prisoners, and I understand similar movements are afoot in other presidencies also to reform the criminal tribes after the introduction of Provincial Autonomy, and I am surprised to see that while the Provincial Governments are active and are taking steps to improve the lot of these people, the Central Government have not taken any steps in this direction. I am reliably informed that the Madras Government is anxious to repeal this Act as early as possible. The Bengal Government may also do so. Only a short time ago there was a big conference held in Bengal of some of the members of the criminal tribes. Most of them have settled down and taken seriously to occupations such as agriculture. They, therefore, cannot any longer be called criminal tribes. Now, who can be called as one belonging to the criminal tribe? Why have they become criminal? It is because Government did not think it necessary to provide them with occupations, and, therefore, some of them have to resort to such things instead of facing starvation and death. There

is absolutely no scope to acquire anything by legitimate means for anybody in this country. I have known of cases where owing to limited means people have been driven to become criminal tribes. Persons who used to go to forests, stay there for three or four days, and collect a load of firewood and at the end of the day tried to eke out a small living by the sale of the wood have been driven out on the ground that forests have to be conserved. Though these people may die, they want to conserve the forests. It is unfortunate that no attempt is made, no plan is evolved to reform all these people who will be really useful citizens. I would tell the Honourable Member in charge of Defence,—he is now not in his seat,—that he need not be afraid of lack of suitable men for the army. He could collect a million people from among this class itself to fight the biggest nations of the world. I can assure my friend that these so-called criminal tribes are strong enough to face any difficulties, they will prove very valiant men, and if they are enlisted in large numbers, they will not only be able to earn a living, but they will also have the pleasure of defending their country. Sir, there is ample material in this country, but no steps are taken in the right direction. On the other hand, the Honourable the Home Member says that he is supported in this measure by a number of communications he has received from some of the Local Governments. I am exceedingly sorry for the Local Governments who have given their approval to this measure. What was the object of this Bill? If perchance a man after he is released from jail happens to move from place to place in search of work and if he fails to report himself to the police authorities, then the penalty of simple imprisonment is not enough, but he will be liable for rigorous imprisonment or something more. Look at the unfortunate position in which such a fellow is placed. Let us take a leaf out of the book of Russia where really God lives in the hearts of men. The other day, I heard that Mr. Bernard Shaw wanted to know if from the Chapels and Churches in Russia God had disappeared. He went there to know by personal contact with people what the exact position was. A story was narrated to me about him. It appears he saw a soldier standing, and Mr. Stalin himself took him there. The soldier was standing at his post and Stalin called him "My comrade", but the soldier retorted, "you call me comrade, but what about my boots, they are drenched in water". Immediately Stalin removed his boots and gave them to the soldier to wear. Well, you see that God lives there, and not in countries ruled by capitalists. I say I shall not be ashamed of being an ally of Russia or any of the Socialistic Governments where socialism really rules today. It is not merely in Chapels and Churches and temples that God lives, but God lives in humanity. I am exceedingly sorry to find that the Central Government have not even collected statistics of unemployment. Why don't they take up this question seriously in hand? If the Central Government do not move in this matter, I would ask the Madras Government to really send requisition to the Central Government to take courage in both hands and do the needful. I am sure there will be a lot of opposition in trying to ameliorate the lot of these people, who are really helots who have been degraded from time to time, and it is unfortunate that more stringent measures should be adopted to keep them under restraint for all time. I, therefore, gladly oppose this measure, and I would ask every Member of this House to press upon the Government to make a beginning in the right direction and show that this is not a reform which will ameliorate the conditions of these people. Let us make a beginning in the right way.

Mr. M. S. Aney (Berar: Non-Muhammadian): I am afraid that my Honourable friend will be accusing me of a dereliction of duty if I do not oppose the motion because he made reference to a Conference that was held at Tripuri of which I was the President. That Conference was intended to find out ways and means to remove the various disabilities under which the so-called criminal tribes labour. It was a Criminal Tribes Conference and the Leader of the Opposition called me the leader of the criminal tribes for having presided over that conference. I was in good company, most of his back-benchers were with me that day, and I like to be leader of that company—you may call it criminal tribe or anything else. However, Sir, the Bill looks simple, but the object of the Bill is to make the law more rigorous than what it was before. It seems that the Government are a great believer in improving humanity by making more repressive and more stringent laws than by treating them in a humane manner. I believe this method of legislation is no longer considered as a dignified and effective method at all. Ideas have changed all over the world, but of all the Governments, the Government of India are the last to welcome any change which does not fit in with their stereotyped notions and ideas. I feel that by merely making the punishment more stringent and deterrent, they are not likely to gain their object at all. Rather, it is by finding out some other ways, some honourable avocations in which those persons can be legitimately engaged that there is a hope of bringing about a real reform and making them less criminal. The criminal propensity is to be counteracted not by holding out threats and sending them to jail for every little fault or defect, but by showing them better walks of life in which they can usefully engage themselves. That being the conviction which I hold, I feel that the present Bill is going directly against all those salutary ways by which alone we can expect to bring about a healthy reform. I, therefore, think, that I have to oppose the motion, but I would be willing to support any amendment which may restore the old law or make it less deterrent than what it is here.

Sir Syed Raza Ali (Cities of the United Provinces: Muhammadian Urban): Availing myself of the right of free speech, a right which is not available everywhere, even in Imperial Delhi, I propose to make a few observations on this Bill. The right of free speech is a very valuable right and I consider myself a very lucky and fortunate man indeed that in this House, like everybody else, I can make use of that right. It was my lot the other day to be at a place. . . .

Mr. Bhulabhai J. Desai (Bombay Northern Division: Non-Muhammadian Rural): On a point of order, Sir. How is it relevant to this Bill?

Mr. President (The Honourable Sir Abdur Rahim): The Chair does now know how he wishes to utilise the right of free speech.

Sir Syed Raza Ali: I am very glad that the Honourable the Leader of the Opposition has intervened. That, I am led to believe, shows where the shoe pinches. I never proposed to cast any reflection at all on the Leader of the Opposition or his Party. What I say is very relevant, and relevant this way. If the right of speech were denied in this House, if, for instance, I objected to my Honourable friend, the Leader of the Opposition, making any speech, because I do not like the case. . . .

Mr. President (The Honourable Sir Abdur Rahim): The Honourable Member ought not to make any such remark. It might imply a reflection on the conduct of proceedings by the Chair, and the Honourable Member must not indulge in that. The right of free speech is laid down in the rules and Standing Orders.

Sir Syed Raza Ali: It is very fortunate that it is so. I was only referring to this. We have here rules, we have Standing Orders which guarantee to us the full right of free speech.

Mr. President (The Honourable Sir Abdur Rahim): Subject always to the rulings of the Chair.

Mr. Bhulabhai J. Desai: And relevant subjects also.

Mr. President (The Honourable Sir Abdur Rahim): The Chair thinks the Honourable Member had better address himself to the Bill.

Sir Syed Raza Ali: About the relevancy of the question I won't say more, perhaps I know the subject as well as the Leader of the House. (Laughter.) Unconsciously, I find I made a mistake; it may yet become true. The Leader of the House, as was hoped by some of the speakers earlier in the day, might one day become the Leader of the Opposition, and from that might pass on again as the Leader of the House. Coming to the Bill,—I value the right of free speech very much, here let me say that. Coming to the subject of the Bill, I think it is rather an important measure. It deals only with those people who are generally known as criminal classes or criminal tribes. They are the unfortunate people who, more from pressure of circumstances than any other reason, commit crime and earn their livelihood in that way. They are the men who appear before the court, on whom sentences are passed and who are required under section 565 of the Code of Criminal Procedure, after the expiry of the sentence, to give information relating to their movements. A good deal of lip sympathy was shown with these criminal tribes this morning, but I can say without hesitation that the body that has done more to improve the lot of the criminal tribes is a body where my own countrymen have not taken any very prominent part. So far as I know the subject and the measures that have been taken in various parts of the country to improve the lot of the *ex-criminal* tribes, important work has been done by the Salvation Army than by any Indian organisation to improve the lot of these classes. The Salvation Army movement have reclaimed the criminal tribes, of course, with the ulterior object present at the back of their minds always, I am afraid, of converting them to Christianity though this object has been denied on a number of occasions by some leading men of the Salvation Army movement. Yet they have done a lot. I know what has been done for the reclamation of criminal tribes in the territory to which I belong,—I mean the Rohilkund Division. Very good work has been done. Schools have been set up. Handicrafts and cottage industries are being taught to these unfortunate men. Some very fine hospitals, at the expense of a large sum of money, have been built for the benefit of the criminal tribes.

[Sir Syed Raza Ali.]

I was really surprised today at one suggestion that was made by my Honourable friend, Mr. Ayyangar, while opposing this Bill. Of course, it is open to him to oppose or support the Bill as he likes, but one remarkable suggestion that he made almost took my breath away. To be a soldier is a thing of which most people in all civilised countries are very proud. It is the best material from which the armies of different countries are recruited. So, it is, I am glad to say, in India. Our martial classes are people with a high sense of self-respect, who belong to very respectable families. Yet, according to my friend, Mr. Ayyangar, so low has the profession of soldiering fallen, that he would entrust the defence of the country to members of criminal tribes. If the future self-governing India's liberty and freedom are going to be defended by no better people than criminal tribes, I assure him, that I am not one of those who would care a fig for that liberty and that freedom. If we are to be a self-governing country, if we are to be a proud country, if we are to be a people who can lift their heads high among the nations of the world, then our best people, our most highly educated people and people belonging to our most illustrious families should man the ranks of our army. I am glad that it has been so up till now and I have no doubt that that will continue to be so in the future. While I have every sympathy for these unfortunate people belonging to the criminal tribes who appear before the courts so often, I am afraid that as long as the criminal propensities of some of them continue, which lead to their appearing in courts very often, it is necessary that this additional power should be given to the court to impose a sentence of rigorous imprisonment in proper cases instead of simple imprisonment. In this connection, I can say on the authority of my friend, Mr. Sri Prakasa, that simple imprisonment is really more oppressive than rigorous imprisonment. In his speech at an earlier stage, he referred to how monotonous simple life was and he pointed out that the rigours involved in simple imprisonment, at any rate in the case of a man like him, was more onerous than the severities imposed by rigorous imprisonment. That may or may not be so but surely there is a vast degree of difference between these criminal tribes and men of the type of my Honourable friend, Mr. Sri Prakasa. I, therefore, think that this provision is a healthy provision and I do not see on what ground it can be objected to. I support the Bill.

