

7th February, 1933

THE
LEGISLATIVE ASSEMBLY DEBATES
(Official Report)

Volume I

(19th January to 21st February, 1927)

FIRST SESSION
OF THE
THIRD LEGISLATIVE ASSEMBLY, 1927



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LEGISLATIVE ASSEMBLY.

Tuesday, 7th February, 1933.

The Assembly met in the Assembly Chamber of the Council House at Eleven of the Clock, Mr. Deputy President (Mr. R. K. Shanmukhain Chetty) in the Chair.

QUESTIONS AND ANSWERS.

RESOLUTION PASSED IN THE SPECIAL SESSION OF THE ALL-INDIA RAILWAY MUSLIM EMPLOYEES' ASSOCIATION.

221. *Mr. M. Maswood Ahmad: (a) Are Government aware of resolution No. 4 passed in the special session of the All-India Railway Muslim Employees' Association held on the 27th November, 1932?

(b) Will Government be pleased to state their views and policy on the question raised in the resolution mentioned in part (a)?

Mr. P. R. Rau: (a) Yes. My Honourable friend was good enough to send me a copy.

(b) The claims of Muslim subordinates receive careful consideration along with those of others when vacancies occur, and this will continue to be done.

RESOLUTION PASSED IN THE SPECIAL SESSION OF THE ALL-INDIA RAILWAY MUSLIM EMPLOYEES' ASSOCIATION.

222. *Mr. M. Maswood Ahmad: (a) Are Government aware of resolution No. 5 passed in the special session of the All-India Railway Muslim Employees' Association held on the 27th November, 1932?

(b) Will Government be pleased to state their views and policy on the question raised in the resolution mentioned in part (a)?

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

(b) In the instructions issued to State-managed Railways in 1931, it was made clear that all practical steps should be taken to see that the unfortunate necessity for reducing staff did not operate to the detriment of communities not at present adequately represented in the railway services. Subsequently in their communiqué of the 6th June, 1932, the Government made it plain that their acceptance of the recommendation of the Court of Enquiry that surplus employees should be discharged in accordance with the simple rule of length of service within each appropriate unit was subject to such adjustments as may be necessary to maintain the proportions of the various communities approximately at the levels at which they stood prior to retrenchment.

Mr. K. Ahmed: Is it not a fact that in spite of Lord Reading having made a declaration from Belvedere and subsequently reaffirmed by Government on several occasions, Mr. Hassan's report remains a dead letter and that the statement made by Mr. Rau will be of no use? If the answer is in the affirmative, do Government propose to take action to give effect to the declaration?

Mr. P. E. Rau: I hope that Mr. Hassan's report will not be a dead letter. When recruitment starts again these instructions will come into play.

RESOLUTION PASSED IN THE SPECIAL SESSION OF THE ALL-INDIA RAILWAY MUSLIM EMPLOYEES' ASSOCIATION.

223. *Mr. M. Maswood Ahmad: (a) Are Government aware of resolution No. 6 passed in the special session of the All-India Railway Muslim Employees' Association held on the 27th November, 1932?

(b) Will Government be pleased to state their views and policy on the question raised in the resolution mentioned in part (a)?

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

(b) The intention is that discharged staff who are provided for in later vacancies as they occur should be re-employed and not reinstated.

Mr. M. Maswood Ahmad: Will Government be pleased to say whether they would have reinstated about half the half up till now?

Mr. P. E. Rau: I should like to have notice of that question. I should repeat that in these cases the staff are considered not as reinstated, but as re-employed.

RESOLUTION PASSED IN THE SPECIAL SESSION OF THE ALL-INDIA RAILWAY MUSLIM EMPLOYEES' ASSOCIATION.

224. *Mr. M. Maswood Ahmad: (a) Are Government aware of resolution No. 7 passed in the special session of the All-India Railway Muslim Employees' Association held on the 27th November, 1932?

(b) Do Government propose to decide the question raised in the resolution mentioned in part (a)?

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

(b) I would suggest that the men concerned should represent their case to the Agent, East Indian Railway.

RESOLUTION PASSED IN THE SPECIAL SESSION OF THE ALL-INDIA RAILWAY MUSLIM EMPLOYEES' ASSOCIATION.