Prof. N. G. Ranga (Guntur *cum* Nellore: Non-Muhammadan Rural): I for one cannot associate myself with this Bill which seeks to amend one particular section of the Indian Penal Code and another section of the Criminal Procedure Code. I object to these two codes as they are today on the Statute-book. I do not mean to say that there should be no criminal law at all but I certainly object to the law that we find on this particular subject under the present Statute-book. The whole thing was formulated in those days when in India, anyhow, law givers and law makers were under the impression that they should treat the great majority of our people as prospective thieves, robbers, dacoits and so on and their idea of punishment was very crude indeed. Those law givers were imbued with this spirit which animated the laws in England which made even poaching punishable with death or transportation for life. As my friend, Mr. Ananthasayanam, pointed out, it is high time that these two codes were

radically revised in the light of the present day science of criminology and of reformation. Today, almost all sociologists are unanimous that the law should be administered in a spirit not of anger but more of sorrow, as was beautifully put by my friend, Mr. Sri Prakasa, the other day. The society must feel itself responsible for any criminal tribes or any offences that may be committed by any particular section or group of people or even a few individuals against itself or against its own law. It may be said that it is the State that is responsible for this function but everything depends upon the kind of State we have. Today, we find in this country as in most other countries that the State is established and maintained in the interests of, not the masses but in the interests of, a few, who have got special privileges and vested interests. Naturally, it becomes possible for the State in this country to bring a large majority of our people at some time or other within the mischief of the penal law and get them into jail. Things have gone to such extremes that this Government have confessed their failure to reform the society and to ensure the society against its own wrong doers and, therefore, they have placed on the Statute-book that infamous law known as the Criminal Tribes Act. According to that Act, lakhs and lakhs of people in this country are permanently styled as criminals, whether they have committed any offence or not. They are to be treated as actual criminals, asked to be always on parole and they are to exist, from generation to generation, as criminals. It is these people who are likely to come mostly within the mischief of this particular Bill. I will point out how it would be possible for the magistrate to bring these people under this particular Bill.

Any member of a criminal tribe, who fails to set up to the various rules that are passed under the particular Act by the Provincial
1 P.M. Governments, will be punished and on any pretence he may be hauled up for default; even on the pretence of his intention to commit a theft he may be punished and he is liable to be punished for the monstrous period of three years, and once he is punished he is sent to jail and he comes back and the next moment he commits any serious offence, the magistrate can order him to report himself to the police for five years thereafter. Now, how will it be possible for that man to get himself employed anywhere, and this particular order of the magistrate or of the court hangs about his neck like a heavy millstone and he cannot get himself freed from it. Then I come to the point of reforming these criminal tribes.

My friend, Sir Raza Ali, I am afraid, has not tried to inform himself fully about the actual position of the attempts that are being made to reform these people or to improve them. First of all, I will not dispute the point that he has made that the Salvation Army is trying to help these people to some extent. Now, to what extent it has been able to do this will be made clear from this particular extract that I am going to read from the report submitted to the Government of the United Provinces by a special enquiry committee that was appointed by it:

“To sum up, except for 23 per cent. of the Criminal tribes population committed to settlements adequate arrangements for the redeem of 99.77 per cent. of the notified and about 82 per cent. of the registered population do not exist.”

[Prof. N. G. Ranga.]

Therefore, if they have helped anybody at all, it has not reached more than 23 per cent., and I wish to assure you, Sir, that it is not the Salvation Army alone that has tried to do some good in this regard. Not far from Delhi there is a place called the Harijan colony. It is in charge of a famous man Thakar Baba, who is a member of the Servants of India Society, not even of the Congress, and he is a distinguished member of that Society. He has devoted his life for a number of years to the regeneration of hill tribes known as Bhils somewhere in Betur district, in the Panchmahals districts and Broach. There is another gentleman Mr. Manilal Kothari of the Congress who is doing a lot of work for criminal tribes.

An Honourable Member: He is no more doing it.

Sir Syed Raza Ali: The Harijan colony is not for criminal tribes but for the depressed classes?

Prof. N. G. Ranga: These men had devoted themselves to that work for a number of years previously, and if the Honourable Member will have the patience, he will learn a few things when he does not know them. Sir, there is a third gentleman who has been carrying on excellent work for the welfare of these people for nineteen years. Therefore, it is not fair for my Honourable friend to accuse us of not having done anything at all. There is another point. These people have been agitating in the various provinces in this country, notably in Andhra, in the Madras Presidency as a whole and in Bengal recently, for getting themselves freed from the provisions of this wretched Act, the Criminal Tribes Act, and also from these provisions that you find here. Government have not helped them; until this so-called Provincial Autonomy had been inaugurated, no attempt had been made even in the matter of inquiring into their fate not to speak of trying to redeem these people from their fate. Attempts are now being made, after the introduction of Provincial Autonomy, to have a Bill like this before the Bombay Legislature. The Madras Congress legislative party has appointed a sub-committee which has recommended in favour of the complete repeal of this Act.

Then, I have already referred to the report of the Committee appointed by the Government of the United Provinces. I do not know what the Bengal Government are doing but I hope it will also not lag behind these other Governments. Sir, all these efforts are being made in the Provinces. What have this Government of India done in this regard? Why is it that first of all they were a party to making this particular Criminal Tribes Act a provincial and concurrent subject? Why do they not keep the whole thing in their own hands and repeal it themselves? Why should they make it necessary for all these various Provincial Governments to try to repeal them? That is all because they do not wish to have their responsibility on their own shoulders. Why was this Act passed? Because this Government failed to help these people to become proper citizens. It may be said by my Honourable friend, Sir Reginald Maxwell, that after all this particular Bill, if passed, is to apply to these people who had been previously punished and sentenced to imprisonment for more than three years, and so on. But for what offence can a man be committed to jail for three years? Can a man be punished and sentenced to im-

prisonment for three years for an ordinary offence of theft? It may be any sort of theft, but it is all left to the discretion of the magistrate concerned, and the provision here is very wide indeed.

Sardar Sant Singh (West Punjab: Sikh): Theft is an ordinary offence in your opinion?

Prof. N. G. Ranga: My Honourable friend, the friend of the long staple, wants to sentence these people for more than three years' imprisonment for ordinary, private thefts.

Sardar Sant Singh: My Honourable friend should know that it is not merely by running away with theories that they can get self-Government. Do you know what is happening elsewhere?

Prof. N. G. Ranga: I confess to running away with theories, but my friend is running away with notes! I will read section 378 of this Indian Penal Code:

"Whoever, intending to take dishonestly any moveable property out of the possession of any person without that person's consent, moves that property in order to such taking, is said to commit theft."

Mr. M. S. Aney: That cannot be an offence according to the socialists?

Sardar Sant Singh: That cannot be an offence in Professor Ranga's opinion?

Prof. N. G. Ranga: Sir, my Honourable friend has introduced a number of useless and infructuous Bills.

Sardar Sant Singh: You have voted in favour of those Bills?

Prof. N. G. Ranga: I say this that the wording of this section is so loose, so wide, that anybody can be brought within the mischief of this particular section and that is what I say; I do not mean to say that no theft should be punished. I do not say that anybody who commits a theft should not be taken charge of by society and dealt with properly, but I find today that this particular section is being taken advantage of by the police and, I say that many magistrates are misusing this, with the result that poor people who are not able and clever advocates but simpletons, people who cannot make black appear white, are punished and are sentenced to the maximum imprisonment permissible, that is, three years. Once a man is brought like that within the mischief of this Act, then the process of his further degradation is very conveniently provided for in this particular Bill. Thereafter, he is not able to get any employment. Therefore, supposing he commits a theft, in the first instance, but all this sort of thing.....

Sir Syed Raza Ali: The first theft was not a real crime—that was a joke?

Prof. N. G. Ranga: Therefore, supposing he does, then what happens? He is punished. But with this rider being added to it, the sting is in the tail, namely, that he should go on reporting himself to the nearest police officer who may be prescribed by the convicting Magistrate for a period extending up to five years. That I consider to be very cruel indeed and also very heartless. It is difficult, even when he had been convicted for the first time, to get himself employed after his release and it becomes well nigh impossible for him to get any decent employment, whatsoever, when he comes back from the jail and has got to report himself to the police about his doings. Which employer will care to employ any one who

[Prof. N. G. Ranga.]

is subject to the constant watch of a police constable? There are very few employers in this country who are humanitarian enough to make it their business to give encouragement to these people and give them employment and thus help them to feed themselves. Therefore, this is a very cruel provision and we cannot be a party to it.

Then, I come to another point. My Honourable friend, Mr. Ananthasayanam Ayyangar, rightly said that if only proper opportunities are given to these people, they will make excellent soldiers. I agree with him for this reason that if it is possible for my Honourable friends and others to gloat over the fact that Sir Osborne Smith was here as the Governor of the Reserve Bank and he came from a country to which Englishmen at one time were sent as criminals, then it does not lie in their mouth to come here and say that they do not want to have anything to do with these criminals. Merely because this Government in their wisdom or unwisdom takes it into their head to call him or me a criminal, it does not mean that either he or myself is unfit to undertake responsibilities in this country. Well, Sir, I do not think anybody need be ashamed of himself even if he were to belong to the martial classes to be associated with anyone who had been till now described by the Government of India as a criminal man. Let me assure my Honourable friends that the United Provinces Government has already taken the necessary steps to withdraw this inhuman name from these people, namely, the criminal tribes. They are no longer to be called by that name. If anybody calls them by that name, he will be liable to be punished for insulting them under defamation. In this connection, I will refer my Honourable friends to the Budget speech of Pandit Govind Ballabh Pantji which he made as the Premier of the United Provinces in the Legislative Assembly there. ...

Sir Syed Raza Ali: I never knew that Pandit Govind Ballabh Pant's speech amounts to law.

Prof. N. G. Ranga: If people do not want to help themselves, what can I do?

Mr. President (The Honourable Sir Abdur Rahim): The Honourable Member can continue his speech after Lunch.

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

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

Prof. N. G. Ranga: Mr. President, I was saying that no longer will these people be called criminal tribes in some provinces and, therefore, they will be entitled to be recruited to the army and navy and air force. If only Government were to have the sense to recruit them, all these who have the usual requisite physical and mental qualities will be recruited to the Defence Force of India, and I can assure my Honourable friends that people belonging to many of these tribes are very hardy and hefty fellows, very strong and brave and heroic too, and they will make excellent soldiers, if not generals; and I may assure them that not so very long ago many of them belonged to the ruling races in this country and some of

them used to rule certain parts of the country. Therefore, nobody need be afraid of having to allow his children to rub shoulders with these people either as cadets or as officers of the Defence Forces.

I come now to this point. Why do people commit thefts at all? I have found in my experience when I went over to England and countries on the continent that for very many of the things for which large numbers of people are found thieving in this country, people on that side do not think of committing any theft at all, merely because their standard of living is very much higher and their ability to earn is also much greater.

An Honourable Member: Smash and grab raids!

Prof. N. G. Ranga: There may be cat burglars, but they come into being only after the economic depression in Europe and, therefore, I draw the general inference that people resort to petty thefts for which they can be convicted for three years because of their poverty. I do concede that people commit such thefts also because of want of proper education and culture. But who is responsible for the poverty of the people, poverty in mind, poverty in culture and poverty in riches? It is the Government. If the Government have failed in their duty in providing people with adequate employment and education and culture, certainly it is not fair for the Government to turn round and say that for their own failure others should suffer, that all these masses of people who are poor and kept poor and who are not helped to get themselves educated or cultured should be made to suffer merely because of the policy of the Government. The Government have not taken sufficient steps to relieve the distress of the people, to improve their conditions of life, and that is why we find, in India, large numbers of people committing ordinary petty thefts, trying to get a little bit of grain out of a granary and then getting themselves convicted for three years. I am reminded of a popular story in my part of the country—and I dare say it is known to people in other parts also—there was a boy who was convicted for theft and he was being taken to the jail: on his way there was his mother and she began to cry and asked him to come to her and take her last blessing. He went to his mother and then instead of taking her blessing asked her “Why did you do this? If only you had taught me not to thieve, if only you had taught me to behave myself properly in society, I would not have been put to this plight.” That is exactly the position. In the name of these unfortunate people who are being convicted day after day in the various courts in this country for petty thefts, I charge this Government for having failed to discharge their duty towards the citizens of this country. The proper thing for the Government is to provide adequate employment for all these people. They have not done so. They should educate them. They have not done so. They must at least try to tackle the social problems of those people who are committed to jails to various terms of imprisonment and improve their position by trying to educate them, while there to raise their cultural standards, help them to learn various trades and then follow them up after they leave the jail, and, as a friend, provide them with employment and treat them in a sympathetic fashion and look after them as a father would look after his errant children. Instead of that, the Government simply want to follow them up with this order of asking them to report themselves to the police for any period extending up to five years, and thus preventing them from getting any decent employment whatever. I consider that the degree of crime is the measure of a society's failure or success.....

Mr. President (The Honourable Sir Abdur Rahim): The Honourable Member has said all that several times.

Prof. N. G. Ranga: I say, Sir, not only have the Government failed but our society also has failed in its duty to help its citizens, to run straight in life, to lead a healthy and wholesome and decent life. That is why society today is suffering from this inconvenient fear of defending itself any moment from thieves who may break into the House at any moment. I am struck with one peculiar thing. When I was at Simla, I found that our windows were provided with glass panes only and no bars or iron rods at all. But when I go to the villages I find that even the poorest man, if he were to have a window, bars his window with iron rods. In England you do not find them. In France you do not find them; but in our villages and in our towns we find them. What does this mean? Society here is obliged to convert every house into a prison so that the people who are inside may be safe from house-breakers from outside,—from thieves, robbers and so on. Thus, in order to have this poor comfort of having our own properties for ourselves we are converting our own homes into prisons and they are trying to condemn as many people as possible to jail. Not being satisfied even with that, we go in vindictive fashion to style certain classes of people as criminal tribes and condemn them for ages and ages. This is really a bad system of things. Society has got to reform itself.

Mr. President (The Honourable Sir Abdur Rahim): The Honourable Member has been repeating that from time to time.

Prof. N. G. Ranga: It ought to take the earliest possible steps to radically revise its course and thus help the poor people of this country to have a better chance in life. That is why I oppose this Bill.

Mr. N. M. Joshi (Nominated Non-Official): Sir, I rise to oppose this motion. This Bill is intended to increase the rigour of the punishment meted out to what are known as habitual offenders by providing that the punishment to be given should be either simple or rigorous. If the Bill had provided that the choice whether it should be rigorous or simple should be left to the prisoner I would have supported it because I know many people who would certainly have preferred rigorous imprisonment to simple. Unfortunately, the Bill provides that the discretion should be given to the magistrate. I am not prepared to support this proposal. Not only am I not prepared to support this proposal which increases the rigour of the punishment, but I am opposed to the original section by which it is made an offence if a man fails to give notice or information about his residence and something else. It is wrong that if a man commits an offence and undergoes punishment and imprisonment for some years, to prolong his punishment for a further period which may extend to five years. When a man undergoes imprisonment he pays for his fault and nothing should be allowed to remain attached to him after he comes out of jail. From the point of view of sociology and criminology, I think it is a mistake to follow a man after he comes out from jail. For some years I did some work for the released prisoners aid society in Bombay in visiting jails and criminals sometime, before they were released and sometime, after they were released; and I can say from my own experience that this practice of giving information to the police and asking the police to have surveillance over these criminals, instead of curing the habitual prisoners, makes them very habi-

tual in their criminal habits. When I tried to find employment for these people known as habitual criminals, the real difficulty was that a man could not keep any employment because he was followed by the police and as soon as the employer came to know that this man was under police supervision and surveillance he lost his job. That is my experience after having tried to help several of these ex-prisoners and, therefore, this section which gives power to the magistrate to compel these people, who are known as habitual criminals, to notify their residence and place themselves under the power of the police is a wrong thing. It is against the principles of sociology. Instead of improving the criminals it makes them more habitual in crime. I, therefore, feel that we cannot support this measure. Several speakers referred to the criminal tribes who are also considered to be habitually criminal.

My Honourable friend, Sir Syed Raza Ali, paid, I think, a deserved compliment to the Salvation Army. But I think he was not quite just to indigenous agencies who try to improve the criminal tribes. There are several social agencies in this country who would certainly like to do more work for bettering the conditions of the criminal tribes. As a matter of fact I am connected with some organisations which are actually managing two criminal tribes settlements in Bombay. If we are not given more opportunities of managing any more criminal settlements it is due to the fact that the previous Governments had more faith in the politics of the Salvation Army than the politics of the social agencies of this country. I do not suggest that we Indians have done everything for the criminal tribes that we ought to do. I am prepared to admit that we have failed to do justice to these people who are known as criminal tribes. If we had done what we ought to have done, by this time there would have been no criminal tribes in India. Unfortunately, we neglected them and if they are criminal tribes today, it is due to the fact that these people being deprived of their lands have no other means of livelihood left. However, that subject is not before the House for discussion today. I shall, therefore, close my speech by saying that I oppose this Bill.

Khan Bahadur Shaikh Nur Muhammad (Punjab: Nominated Official): Sir, my observations on this subject shall be very brief. The first point I want to draw the attention of the House to is what class of criminals come within the ambit of this amendment. We have been talking a lot about the criminal tribes. That class, as such, is not touched by this amendment at all

Mr. N. M. Joshi: They are not excluded!

Khan Bahadur Shaikh Nur Muhammad: The class of people who are under consideration at the present juncture are the criminal individuals, not those who are registered because their fathers committed a crime or because their relations are criminally inclined but people who have actually gone before the courts not once but twice and have been convicted after evidence duly thrashed by the magistrate and the bar. Those people are known to be criminals. Criminal tribes should be distinguished from criminal individuals. We are dealing with criminal individuals, those who have had more than one conviction. The Government, if they justify their existence, owe it to society to protect the society from this class of people.

[Khan Bahadur Shaikh Nur Muhammad.]

A change in the law requiring such people to report their residence after their period of sentence is over is a most salutary one and has proved its usefulness for many a long year. Now, what does the change which this amendment contemplate mean? The law is there that if he does not report he shall have to suffer simple imprisonment for a certain period. What the change wants is that he should not have a bare holiday but should be made to work in jail. It is very strange that a high authority on labour questions should oppose an amendment which is intended to make criminals work. What does work do? It reforms the idle man. The idler's brain is the devil's workshop; and a criminal's brain if he is idle is doubly a devil's workshop. Would you send a man to jail to fatten there, then, they would like to commit offences merely for the sake of enjoying the easy life of the jail. I say, you should give him some work to do. Everybody knows that the amount of work required of a convict in jail is not killing. Most of them gain weight and come out healthier and fatter people.

If these people are made to work in jail they will not be losers. It is very strange that a salutary provision of this kind is being opposed. In fact, it is difficult to understand what the point of the opposition is. Do you want it to be made a perfect holiday for the criminal? Perhaps one can understand if the Opposition urge that restriction should not be placed on any individual's liberties. But that stage in the consideration of the question is passed. The law is already there that if a man does not report, he should be dealt with in a particular way. The change now required to be made is that in dealing with him, the punishment shall be made more effective when he is in jail. It should not be a mere idle passing away of his time. The change that is desired to be made is most salutary if the House gives consideration to the main point, not the subsidiary points, namely, the general philosophy of crimes or the logic of a criminal being dealt with in one way or the other. These things are beside the mark. If this point is kept in view, there is no reason why there should be opposition.

Mr. Sri Prakasa (Allahabad and Jhansi Divisions: Non-Muhammadan Rural): Sir, I am happy to have another opportunity of speaking just after my Honourable friend from the Punjab. Law abiding as he is, I am surprised how he has broken the law of the House by speaking from a seat not assigned to him.

Mr. President (The Honourable Sir Abdur Rahim): The Chair believes the Government are entitled to move their Members from one seat to another for purposes of debate. The Chair thinks there is an understanding to that effect.

Mr. Sri Prakasa: Government in our country is always in a favoured position.

Mr. President (The Honourable Sir Abdur Rahim): The Chair was not sure. But that is its recollection. The Chair now understands that when a seat is sought to be changed of any particular Member, notice is to be given. In this case, the Chair is told no such notice was given.