225. *Mr. M. Maswood Ahmad: (a) Are Government aware of resolution No. 8 passed in the special session of the All-India Railway Muslim Employees' Association held on the 27th November, 1932?

(b) Will Government be pleased to state their views and policy on the question raised in the resolution mentioned in part (a)?

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

(b) Government are not aware that the office bearers and workers of the Association are being harassed by Railway officers.

Mr. M. Maswood Ahmad: Is it a fact that it is necessary that all the office bearers of these Muslim unions should take permission from the department?

Mr. P. B. Rau: I don't think so.

Mr. M. Maswood Ahmad: Are Government aware that the Audit Department has written an order on some appeal that the office bearers should take permission first and then take charge of the office?

Mr. P. B. Rau: I am not aware of that.

Mr. M. Maswood Ahmad: Will the Honourable Member please inquire into that matter?

Mr. P. B. Rau: If the Honourable Member will give me particulars of the instance he refers to, I shall take action.

Dr. Ziauddin Ahmad: That is a fact. I have also got a copy officially.

RESOLUTION PASSED IN THE SPECIAL SESSION OF THE ALL-INDIA RAILWAY MUSLIM EMPLOYEES' ASSOCIATION.

2:8. ***Mr. M. Maswood Ahmad:** (a) Are Government aware of resolution No. 9 passed in the special session of the All-India Railway Muslim Employees' Association held on the 27th November, 1932?

(b) Do Government propose to appoint a Muslim successor to that office?

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

(b) The post of Chief Personnel Officer, North Western Railway, has been abolished. The post of Deputy Agent (Personnel) has been filled in an officiating capacity by an officer who is considered the most suitable available and who has the special qualifications required for the post. He is not a Muslim.

Mr. M. Maswood Ahmad: Is it not a fact that Sir George Rainy promised that when this vacancy of a Deputy Agent would occur, the Department would consider the desirability of appointing a Muslim as Deputy Agent?

Mr. P. B. Rau: That is so, Sir.

Mr. M. Maswood Ahmad: Was this question considered at the time of this appointment?

Mr. P. B. Rau: I believe the Agent of the North Western Railway must have taken that into account when he made his recommendation.

Mr. M. Maswood Ahmad: The Honourable Member is not sure. He only believes.

RESOLUTION PASSED IN THE SPECIAL SESSION OF THE ALL-INDIA RAILWAY
MUSLIM EMPLOYEES' ASSOCIATION.

227. ***Mr. M. Maswood Ahmad:** (a) Are Government aware of resolution No. 10 passed in the special session of the All-India Railway Muslim Employees' Association held on the 27th November, 1932?

(b) Will Government be pleased to state in what stage Mr. K. M. Hassan's report is pending?

(c) Will Government be pleased to state whether they have decided any definite policy regarding Mr. K. M. Hassan's recommendation or not?

Mr. P. R. Rau: I would draw my Honourable friend's attention to the answer I gave him on the 1st instant to his questions beginning with question No. 20.

DAILY ALLOWANCE OF THE MEMBERS OF THE VARIOUS RAILWAY ADVISORY
COMMITTEES.

228. ***Nawab Naharsingji Ishwarsingji:** Are Government aware that the members of the various Railway Advisory Committees in each Province get Rs. 30 per day as allowance? If so, have Government considered the question of curtailing the allowance in these days of financial stringency?

Mr. P. R. Rau: Members of Local Advisory Committees, other than Government or Railway servants, receive a fee of Rs. 32 for every meeting attended. The question of reducing this fee has recently been considered by Government who came to the conclusion not to alter the existing arrangements.

Dr. Ziauddin Ahmad: What is the amount given per day?

Mr. P. R. Rau: They are given Rs. 32 not for every day, but for every meeting they attend.

Dr. Ziauddin Ahmad: The Standing Railway Finance Committee members get only Rs. 30 a day. Why is this distinction made between one Committee and another.

Mr. P. R. Rau: These Advisory Committees are not Committees of the Legislature.

EXTENSION OF THE TELEPHONE LINE FROM DISTRICT TO TALUKA
HEADQUARTERS OF THE NORTHERN DIVISION OF THE BOMBAY
PRESIDENCY.