Mr. Sri Prakasa: I do not desire that you should take the matter too seriously.

Sir, the provisions of the Bill have to my mind two aspects and I shall deal with them one by one. The first, is the question of the simple *versus* rigorous punishment. On a previous occasion I had to say that simple though it looks, simple imprisonment was more rigorous than rigorous in its actual implications. So far as my Honourable friend's proposal goes, that these particular persons should be sentenced to rigorous imprisonment, I can only congratulate those whom he wants to punish. I hope he realises that instead of six months, in my province, at least, he will now have only five months and twelve days of imprisonment, for the rest will be remitted. In my province we always get a remission of three days for good conduct every month; and good conduct in the jail means that the convict is on the soft side of those who are in charge of the jail. Being on the soft side of those who are in charge of the jail means going against all the laws of the jail and doing many improper things for the jail officials. So, Sir, I congratulate these men, for they will now have a morning breakfast which they would have been deprived of if they had been awarded only simple imprisonment. They would get clothes which they would not have got if they had only simple imprisonment. They will have freedom to walk about the jail, even visit the outside garden and perhaps sometimes take a leap in the dark across the low wall! So, for these reasons I congratulate these men for real relief when my Honourable friend wanted to punish with more rigorous imprisonment. He is woefully wanting in personal experience of jail life and so does not realise what he is doing.

Now, Sir, I come to the second aspect of the problem, namely, the why of such a punishment? I am rather sorry that my Honourable friend, Sir Syed Raza Ali, is not in the House at the present moment. He seems to me rather exercised as to who a criminal is. I may, for his information, say that everybody, at least in India, is a criminal who is not a limb of the Government. When such a man is tired of his handsome life, he takes to what may be called politics which some people think is the last refuge of a scoundrel. He becomes an agitator. Any person who takes interest in politics in the street or on the public platform is an agitator. When he gets elected and sits in the Opposition the same man becomes a politician, and when he happens to change seats and become a member of the Government, he becomes a statesman. So the evolution from the criminal to the statesman is not so very difficult as he can well imagine. I should not wonder if he himself has undergone such a transformation. It is quite true that as my Honourable friend from the Punjab very pertinently pointed out, this Bill does not necessarily deal with the criminal tribes, but we are making a new criminal tribe or at least creating new criminals by the provisions of this law. In order to judge the exact effects of the law, we must compare the conditions of those who will come within the purview of the new law with those who are governed by a similar law, namely, the Criminal Tribes Act and who suffer enormous disadvantages.

If my Honourable friend opposite were ever to visit Benares, he will find in front of one of the police thanas in the Secrole Ward, not far away from where the District Magistrates and other high officers have their palatial residences, a lot of nasty little apologies for cottages right on the pavement. They are inhabited by some members of these so-called criminal tribes. They actually live their family life there in the open. Their women are delivered of children under the trees because they are

[Mr. Sri Prakasa.]

criminal tribes and, therefore, have to be under constant police surveillance. My Honourable friend, the Defence Secretary was indignant this morning at a man changing from one dhoti to another in a railway train, and not at the lady who persisted in looking on. What will he say when he finds that these men and women actually live all the 24 hours under the very eyes of the police because they belong to criminal tribes. They are kept in constant surveillance lest they should change their place of residence. This law is going to create a new set of criminals who will have to live under similar conditions.

I want the Honourable Member opposite to make both for himself and for me a simple research. I wonder if it has ever struck him—but it certainly struck me when I had nothing else to do except to think of such matters for 17 long months as to how it is possible for every jail to have just the number of sweepers that it wants. My investigation, such as it was, showed that as soon as the Superintendent of a Jail finds that the number of sweepers is less than the required number in any particular jail, a hint is thrown to his brother Superintendent of Police who has quite a number on his waiting lists. From among these lists, some persons are run in and without much of a trial, they are put into the jail and thus the requisite number of sweepers is always available.

Mr. President (The Honourable Sir Abdur Rahim): These experiences may be very interesting and instructive on particular occasions, but they have nothing to do with the provisions of the present Bill.

Mr. Sri Prakasa: The relevancy is this. Under the proposed law, these men are going to be punished with rigorous imprisonment. Rigorous imprisonment involves work about which my Honourable friend, from the Punjab, who has worked just for five minutes in the course of this whole term, waxed eloquent. These men will now be run in and made to work as sweepers if there are not a sufficient number of sweepers available.

Mr. President (The Honourable Sir Abdur Rahim): That is the responsibility of the Magistrate; we are not concerned as regards
3 P.M. the trial of these men.

Mr. Sri Prakasa: The responsibility may be of the Magistrate but the work has to be done by the poor man who is being sentenced. So, the responsibility ultimately falls on him. Sir, my Honourable friend, Sir Raza Ali, was very angry that any one should have the temerity to say that the defence of a country should be entrusted to criminals. Let me give one case here. There was a man who used to cook our food in jail. He had been to the great war and if I mistake not his name was Basantu. He was a man from Hardoi who had, in the course of the war, fallen in love with a Russian girl and went to Moscow in pursuit of her. He came back to his own country, was demobilised and having nothing else to do he ultimately turned a dacoit. He was undergoing a sentence of seven years when I was undergoing a sentence of only one year.

Mr. F. E. James (Madras: European): As a dacoit?

Mr. Sri Prakasa: Yes, I was a dacoit, because I was trying to take away my friend's Government from him. And he was successful and I am still hoping to succeed.

As I was saying, he was sentenced to seven years' imprisonment. This shows that persons who are regarded as criminals and dacoits are very good soldiers. This man had served in the war for many years but because he was demobilised and because his country's Government had no further need for him he had to turn a dacoit. Therefore, I want to say to those who feel sanctimonious about these matters that these are just the men with such spirit who have built the British Empire for my Honourable friends opposite by going to Canada and Australia and who, in India, can defend their country much better than the present mercenaries if only they had the chance. Sir, really the work of the soldier and the work of the so-called criminal are very much alike. Both have to climb walls, both have to kill, both have to shoot.

Mr. President (The Honourable Sir Abdur Rahim): The Honourable Member should not indulge in these observations; they are not relevant.

Mr. Sri Prakasa: In any case that happens to be my opinion and I do think that if these men were properly treated, instead of being harassed and bullied in the manner my Honourable friend opposite recommends, we shall have a fine race of men who can do good to society. Sir, the work has really to be taken in hand by the State. Private agencies can do very little and I will close with giving a little experience of my own. There was a person called Mokhu who was convicted of theft. He was put in charge of the barrack, which I and some other friends were occupying in jail, as a cleaner. He was a strong and hefty person and used to work hard. He had to be prematurely released in order to make room for us politicals. While he was going he said to me, "I have no chance in the world; people will not employ me. Will you employ me?" I told him I would and asked him to see me after I came out. So the man came to me when I returned home, and I employed him. My experience was not very happy because, though I was warned by the police not to have the man and though I got the Superintendent of Police to release him from the police register and allow him a chance in life, I lost a good bit of my gold and silver articles. He broke open the cash box and took away a gold watch and various other things. Naturally, I was expected to inform the police; but mine is an old-fashioned family and we regard servants as our own children and I said that just as I am not going to hand over my son to the police if he did anything out of the way so I am not going to hand over this man either. But I must say this that with all the efforts that we may make private individuals are likely to get into difficulties as I did. I am not very much deterred by this experience of mine and shall try another man if he comes my way, because, after all, the loss of a gold watch is not so harmful as loss of daily bread of these unfortunates. But if the State took the matter in hand, reform will come very easily and quickly. I must once more appeal to my Honourable friend opposite that instead of making the law more rigorous he should approach this problem in the spirit of social service and reform the man instead of punishing him more and more. He will then find that his good work will be requited to the full by good results and he will leave a happier race of men behind than he found when he first came.

Mr. Bhulabhai J. Desai: Sir, this is in itself a measure which may be regarded as somewhat insignificant, but inasmuch as I hold strong opinions on the question of the theory of punishment, I cannot be a party to this measure, and it is only for that reason that I wish and venture to occupy the House for a few minutes. The amendment is intended to arm the trying magistrate, or whoever the tribunal may be, with a power, among other things, to inflict rigorous imprisonment as an alternative no doubt in cases of persons failing to give information with regard to the whereabouts of those who had already been convicted of certain offences mentioned in the section.

I listened with great attention to the Honourable gentleman from the Punjab who occasionally enlightens this House with his experiences. I do not know exactly what he intended to convey. I think he was arguing more for the principle that I stand for than, as he thought, in support of the Bill. He said that people like that in society ought to be separated from society. I take it that he means what he says. But he did not understand that it is not the difference between rigorous and simple imprisonment that separates the man from society; it is the imprisonment itself that separates the man from society. I think my Honourable friend did not understand and did not appreciate that, when he was arguing for the measure of the Home Member, he was really arguing for the measure that I am suggesting. In other words, if segregation is the principle behind the punishment, that is amply met by the imprisonment whether simple or rigorous. But if vengeance is the element, of punishment, then I can well understand my Honourable friend saying that there should be rigorous imprisonment at all events as an alternative imprisonment for an offence of the kind. Now, believing as I do that segregation has a value, I am not one of those who believe in vengeance as an element of punishment, and, therefore, the very facts which my friend was relating without appreciating their true significance show that he was making a speech against the leader who called him to his aid only behind his back. That, Sir, is not enough. I am also one of those who believes that we have had a system of penal law which is not merely ancient in the sense that it had been enacted quite a long time ago, but it is ancient in the sense that it has failed always to take note of any changes of human society and the manner of dealing with criminals and others.