229. ***Nawab Naharsingji Ishwarsingji:** Will Government be pleased to state whether they have any proposal to extend the telephone line from District headquarters to Taluka headquarters of the Northern Division of the Bombay Presidency?

Sir Thomas Ryan: Enquiries have been made from the Postmaster-General, Bombay, and he states that he knows nothing of any such proposal.

PASSPORT OF SWAMI BHAWANI DAYAL SANYASI VISITING SOUTH AFRICA.

230. ***Mr. Gaya Prasad Singh**: Are Government aware that a communication was sent by the Government of Fiji to the Capetown authorities requiring endorsement to the following effect to be made in the passport of Swami Bhawani Dayal Sanyasi, who was on a visit to South Africa: "This passport is not valid for travel to the Fiji Islands"? Do Government propose to make an inquiry into this, and state the reasons for this action?

Mr. G. S. Bajpai: Government have no information on the subject nor do they propose to make any enquiries as Mr. Bhawani Dayal is a South African national.

ALLEGED TORTURE BY THE POLICE OF THE PUNJAB CONSPIRACY CASE PRISONERS.

231. ***Pandit Satyendra Nath Sen**: Has the attention of Government been drawn to the report of police torture published in the *Amrita Bazar Patrika* of the 29th December, 1932, under the captions "Prisoner weeps in court", "Alleged Torture", "Punjab Conspiracy Case"?

The Honourable Sir Harry Haig: I have seen a newspaper report of a statement said to have been made by one of the accused in the Lahore Conspiracy case in the course of his examination by the Court.

Pandit Satyendra Nath Sen: Did Government make any inquiry into the allegations made in that report?

The Honourable Sir Harry Haig: It is not the business of Government to make inquiries into statements made before a Court while the case is pending.

Pandit Satyendra Nath Sen: Is it the policy of the Government of India even in extraordinary cases that come within the scope of Provincial Governments to remain indifferent and assume the attitude of lookers on?

The Honourable Sir Harry Haig: The point is that it is not open to the Government of India to interfere in the conduct of the case. This statement was made before a Court and it is for the Court to consider whether there is any truth in the statement, and not for the Government of India.

TROOPS FROM BRITISH INDIA SENT TO ALWAR STATE.

232. ***Mr. M. Maswood Ahmad**: (a) How many troops from British India have been sent to the Alwar State?

(b) How many troops have been sent to the borders of the Alwar State in British India?

(c) If the reply to part (a) or (b) be in the affirmative, will Government be pleased to state whether the Government of the State will pay the cost of the troops or the cost will be met by the Indian treasury?

Mr. G. E. F. Tottenham: (a) 1 Battalion of Indian Infantry;
1 Regiment (less one squadron) of Indian Cavalry;
1 Section of Armoured Cars; and
1 Signal Troop.

(b) None.

(c) The additional expenditure involved will be met by the Durbar.

Mr. M. Maswood Ahmad: Is the Indian Army under the State army officers?

Mr. G. E. F. Tottenham: No, Sir.

NOMINATION OF A MEMBER OF THE LEGISLATIVE ASSEMBLY TO THE BIHAR PROVINCIAL FRANCHISE COMMITTEE.

233. ***Mr. M. Maswood Ahmad:** (a) Is there any member of the Legislative Assembly in the Bihar Provincial Franchise Committee?

(b) Is it a fact that several members have been co-opted and nominated in the Bihar Provincial Franchise Committee after its first formation?

(c) Is it a fact that by the death of a member of the Bihar Provincial Franchise Committee a seat has become vacant in the committee?

(d) Do Government propose to nominate any Member from the Legislative Assembly in the Bihar Provincial Franchise Committee?

The Honourable Sir B. L. Mitter: With your permission, Sir, I propose to answer questions Nos. 233 and 234 together.

The Bihar Provincial Franchise Committee is a committee appointed by the Local Government. I have no exact information either of its composition or of the lines on which it is working. But I understand that it is at this stage engaged simply on the preliminary exploration of such matters, for instance, as the delimitation of constituencies for the provincial legislature and points connected therewith which were not covered by the Lothian Committee's Report.

CONSIDERATION OF THE QUESTION OF SEATS OF THE LEGISLATIVE OR FEDERAL ASSEMBLY BY THE BIHAR PROVINCIAL FRANCHISE COMMITTEE.

†234. ***Mr. M. Maswood Ahmad:** Will the present Bihar Provincial Franchise Committee consider the question of seats of the Legislative or Federal Assembly as well or a separate Provincial Franchise Committee will be formed for the Central Legislatures?

APPEALS SUBMITTED TO THE RAILWAY BOARD BY RAILWAY SERVANTS.

235. ***Dr. Ziauddin Ahmad:** (a) Is it not a fact that the appeals submitted to the Railway Board by Railway servants are submitted to the Agents for disposal and report and the Agents pass them on to officers concerned and ultimately the appeal is decided by the person against whose orders the appeal is made?

(b) If it is not a fact, then what are the facts?

†For answer to this question, see answer to question No. 233.

(c) How many appeals did the Railway Board receive in the calendar year 1932, and how many of such appeals did the Railway Board decide without reference to Agents?

(d) Will Government be pleased to place on the table or in the Library a tabulated list of appeals made to the Railway Board, mentioning in each case the manner in which such appeals were attended to?

Mr. P. R. Rau: (a) and (b). If an appeal does not lie to the Railway Board under the rules on the subject, it is returned to the appellant for submission to the proper authority. If an appeal does lie, it is examined by the Railway Board, but as a preliminary to such an examination a report from the Agent is called for.

(c) I would refer the Honourable Member to the reply I gave to part (d) of question No. 1215, asked by Mr. Lalchand Navalrai on the 15th November, 1932.

(d) Government regret they are unable to supply the information asked for by the Honourable Member, which cannot be collected without an undue expenditure of time and labour.

Dr. Ziauddin Ahmad: May I know if it is not a fact that in the vast majority of cases, even when the Railway Board is the final authority, they send the appeal to the Agent, that the latter then sends it to the Divisional Superintendent and the Divisional Superintendent again to the officer who passed the order and ultimately the appeal is really heard by that officer as virtually the appellate authority. Is it not a fact that this thing has happened in a large number of cases in the railway administrations. I ask, in how many cases, has it happened?

Mr. P. R. Rau: May I know what is the question?

Dr. Ziauddin Ahmad: My question is this. Is it not a fact that in a large number of cases the Railway Board sends the appeal to the Agent, then the Agent sends it to the Superintendent of the Division, and then the latter sends it to the subordinate officer who made the original order so that the appeal is in effect heard by the subordinate officer as being practically the appellate authority, and that this happens in a very large number of cases?

Mr. P. R. Rau: My Honourable friend is merely repeating part (a) of his question to which I have just given a reply.

Dr. Ziauddin Ahmad: I want the answer to my question. Is not what I have said the fact?

Mr. P. R. Rau: That is a question to which I did give a reply, but if my Honourable friend so wishes, I shall read it over again?

Dr. Ziauddin Ahmad: Will you please read it over again?

Mr. P. R. Rau: (a) and (b). If an appeal does not lie to the Railway Board under the rules on the subject, it is returned to the appellant for submission to the proper authority. If an appeal does lie, it is examined

by the Railway Board, but, as a preliminary to such an examination, a report from the Agent is called for.

Obviously, the Railway Board cannot consider an appeal *ex parte*.

Mr. M. Maswood Ahmad: Is it not a fact that the Agent, before giving his opinion, calls for the opinion of the officer who made that original order?

Mr. P. R. Rau: Obviously, Sir, the Agent must collect all the requisite information before sending in his recommendation to the Railway Board?

Dr. Ziauddin Ahmad: Who is the proper authority? Supposing it is against the orders of some subordinate officer, is it sent to him direct or to the Agent?

Mr. P. R. Rau: Nothing will be sent to the Divisional Superintendent direct by the Railway Board; it will always go to the Agent.

Dr. Ziauddin Ahmad: And then the Agent sends it to the Divisional Superintendent?

Mr. P. R. Rau: I do not know how exactly the Agent deals with these things, but the Agent must collect all the information before he can submit a report to the Railway Board.

Dr. Ziauddin Ahmad: If a Member of the Railway Board does not know how the Agent deals with such cases, I am very sorry, and this then is really bad administration of the Railways. You may take it from me that the Agent sends all these things to the Divisional Superintendent in the same way as the Railway Board sends it to the Agent, in order to avoid work and shirk responsibility, and then the Superintendent sends it to the subordinate officer, and so on.