My friends here who come forward with Bills of this nature, however, often become Presidents of Prisoners-Aid-Societies. In my part of the country, I have known many Government officials who were first talking of rigorous imprisonment and inflicting harsh sentences the next day coming out with schemes of social measure and becoming Chairmen of Prisoners-Aid-Societies. I do not think their minds are either logical or consistent. They do not actually think out for themselves. What is it that these gentlemen do? An isolated suggestion is made either by a District Magistrate or by some others of that type, and immediately they feel "Oh, I have been told that people do not report their whereabouts after they are discharged, and the only way to punish them is to arm the magistracy with more stringent powers." As I said, their minds are not logical or consistent. We will take it that they are averse. Do you think that you are going to improve these released prisoners by making the punishment much more severe and rigorous? For my part I am not one of those who

believes that we have at all made any effort whatever in the direction of looking into our penal law from the right point of view. There is one thing which I should like to say, and that happened by accident,—I have some association with it. My friends probably generally get these reports and run off to have a measure, get the draftsman to get it, they come to this House, and probably at the end of the Session say, “Oh, after all, this is a small measure, it only seeks to give a little more punishment, and it does not matter.” I am afraid, Sir, I cannot look at this measure that way, and I would commend to the attention of my Honourable friend, Sir Reginald Maxwell, whether this Bill passes or not, for his future guidance a book that was written by Lieut. Taraporevala on Prison Reform and the general attitude of the services and people of that type towards prisoners in general and convicts in particular, and I hope my friends will learn a good deal more from this than by reading some of the antiquated books of which new editions are not available from other countries, and they will recognise that from reports of tired officials sitting in their tents in some out of the way place where they get disgusted when a prisoner is brought before them for having failed to report himself to the authorities and saying “Oh, am I so powerless as not to inflict imprisonment”, you should not come before this House with measures of this character. Sir, I recollect a Magistrate in Ahmedabad, when I was a Professor, who, having come to a judgment that a particular person was guilty, sentenced him to ten years’ imprisonment, and his Registrar or the equivalent of the Registrar, the Sheristadar, as he is called in those parts, got up and said: “But, Sir, this particular section does not allow you to do this”. But the Magistrate said: “Non-sense, the man is guilty, am I not empowered to inflict this punishment”? This is what Mr. Alcock said,—I am able to give his name, because he has now retired. He has been a very great friend of mine for a long time. This is how some of these Magistrates think, they think that they are not merely a Raja of some Indian State where what they will is law, but they have to deal with some of these unfortunates restricted by some sections. But the fact remains that those who are in charge of making laws and those who are in charge of dealing with the magistracy ought to look at it, not as a species of anger, not as a species of vengeance, not as a species of something which makes man more wild than he is, but in a humane manner, and do the right thing. After all is said and done, the offence in this particular case is merely failure to give information about their whereabouts. It is not an offence of such a character that a regular amending Bill is called for for the purpose of inflicting in a possible case rigorous imprisonment. I am really amazed at the manner in which these things are proposed before this House in matters of this kind, and if it were merely an isolated case, I would not have bothered. It is the mind behind it, it is the psychology behind it, it is a psychology of callousness, it is a psychology of indifference, it is a psychology, as I said very often, of anger, without realising that there is anger behind it, and it is that, I think, which requires a closer attention of the House when matters of this kind are brought before this House. After all, when you give punishment to a criminal, you must also consider that he has already undergone punishment for some other offence, and you should not think that it is not enough, and that there should be additional punishment if he fails to report himself, and for that infliction you are occupying the time of this House and seriously treating it as if it was one of those laws without which law and order or the society was going to be disturbed. I think we

[Mr. Bhulabhai J. Desai.]

are exaggerating things, and we are not appreciating the true principles of our penal law of this country. Sir, I oppose this.

The Honourable Sir Reginald Maxwell: Sir, I confess I was a little surprised that such a small measure of rectification in our criminal law as I have ventured to bring before this House should have excited such torrents of eloquence. But the explanation, to my mind, is to be found in the fact that what Honourable Members were interested in was not so much the actual measure to be enacted by means of this Bill as wider questions of the ethics of punishment and other questions of the applicability of our criminal law. I do not intend to be drawn aside into theoretical discussions of that kind. I find that even reducing those arguments to their simplest form the main line of attack was against the principle of section 565 of the Criminal Procedure Code. My friend, Mr. Ayyangar, launched the attack in his speech opening the debate, and so far as I could follow his argument, his idea was that the whole principle of requiring persons to report, after they had been convicted of certain offences, was wrong and undesirable. Well, my answer to that is this, that if this Bill were defeated, the result would be not that no orders under section 565 would be passed in future, but that persons who are convicted before a court of disobeying those orders would be punishable with simple imprisonment only. That is all

An Honourable Member: It is notice to you.

The Honourable Sir Reginald Maxwell: But in spite of the defeat of this Bill, section 565 would go on just the same. The object of this Bill is that when imprisonment is inflicted by a court for breach of an order passed under section 565, then the court is to have the option of inflicting either simple or rigorous imprisonment as it thinks fit. During the previous debate on this Bill, I drew the pointed attention of this House to the nature of the offences which rendered the persons re-convicted of them liable to orders under section 565. They are not just any offence. They are offences of a particular kind, serious offences against property,—those are the main group, and the other large group is offences against coin and currency. In other words, the persons whom we wish to get under control by means of section 565 and with whom we have to deal if they break the orders passed under section 565 are persons who have allowed themselves to be tempted from the paths of honesty to make money out of other people by delivering false coins or otherwise. I may say that all offences under Chapters XII and XVII of the Criminal Procedure Code do not make the offenders liable, if they are repeated. I think it was my friend, Professor Ranga, who said that the offences were altogether trivial which made the offenders liable to this action, but I would draw his attention to the fact that the offence of delivery to another of coin as genuine which . . .

Prof. N. G. Ranga: On a point of personal explanation, Sir. I did not refer to any sections of the law. I particularly referred to the particular provision, and I said that it was too wide, and, therefore, it left too much of arbitrary power to local Magistrates as well as the police, and my Honourable friend is somewhat irrelevant.

The Honourable Sir Reginald Maxwell: Anyhow, the Honourable Member may take comfort in the fact that he may deliver spurious coin to any other person as often as he likes provided he did not know that it was false money when received by him, without rendering himself liable to an order under section 565.

Mr. S. Satyamurti (Madras City: Non-Muhammadan Urban): You can get lots of false coins in Delhi all right.

The Honourable Sir Reginald Maxwell: That was the particular point of my allusion. I now turn to my Honourable friend, Prof. Ranga. I find that his main line of argument is not particularly against section 565 but it really proceeds from what I should describe quite seriously as an excessive sympathy for the criminal. I know it is always the line which my Honourable friend takes in discussion of such matters in this House that, firstly, no criminals are ever to be punished for anything, and secondly, that no police officer can be trusted to carry out the law properly.

Prof. N. G. Ranga: The second one is quite correct.

The Honourable Sir Reginald Maxwell: I would ask the House not to be misled by any such, what I might call, sloppy sympathy. We are dealing with persons who have caused severe loss to other people and have done it more than once. They have been punished once and they have had their *locus pœnitentiæ* and after they were released they have again repeated the same crime. Those persons, therefore, are proved to that extent to be incorrigibles. In any case, I would seriously deprecate this idea that all our sympathy should be lavished on the criminal who victimises other people and that no sympathy whatever should be lavished on the victims of those crimes. It is a wholly wrong attitude of mind and I do not know whether it represents the considered policy of the Party to which my Honourable friend, Prof. Ranga, belongs. When he comes to this House and seriously asserts, as I understood him to say, that he disagrees entirely with the principle of the Indian Penal Code and the Criminal Procedure Code and, apparently, thinks that there should be no criminal law at all. . . .

Prof. N. G. Ranga: That I never said.

The Honourable Sir Reginald Maxwell: That is what I understood the Honourable Member to say and it certainly appeared to be the tenor of his argument,—I would seriously ask whether any considerable section of this House can identify itself with an attitude of that kind

Prof. N. G. Ranga: Let us wait and see.

The Honourable Sir Reginald Maxwell: Let the Honourable Member's constituents wait and see if they ever get a Government formed with those convictions.

Prof. N. G. Ranga: Let us both go to that constituency and I will give you a good beating.

The Honourable Sir Reginald Maxwell: Honourable Members have occasionally shown themselves sensitive to the light in which they are represented by other people in the world. I do not know whether they have ever read a certain story of Rudyard Kipling entitled "The village that voted the earth was flat". . . .

Mr. S. Satyamurti: Do you still believe in Rudyard Kipling? He is an old fogey.

The Honourable Sir Reginald Maxwell: He is not alive.

Mr. S. Satyamurti: He is not alive, but he is an old fogey.

The Honourable Sir Reginald Maxwell: Is India at some future date going to be known as "the country that voted that no crimes should be punished", and in what kind of light would it be regarded by the unanimous opinion of other parts of the world, I should like to know?

Let me now turn to another misrepresentation which appears to have surrounded this Bill and that is that it has something to do with the criminal tribes. It is quite true that a member of a criminal tribe, who was reconvicted of an offence which made him liable to orders under section 565, may be affected by the Bill. But section 565 does not apply to members of criminal tribes any more than it applies to Prof. Ranga. Here is a measure which applies to anyone who is convicted twice by a court for a certain class of offences, and it is entirely misrepresenting the situation to call for our sympathy for criminal tribes as though it were the recognised principle of this Bill. But since the question of treatment of criminal tribes has been called in question in this debate I would here remark that I do not agree with some of the opinions which appeared to be held by Honourable Members who have spoken, as they imagined, on behalf of the criminal tribes and demanded things like that the criminal tribe settlements should be brought to a sudden and bitter end. From what I have seen of the criminal tribe settlements and of our policy, at any rate, in my own province, of dealing with criminal tribes, I say, it would meet very largely the principles which have been urged by several Honourable Members of the Party opposite, namely, that our policy in dealing with persons who have been so unfortunate as to inherit a criminal tendency should not be purely punitive but that some effort should be made to bring them under guidance which would accelerate their reform. And I know for myself, from personal experience, that the criminal tribes settlements which have, for many years, been established and operated in the Bombay Presidency have had very great effect in reforming persons who were otherwise regarded as incorrigibles and against whom the only remedy in the past used to be to incarcerate them and treat them as prisoners. There they are taught useful trades and they are kept in conditions which are far removed from those of a jail, and even the instance which I think my Honourable friend, Prof. Ranga, quoted, that of Australia, does show that in course of time criminal tribes or persons who in the past have been criminals are susceptible of reform and of becoming persons who, afterwards, become of real use to society. There is one final point which I would like to deal with regarding this Bill, particularly with regard to the speech of the Leader of the Opposition.