An Honourable Member: That is real red tape.

Mr. P. R. Rau: I should like to return the compliment paid by my Honourable friend to my elocution and ask him to speak a little bit slower.

RAILWAY COMMITTEE PRESIDED OVER BY MR. POPE.

236. ***Dr. Ziauddin Ahmad:** (a) Will Government be pleased to mention the terms of reference of the Committee presided over by Mr. Pope?

(b) What is the estimated cost of the Committee?

(c) Will the sanction of the Legislative Assembly be obtained for the expenditure incurred on this Committee?

(d) When is the Committee likely to finish its work?

Mr. P. R. Rau: (a) The investigation at present being undertaken on the Great Indian Peninsula Railway cannot, strictly speaking, be described as an investigation by a Committee presided over by Mr. Pope. Certain officers selected from different Railways have been associated with Mr. Pope in examining the method of work on the Great Indian Peninsula Railway in order to ascertain whether any of the methods of economies, which have been adopted with success on the London, Midland and Scottish

Railway, can be introduced here. It is intended that the officers associated with him will subsequently return to their railways and continue investigations on the lines indicated by him. No terms of reference have been formulated as it was considered unnecessary and undesirable to bind Mr. Pope to any exact lines of enquiry, but before he started on his investigation, Mr. Pope had a meeting with the various Agents of State-managed Railways and the Railway Board when he had an opportunity to exchange ideas on the subject.

(b) The estimated cost, so far as Mr. Pope is concerned, is Rs. 15,000. It is not known at present how long investigations by the other officers on individual railways will last, and it is impossible for the present to give any idea of the cost of their investigations.

(c) The expenditure of Rs. 15,000 likely to be incurred on Mr. Pope's deputation to India can be met from the lump sum of Rs. 50,000 granted by the Assembly for such investigations during the year and it is unnecessary to obtain a specific sanction for it.

(d) Mr. Pope expects to finish his investigation by the end of February, but, as I have already said, it is not possible to say at present when the other investigations, to which this is only a preliminary, will be completed.

Dr. Ziauddin Ahmad: In view of the fact that such a large provision is made in the lump sum for contingency that the expenditure of a committee of inquiry can be met out of that lump sum, I ask whether that is a justifiable and reasonable way of presenting the Railway Budget to the Assembly?

Mr. P. R. Rau: The Assembly, Sir, must have considered it justifiable; as otherwise they would not have passed it.

Dr. Ziauddin Ahmad: You arrange the Railway Budget in such a manner that when the guillotine is placed, we have no opportunity of expressing an opinion on many Demands. I ask, if it is justifiable to put a very large amount in lump sum for contingency so that you can meet the whole cost of a committee of inquiry out of that lump sum? I take it in every other Department a special sanction has to be obtained for a committee of inquiry, but not in the case of the Railways.

Mr. P. R. Rau: This question of a lump sum for special investigation was considered by the Railway Retrenchment Committee, who recommended that a sum not exceeding a lakh of rupees should be provided every year in the Budget.

Dr. Ziauddin Ahmad: May I know, since the Financial Commissioner is a representative not of the Railway Board but of the Finance Department, is it not his duty to see that a lump sum should not be provided in such a manner that a sum of Rs. 50,000 can be spared on a committee of inquiry through the head of extra contingencies which they have obtained?

Mr. P. R. Rau: But the sum of Rs. 50,000 is set apart as a lump sum for investigations and inquiries which are likely to be useful to Railways as a whole; and such a sum, I may say, has been provided ever since I knew anything of the Railway Budget, and the sum has been reduced to Rs. 50,000 this year.

Mr. K. C. Neogy: Does my Honourable friend accept Dr. Ziauddin's description of him as not being a Member of the Railway Board, but only a representative of the Finance Department?

The Honourable Sir Joseph Bhore: I suggest, Sir, that that point hardly arises out of the question.

Dr. Ziauddin Ahmad: May I ask, simply because this has been the practice for many years, is that a sufficient justification for the practice? We have also been emphasizing all the time that the Railway Department is very badly mismanaged.

Mr. Deputy President: I think the Honourable Member must ask a specific question and not make such detailed explanations.