In considering this Bill this House is exercising its function of concurrent legislation. It is not a matter in which jurisdiction is confined to this House. Every province could, if it liked, pass a Bill in exactly the same terms without the interposition of this House at all. But in matters affecting the general administration of criminal law, particularly the Criminal Procedure Code, it is much more desirable that the legislation should be undertaken by the Centre in order that the uniformity of criminal law, throughout India, may be preserved. At the same time, when this Central Legislature exercises its function of concurrent legislation it is not responsible only to itself. It is responsible to all the provinces for which it is legislating, and it is one of the principles clearly envisaged by the Joint Select Committee in discussing the principle of concurrent legislation, that legislation by the Centre should be undertaken in close response to the wishes of the provinces, because on the subject of criminal law, the executive authority in that matter rests with the provinces; it is they who have to administer these laws, not we. We are only making the laws for them and each province is responsible not only for the administration of the law but for the results of the administration of that law on its own law and order, its own peace and its prison population. Therefore, this House should beware of lightly disregarding the clear opinions expressed by the provinces. Now, this is a matter in which all the provinces have been consulted.

Mr. K. Santhanam (Tanjore *cum* Trichinopoly: Non-Muhammadan Rural): May I know in what years they were consulted?

The Honourable Sir Reginald Maxwell: They were consulted after the 1st April, 1937.

Mr. S. Satyamurti: Before the Congress Governments took office or after?

The Honourable Sir Reginald Maxwell: The Honourable Member can find that from the opinions. I can tell the House that they are the opinions of the Governments in power today, except possibly one that has changed since. I am not quite sure about that. Anyhow, as I have already informed the House, every Provincial Government that has been consulted, except one, has been in favour of the principle of the Bill and of those Governments which were in favour of the principle of the Bill, seven were Governments formed by the Congress Party, including the Government of the province to which the Honourable the Leader of the Opposition belongs.

Mr. Bhulabhai J. Desai: I have my own opinions, notwithstanding that.

The Honourable Sir Reginald Maxwell: I am saying that the Government here on these Benches has a mandate from the provinces, including the Congress Provinces, as against the Honourable Members opposite. I say we have our mandate and yet I am surprised that Honourable Members of the Congress Party opposite are urging us to disregard it.

Mr. Bhulabhai J. Desai: And for very good reasons.

The Honourable Sir Reginald Maxwell: I have seen reports in the papers which indicate to me that at the present moment there may be some lack of that central control which usually distinguishes the Party to which my friend belongs. In those circumstances, I am surprised that instead of proceeding with a little more caution they should openly dissociate themselves from those who, in the name of their Party, are carrying on extremely well the Government of their provinces.

Mr. Bhulabhai J. Desai: Thank you for the certificate.

The Honourable Sir Reginald Maxwell: Therefore,, I assure this House that it is the considered wish of all Provincial Governments, except one, that this legislation should be passed.

An Honourable Member: Which one?

The Honourable Sir Reginald Maxwell: The one that is not in favour of it in principle is the Government of Bihar. It is in a minority of one against ten provinces. In fact, as I told the House, one Government even wishes the penalty to be enhanced for breach of orders under section 565 but no other Government has wished the penalty which we have proposed in this Bill to be altered and every one of them is in favour of giving the courts the option of inflicting rigorous and not merely simple imprisonment. I can, therefore, safely commend this measure to the acceptance of the House.

Mr. President (The Honourable Sir Abdur Rahim): The question is:

"That the Bill further to amend the Indian Penal Code and the Code of Criminal Procedure, 1898, for a certain purpose, as reported by the Select Committee, be taken into consideration."

The Assembly divided:

AYES—43.

Abdul Hamid, Khan Bahadur Sir.
Abdul Rasheed Chaudhury, Maulvi.
Ahmad Nawaz Khan, Major Nawab Sir.

Aiyar, Mr. T. S. Sankara.
Ayyar, Mr. N. M.
Bajpai, Sir Girja Shankar.
Bewoor, Mr. G. V.
Bhagchand Soni, Rai Bahadur Seth.
Buss, Mr. L. C.
Chanda, Mr. A. K.
Christie, Mr. W. H. J.
Clow, The Honourable Mr. A. G.
Dalal, Dr. B. D.
Dalpat Singh, Sardar Bahadur Captain.

Essak Sait, Mr. H. A. Sathar H.
Ghiasuddin, Mr. M.
Ghuznavi, Sir Abdul Halim.
Hardman, Mr. J. S.
James, Mr. F. E.
Jawahar Singh, Sardar Bahadur Sardar Sir.

Jehangir, Sir Cowasji.
Lillie, Mr. C. J. W.

Maxwell, The Honourable Sir Reginald.

Menon, Mr. P. A.
Menon, Mr. P. M.
Metcalf, Sir Aubrey.
Mukerji, Mr. Basanta Kumar.
Nauman, Mr. Muhammad.
Nur Muhammad, Khan Bahadur Shaikh.

Ogilvie, Mr. C. M. G.
Parma Nand, Bhai.
Pillai, Mr. N. R.
Raisman, The Honourable Mr. A. J.
Row, Mr. K. Sanjiva.
Sant Singh, Sardar.
Scott, Mr. J. Ramsay.
Siddique Ali Khan, Khan Bahadur Nawab.

Slade, Mr. M.
Spence, Mr. G. H.
Sukthankar, Mr. Y. N.
Sundaram, Mr. V. S.
Zafnullah Khan, The Honourable Sir Muhammad.
Ziauddin Ahmad, Dr. Sir.

NOES—37.

Abdul Qaiyum, Mr.
 Ayyangar, Mr. M. Ananthasayanam.
 Banerjea, Dr. P. N.
 Basu, Mr. R. N.
 Chaliha, Mr. Kuladhar.
 Chaudhury, Mr. Brojendra Narayan.
 Chettiar, Mr. T. S. Avinashilingam.
 Das, Mr. B.
 Datta, Mr. Akhil Chandra.
 Desai, Mr. Bhulabhai J.
 Deshmukh, Mr. Govind V.
 Gadgil, Mr. N. V.
 Govind Das, Seth.
 Gupta, Mr. K. S.
 Hegde, Sri K. B. Jinaraja.
 Hosmani, Mr. S. K.
 Jedhe, Mr. K. K.
 Jogendra Singh, Sirdar.

Joshi, Mr. N. M.
 Kailash Behari Lal, Babu.
 Mangal Singh, Sardar.
 Misra, Pandit Shambhu Dayal.
 Muhammad Ahmad Kazmi, Qazi.
 Pande, Mr. Badri Dutt.
 Raghubir Narayan Singh, Choudhri.
 Ramayan Prasad, Mr.
 Ranga, Prof. N. G.
 Rao, Mr. M. Thirunala.
 Saksena, Mr. Mohan Lal.
 Santhanam, Mr. K.
 Satyamurti, Mr. S.
 Sheodass Daga, Seth
 Singh, Mr. Gauri Shankar.
 Singh, Mr. Ram Narayan.
 Sinha, Mr. Satya Narayan.
 Sri Prakasa, Mr.
 Varma, Mr. B. B.

The motion was adopted.

Mr. President (The Honourable Sir Abdur Rahim): The question is:

"That clause 2 stand part of the Bill."

Sardar Sant Singh: Sir, I move:

"That in clause 2 of the Bill, for the words 'six months' the words 'three months' and for the words 'one thousand' the words 'five hundred' be substituted."

Sir, in commending this motion to the House I want the House to realise one thing, and that is that the only change that this Bill makes, in the already-existing provisions of section 565 of the Criminal Procedure Code, is that it changes the form of the imprisonment from simple into rigorous. If this House wanted to disagree with the principle underlying the Bill, the proper stage, in my opinion, was when the Bill was referred to the Select Committee. After having accepted the principle of the Bill and after referring it to a Select Committee, it is very surprising now that the Congress Party should vote against the same principle . . .

Mr. President (The Honourable Sir Abdur Rahim): The Honourable Member need not go into that.

Sardar Sant Singh: I am only referring to the attitude taken up by my friends of the Congress Party. However, I am not going into the principles underlying this Bill. I am only referring to this one fact, and I won't take the time of the House in dilating much upon that. The quantum of punishment provided in the Bill is to be judged from another point of view as well and which I will commend to the Honourable the Home Member to consider seriously and that is that, after all is said and done, this section 565 comes into operation after the criminal has undergone the punishment provided for the substantive offence for which he was convicted; that is to say, the object of punishment, namely, to purge him of the offence that he has committed had been achieved. He has actually purged himself of the offence and then the only thing which remains is to prevent him from further attempts to commit offences of the same kind or even of a different kind. The object of the section 565, Criminal Procedure Code, is to prevent the convict from committing offences after his release. It is not a substantive offence which you are punishing; you are punishing him because he does not conform to certain

[Sardar Sant Singh.]

rules and regulations made in accordance with the provisions of section 565. Therefore, in providing the punishment for that, we should bear in mind that the punishment should be as light as we possibly can make.

Sir, the Honourable the Home Member stated that the simple imprisonment had not proved effective in the past and that the Provincial Governments have moved the Central Government to make a more stringent provision in order that the punishment under section 565 should be made more effective. All right. If it is to be done, and if the simple is to be changed into rigorous imprisonment, in that case my submission is that three months is quite enough as the maximum term of imprisonment which should be awarded. The second point is that in these days of depression, it is difficult for any individual not to take to criminality and to resort to theft and dacoities and robberies and some such acts if he has to pay heavy fines. Therefore it is necessary that the punishment, so far as fine is concerned, should be as light as possible. It might be stated that the trial magistrate will have full discretion and that it is the maximum that has been provided. My submission is that we know how the magistrates are working and we have had experience of them. The maximum certainly tells upon their mentality when they are going to award punishment with a fine. We have seen very often that the fine is remitted by the appellate court more often than not, the reason being that the prisoner is unable to pay the fine. At this stage, I want to draw the attention of the Honourable the Home Member to one fact more and that is that in accordance with section 565 (3), "the Local Government may make rules to carry out the provisions of this section relating to the notification of residence or change of or absence from residence by released convicts." In the past the rules made have been very hard. As was pointed out by my friend, Mr. Ananthasayanam Ayyangar, these rules require the person bound down to give the information "in person" in the police station. That is really very hard. It is not only wasting the time of the criminal but it makes him to leave his job so as to go there and then puts him to unnecessary inconvenience. In these days, I think that, if the rules are relaxed and the Honourable the Home Member recommends to the Local Governments that the rules should be so made that the information about the change of residence should be communicated instead of being made in person, this will help the criminals to reform themselves rather than to condemn him for all time to come. Therefore, Sir, without any further speech, I want to commend this amendment to the House.

Mr. President (The Honourable Sir Abdur Rahim): Amendment moved:

"That in clause 2 of the Bill, for the words 'six months' the words 'three months' and for the words 'one thousand' the words 'five hundred' be substituted."

Mr. Bhulabhai J. Desai: Mr. President, I am very glad my Honourable friend, Sardar Sant Singh, has satisfied his conscience and also has satisfied the law. He has satisfied his technical conscience by saying that inasmuch as this House referred the matter to a Select Committee, therefore he must allow the Bill to be considered. But he has realized the correctness of the principles I laid down and even more than merely passing the Bill, that is to say, abolishing the alternative of rigorous imprisonment, I am glad he has recognized—and what my Honourable friend, the Home Member, did not recognize,—the real distinction between

the offence which is the subject of this Bill and the offence out of which it originally arises, but he ought to have perceived that this derivative punishment is entirely wrong. In trying to answer my Honourable friend, Prof. Ranga, he said that Prof. Ranga did not notice that the offences of which he had already been convicted were serious. Who denies that? That is not the issue. It is admitted that the man has already been convicted of certain offences, some grave, and some not so grave, and yet all that we are dealing with is that having been so convicted and having suffered punishment for that crime, if there is any meaning in punishment from the point of view of my Honourable friends opposite, I take it that he has paid the penalty for that offence, because, according to the Draconian Code, every punishment is adequate to the crime. If, therefore, the original punishment was adequate to the crime, then it is obvious that so far as the first offence is concerned, he has paid for it.

Then, we come to the next. Here there is an additional difficulty, and that is the point which my Honourable friend, the Home Member, missed, namely, that he should be required to report his whereabouts or what he proposes to do in the future. Supposing he fails to report this. Now, imagine the nature of that offence. Is that an offence of such a character that you should visit it with a punishment the maximum of which is six months and a thousand rupees fine which my Honourable friend, Sardar Sant Singh, thinks and even my Honourable friends on the other side might think it difficult sometimes to produce at the end of the month. Therefore, the position really is this, that we have to consider whether the punishment is adequate to the crime. I am sure, my Honourable friend would consider his position to be like this: "I have now saved the Bill so far as the Bill goes, but I have now brought down the punishment to what it really ought to be."

There is another point that I wish to deal with, and that is the appeal that my Honourable friend made arising out of the support that he has got from Provincial Governments. If my Honourable friends on the other side do regard the Provincial Governments in the same way in which we regard them and do not occasionally resort to this as a mere vote-catching practice it is an expression which I have merely borrowed from them then perhaps I may have more regard to the way in which they treat the Provincial Governments; but if they merely trot them out occasionally when it suits them—I think my Honourable friends must be laughing in their sleeves, I see they are laughing out of their mouth—then they are not really resorting to a real argument. The fact is that on the principles which I have enunciated before the House, I do stand for punishments which must not come under the category of a vengeance, but which may go up to the point of segregation, though even on that a man may truly differ from others. People are, I believe, more dangerous in society when they are guilty of political offences, because they are likely to spread the infection far too much for the comforts of my Honourable friends opposite. Therefore, a punishment by way of segregation is the one which they should resort to first, but if segregation is not enough and if rigorous punishment has got to be resorted to, then, I believe, with people who have reformed their natures, there may be some chance. But when the hypothesis is that we are dealing with habitual criminals, then do you think you are improving his nature by inflicting more injury on him? In fact, you are making him worse. Therefore, my humble judgment is—whether any Member of this House agrees with

[Mr. Bhulabhai J. Desai.]

it or not—that we have got to have a different approach to punishments and to the way in which we deal with these criminals. I whole-heartedly support the amendment which is going to give a real relief to this class of criminals. In fact, I would have been sorry if the Bill was rejected at the consideration stage. I am rather glad of this defeat, because it has given a chance for the amendment of the law in a further right direction than I had anticipated. I was afraid lest the absence of Mr. Lalchand Naṭalrai would have deprived me of that opportunity, but I was prepared to take both the chances. If my Honourable friend, the Home Member, insists on this Bill, he must take all the consequences arising out of this amendment.

The Honourable Sir Reginald Maxwell: Sir, I am afraid I must strongly oppose this amendment. It is not the principle of this Bill to alter the quantum of punishment. The principle of the Bill is to alter the mode of punishment of certain persons. As I explained to the House when I first moved the consideration of this measure, we have taken a certain class of offences out of section 176 of the Indian Penal Code where the punishment provided is simple imprisonment for six months or a fine of Rs. 1,000. Out of all the offences which would fall under that particular section, we have extracted a particular group of offences, namely, those in which the failure to give the notice required by law takes the form of a failure to comply with orders under section 565. It would be upsetting the balance of the section entirely if we were to take out this class of offence in order merely to give the option to the court to inflict rigorous imprisonment and then to reduce the period of segregation, to quote the expression used by the Honourable the Leader of the Opposition. Besides, we know from the Honourable Member, Mr. Sri Prakasa, that rigorous imprisonment is really an attraction because you get the additional breakfast. Now, if we wish to persuade certain people not to commit breaches of orders under section 565 and if we first attempt to do that by offering them the attraction of an additional breakfast, and not only do we do that but we also limit the maximum period for which they may be subject to the segregation in question, then we are merely putting a premium on the breach of orders under section 565. Then, I come to the point which the Honourable the Leader of the Opposition has just made, namely, he does not like this Bill because, he says, it imposes an additional punishment where the person has already been punished.

Now, I did not overlook the distinction which he has made when I was commenting on the speech of Prof. Ranga. The reason why I used the argument that these persons were habitual criminals who had committed a serious offence was not to argue that they, therefore, ought to be punished further and over and above the punishment awarded by the courts but to argue that in the case of persons of that kind it was necessary that the police by means of an order under section 565 should be able to keep a better watch on their doings. The object of an order under section 565 is not to penalise a person. The object of the section really is that a person who has shown himself to be a habitual criminal of a serious kind should be more easily kept under supervision in case he should repeat the offence. We know that when a person becomes a habitual criminal, there is a great tendency to repeat the offence and my Honourable friend, Mr. Sri Prakasa, has had bitter experience of that fact. Therefore, as I said, the point of section 565 is that persons should

be kept under supervision and the point of the penalty is only to deter such persons from breaking the order to report their residence or change of residence. Therefore, a person of this character is not going to be deterred easily by simple imprisonment. That is the whole point. But the proposal to reduce the period of imprisonment to which he is liable would, in fact, mean a less heavy penalty than we already have under section 176 of the Indian Penal Code as it stands unamended. Therefore, I must oppose the change. In this connection, I would particularly mention that in all the opinions expressed by the provinces, there was practically no criticism of the period of punishment which we wish to retain in this measure except in the case of one province, and that was the province from which the Leader of the Opposition himself comes. They pressed us to increase the period of punishment from six months to one year. I leave the House, therefore, to consider whether we should be in any way helping the Provincial Governments or meeting their views by reducing the period.

Sir Syed Raza Ali: Sir, the scheme of the Bill that is before the House is a very simple one and fits in thoroughly with the law as it exists today. I will say only a few words to explain how the scheme of the Bill fits in with that of the existing Act.

Section 176 of the Indian Penal Code is divided at present into two parts. In the case of an offender who fails to give information, the law provides that he shall be punished with simple imprisonment for a term which may extend to one month and with fine which may extend to Rs. 500. The second portion of the existing section, namely, section 176, says that in the case of a person who has been guilty of a more serious character, if that person fails to give such information, he shall, on conviction, be sentenced to simple imprisonment for a term which may extend to six months or with fine which may extend to Rs. 1,000, so that the punishment provided in the second part of the existing section 176 is more serious than that provided in the first part.

Now, the present Bill deals with the case of a person who, having been convicted of a more serious offence and being a habitual offender, fails to give information under section 565, Criminal Procedure Code, which information he is ordered to supply by order of Court. Obviously the offence contemplated in the Bill and provided for in the Bill is of a more serious character on the very face of it than the offence mentioned either in the first part or the second part of this existing section 176, Indian Penal Code. In all crimes there is such a thing as proportion of punishment that is to be meted out to the offender. It is just the scheme of the Act that the punishment provided in the first part of section 176 is more lenient than that provided in the second part. Therefore, the punishment that has been provided for in the Bill is more serious and ought to have been more serious than the punishment provided in the existing section 176. To me it seems that it is such a simple thing that it is hard to believe that anybody associated with the practice of the profession of law would raise any serious objection. It is such a simple scheme, (Interruption.) I will ask my Honourable friend to draw his own inference. What I have said is said. To me it seems that the provision in the Bill is a well thought out one, and it is thoroughly in keeping with the spirit of the existing section. To say that six months simple imprisonment is equal to three months rigorous imprisonment, which I believe is the

[Sir Syed Raza Ali.]

deduction that can be drawn from some of the speeches that have been made, especially from the speech of the Honourable the Leader of the Opposition, this defies all canons of common sense and it is not to be taken seriously. How can it be said that three months rigorous imprisonment is equivalent to six months simple imprisonment. To me it seems strange logic coming from the quarters it did. Had it been the case, every one of us would certainly have been surprised at that logic. To me it seems that there is absolutely no question that a man who has committed a serious crime and has undergone punishment for that crime for having committed that crime should be punished more seriously after the expiry of first sentence of imprisonment. There is no question about that. But we should remember that the offence which an offender who has been ordered to supply information under section 565 has committed is certainly of a more serious character than the offence committed by the man which is to be dealt with under the existing section 176, Indian Penal Code. Therefore, it seems to me it is such an obvious thing that to go against the amendment or to oppose it in the name of consideration for humanity is to defy all canons of common sense and logic. I support the clause as it is embodied in the Bill and I oppose the amendment moved by my Honourable friend, Sardar Sant Singh.

Mr. M. Ananthasayanam Ayyangar: Sir, I do not know how long my Honourable friend, Sir Raza Ali, has been practising at the Bar.

Mr. President (The Honourable Sir Abdur Rahim): The Honourable Member will speak to the amendment.

Mr. Bhulabhai J. Desai: The Honourable Member, Sir Syed Raza Ali, remarked that some of us here, on this side, did not understand the distinction between simple and rigorous imprisonment. It is but right that my Honourable friend, Mr. Ayyangar, should meet those criticisms.

Mr. M. Ananthasayanam Ayyangar: Possibly my Honourable friend, Sir Syed Raza Ali, suspended his criminal practice for the past some years. He was absent from India for some time and that is why he has forgotten the Criminal Procedure Code and the Indian Penal Code. He has very little remembrance of his criminal practice. Sir, my Honourable friend has entirely misunderstood criminal jurisprudence. He forgets that the man who does not give information does not commit any offence against property or person.

Sir Syed Raza Ali: He commits an offence against society.

Mr. M. Ananthasayanam Ayyangar: Neither my sitting here is an offence against property or any person, but in special cases it may be an offence against the State. That is why this was originally made an offence under section 565 Criminal Procedure Code. This is only a preventive section that is introduced in section 565 Criminal Procedure Code. As there are preventive sections in sections 144, 145, 107 and 108, so also there is a preventive section here. It is not a substantive crime but is useful for the purpose of avoiding a trial or trying to obtain information, so that the man may be prevented in time from committing the crime. It is an obligation cast upon him. Therefore, there is absolutely no purpose in confusing the one with the other or reading section 176 again from beginning to end and saying that this fits in with the scheme of things. Of course, if it is printed, it fits in. If a thing is not printed, it does not fit in. How can an ill-printed thing fit in with a well printed thing?

Now, Sir, let me come to the Honourable the Mover of the Bill. The Honourable the Mover said that with a view to deter the criminal this kind of punishment ought to be introduced. A fine of Rs. 1,000 ought to be imposed as a punishment upon this man for not giving the information. On the other hand, let me consider from the attitude of the criminal whether he is guilty. He only goes out from one place to another without informing. Is he to pay Rs. 1,000 for that? This man is convicted for stealing not only once but twice. For the first time when he committed the offence he is sentenced to some imprisonment. A second time when he commits the same offence a larger sentence is imposed upon him. A third time, even though he does not commit the crime, he is punished for going away without giving information. He is a thief and a double thief and a third time without thieving he has to pay a thousand rupees. What the Honourable Member says is that if simply he goes but not commit theft he must pay a thousand. If he does not commit theft wherefrom is he to pay his thousand? It is not as if he had not gone to jail. He went to jail once and went to jail a second time and the third time he is asked to give information. The Honourable the Mover says if he does not inform he will pay a thousand but why should he not go out at all to commit theft so that he may pay a thousand? The Honourable the Mover with all his experience has forgotten that. If he commits an offence during the night he may not be caught but if it is during the day he may be punished only for the simpler offence. He can give the excuse of "reasonable cause" in section 176. But "reasonable cause" depends on the judge. One judge may decide it in one way and another judge in another way. Therefore, so far as the fine is concerned, the larger the amount of fine, the larger is the inducement to thieve.

Now, let us come to the three months' rigorous imprisonment. I am a Mathematics graduate and I will ask my Honourable friend, Sir Raza Ali, what graduate he is. But I will ask him how many months of rigorous imprisonment are equal to six months of simple imprisonment. He said that the Leader of the Opposition had misunderstood it and said that three months' rigorous imprisonment are equal to six months of simple imprisonment. What is his calculation? How many months of rigorous imprisonment are equal to six months of simple imprisonment? I find that he is unable to answer. Therefore, according to my friend, Sir Raza Ali, six months of simple imprisonment are equal to six months of rigorous imprisonment. Rigorous is simple and simple is rigorous. I am presenting him with the same dictionary that he recommended to us and I give him all the other dictionaries that are here, because we are going away and he can see whether simple means rigorous. We are only seeking to convert it from six months to three months. My Honourable friend represents the seven cities. If he represented seven villages or 500 villages as I do he would know the difficulties of these people. Therefore, let us not be too rigorous in this matter and let us reduce it from six months to three months and from one thousand rupees to five hundred rupees.

Mr. President (The Honourable Sir Abdur Rahim): The question is:

"That in clause 2 of the Bill, for the words 'six months' the words 'three months' and for the words 'one thousand' the words 'five hundred' be substituted."

The motion was negatived.

Clauses 2 to 4 were added to the Bill.

Clause 1 was added to the Bill.

The Title and Preamble were added to the Bill.

The Honourable Sir Reginald Maxwell: Sir, I move:

"That the Bill be passed."

Mr. President (The Honourable Sir Abdur Rahim): The question is:

"That the Bill be passed."

The motion was adopted.

THE INDIAN SOFT COKE CESS COMMITTEE (RECONSTITUTION AND INCORPORATION) BILL.

The Honourable Sir Muhammad Zafrullah Khan (Member for Commerce and Labour): Sir, I move:

"That the Bill to reconstitute and incorporate the Committee constituted under the Indian Soft Coke Cess Act, 1929, be taken into consideration."

When this Committee was first constituted practically all the proprietors of collieries producing soft coke were members of the Indian Mining Federation, and, therefore, the bulk of the non-official representation on the committee was allotted to the Federation. There are eight non-official members of the committee, out of whom seven are nominated by the Indian Mining Federation and one by the Indian Mining Association. Since then, there has been a split in the Indian Mining Federation and the Indian Colliery Owners' Association has come into being, and they represent a substantial number of the collieries that produce soft coke. It has, therefore, become necessary to re-allot the non-official membership on the committee between these three Associations. An attempt in that direction was made about two years ago but had to be abandoned owing to certain constitutional difficulties. The present Bill is designed to give effect to an agreement recently arrived at between these three Associations with regard to the representation of unofficial interests on the committee. As Honourable Members will observe, the Bill proposes to allot four members to the Indian Mining Federation, three Members to the Indian Colliery Owners' Association, and one Member to the Indian Mining Association. The Bill also seeks to make purely formal changes in the Act of 1929 which have become necessary as a consequence of Orissa having been constituted into a separate province. Opportunity is also being taken to incorporate the Committee. Sir, I move.

Mr. President (The Honourable Sir Abdur Rahim): Motion moved:

"That the Bill to reconstitute and incorporate the Committee constituted under the Indian Soft Coke Cess Act, 1929, be taken into consideration."

Mr. Muhammad Nauman (Patna and Chota Nagpur *cum* Orissa: Muhammadan): Sir, I do not want to prolong the discussion on this Bill, nor do I wish to make any comments on the question of the necessity of a measure of this kind. My only objection is that when this Committee is remodelled and three seats have been allotted to the Indian Colliery Owners' Association, no regard has been paid to the question of Muslim representation there. I am afraid I may be misunderstood, and some people might feel that I am trying to introduce communal matters in this, but far be it from me. I merely want to point out to the House that in commercial matters the interests of Muslims should not be ignored. It is in order to safeguard the interests of Muslims that Muslim Chambers of Commerce have been organized in Calcutta and other places. Therefore, I think the Honourable

Member in charge of the Commerce Department should have made it a condition precedent that out of the three persons to be nominated by the Indian Colliery Owners' Association one should be a Muslim representative. That is the only modest request we like to make. The necessity for this measure has been explained by the Honourable the Commerce Member, and I should like the Honourable Member to give us an assurance on the floor of the House that efforts will be made or proper advice would be sent officially to Coal Mine Owners' Association to say that at least one out of the three seats would go to a Muslim representative. Sir, I have no more remarks to offer, and with these few words, I resume my seat.

The Honourable Sir Muhammad Zafrullah Khan: Can the Honourable Member tell me how many Members of the Indian Colliery Owners' Association are Muslims, and what is the proportion of soft coke produced by collieries owned by Muslims?

Mr. Muhammad Nauman: I have no information at the moment, but the Honourable Member can himself make inquiries.

The Honourable Sir Muhammad Zafrullah Khan: Then, what is your case?

Sir Abdul Hakim Ghuznavi (Dacca *cum* Mymensingh: Muhammadan Rural): Sir, I had no desire to take part in this debate, but my friend, Mr. Nauman, made a statement to the effect that the Honourable the Commerce Member should have made provision for Muslim representation in the Colliery Owners' Association. My friend's colossal ignorance of the coal trade has made him make this statement here. As far as I am aware, Sir, there is hardly a single Muslim colliery owner at present either in Bengal or Bihar. All that they possessed has been passed over to other people. It is now open to the Members of the Indian Colliery Owners' Association who are now getting these three seats to see that if there are Muslim members, at least one of them should get a seat out of the three seats that they have got, and it is not for the Honourable the Commerce Member to dictate it to them.

Mr. Brojendra Narayan Chaudhury (Surma Valley *cum* Shillong: Non-Muhammadan): Sir, my friend, Mr. Nauman, has made out no case whatever for Muslim representation on this body, because as far as we know, there are no Muslims who are colliery owners and who are members of that association. He has not told us any reason why among the colliery owners, when there are no Muslims as colliery owners, there should be Muslim representation. I was astonished to find in reply to the inquiry by the Honourable the Commerce Member that my friend, Mr. Nauman, did not know how many Muslim colliery owners there were. There may be some, probably there are. Even then there is no reason on earth why the colliery owners would refuse to elect a competent person simply because he professes the Muslim faith. The electors would look to their colliery interests which are the same for Muslim-owned and Hindu-owned collieries. But even if the Honourable the Commerce Member has in mind to give an extra seat for Muslims on this body, his hands will be tied after this Bill is passed. He cannot make any rule, because this clause here says clearly only three

[Mr. Brojendra Narayan Chaudhury.]

members nominated by the Indian Colliery Owners' Association will be elected jointly. I do not understand the significance of the inquiry made by the Commerce Member. Sir, I support the Bill *in toto*.

Mr. President (The Honourable Sir Abdur Rahim): The question is:

"That the Bill to reconstitute and incorporate the Committee constituted under the Indian Soft Coke Cess Act, 1929, be taken into consideration."

The motion was adopted.

Clauses 2 to 4 were added to the Bill.

Clause 1 was added to the Bill.

The Title and the Preamble were added to the Bill.

The Honourable Sir Muhammad Zafrullah Khan: Sir, I move:

"That the Bill be passed."

The motion was adopted.

THE HINDU WOMEN'S RIGHT TO DIVORCE BILL.

PRESENTATION OF THE REPORT OF THE COMMITTEE ON PETITIONS.

Mr. Akhil Chandra Datta (Chittagong and Rajshahi Divisions: Non-Muhammadan Rural): Sir, I beg to present the Report of the Committee on Petitions on the Bill to give a right to divorce to Hindu women under certain circumstances.

The Assembly then adjourned *sine die*.