Dr. Ziauddin Ahmad: I wanted to end by interrogations. Now I begin with interrogations. I ask, whether it is a fact that we have been complaining all the time about the mismanagement in the Railway Department and is it not also the fact that they obtain such large sums of money under the head "Contingencies" that they can meet therefrom the cost of committees of inquiry? Is it not also the fact that such a practice will not be tolerated by the Finance Member in any other Department excepting the Railways?

The Honourable Sir Joseph Bhore: Sir, may I suggest to my Honourable friend that it would serve his purpose and the purpose of this House better if he would confine himself to asking one question at a time. I will, however, proceed to answer his first question. It merely repeats what I said yesterday that my Honourable friend, Dr. Ziauddin Ahmad, has taken every opportunity he can possibly take to criticize the working of the Administration and the preparation of its Budget. He is quite right on that point. (Laughter.)

Dr. Ziauddin Ahmad: But everything that I have said was practically lost; the Railway Board do what they like, and . . .

The Honourable Sir Joseph Bhore: May I suggest, Sir, that my Honourable friend is making a statement and not asking a supplementary question.

Mr. Deputy President: The Honourable Member wants to know whether that is a fact or not.

The Honourable Sir Joseph Bhore: May I draw the Honourable Member's attention to what I said yesterday, namely, that I am always ready to sit at the feet of my Honourable friend and learn from him how our Railways should be managed.

APPOINTMENT OF THE STENOGRAPHER TO THE SUPERINTENDENT OF EDUCATION, DELHI, AJMER-MERWARA AND CENTRAL INDIA.

287. ***Mr. M. Maswood Ahmad:** (a) Is it a fact that the stenographer of the Superintendent of Education, Delhi, Ajmer-Merwara and Central India, was appointed on a temporary post in November, 1981?

(b) Is it a fact that the Chief Commissioner, Delhi, in July, 1981, issued a circular letter that appointments made after the 15th July, 1981, would be on temporary basis, *viz.*, in officiating capacity until further orders?

(c) Is it a fact that the Chief Commissioner, Delhi, in the month of June or July, 1932, issued another letter that the pay of the additional staff given to the Superintendent of Education would be subject to revision after the general revision of salaries made by the Government of India?

(d) Is it a fact that under rules the incumbents whose pay is subject to revision cannot be confirmed?

(e) Is it a fact that the Superintendent of Education recommended that his stenographer should be exempted from the conditions mentioned in parts (b) and (c) above?

(f) If the reply to part (e) be in the affirmative, will Government please state the reasons for which the Superintendent of Education recommended for the exemption of the stenographer from the list of those whose pay was subject to revision?

(g) Will Government be pleased to state whether the Superintendent of Education has requested the Chief Commissioner, Delhi, for exemption of any other employee of his office from the list of those whose pay was subject to revision?

(h) Is it a fact that a similar case of a teacher in a Government institution in Delhi was rejected by the Chief Commissioner, Delhi, on the basis of his circular letter mentioned in part (b) above and the former has not yet been confirmed? If so, why?

Mr. G. S. Bajpai: (a), (b) and (c). The reply is in the affirmative. The orders of the Chief Commissioner, Delhi, did not, apply to the case of the stenographer of the Superintendent of Education, Delhi, as, prior to his transfer to his present post, he held a substantive appointment under the Board of Education, Delhi.

(d) The Honourable Member is apparently referring to the orders contained in the Finance Department Resolution No. D./4523-Ex. I/81, dated the 9th July, 1931, which do not apply to the stenographer.

(e) No.

(f) Does not arise.

(g) No.

(h) An inquiry is being made.

APPOINTMENT OF THE STENOGRAPHER TO THE SUPERINTENDENT OF EDUCATION, DELHI, AJMER-MERWARA AND CENTRAL INDIA.

239. ***Mr. M. Maswood Ahmad:** (a) Is it a fact that the stenographer of the Superintendent of Education, Delhi, Ajmer-Merwara and Central India, apart from his duty as stenographer, has been entrusted with the following works:

- (i) Supervision of Central India Agency clerical work.
- (ii) Examiner of one or two subjects of the examinations conducted by the Board of Secondary Education, Delhi.
- (iii) Registrar of the examination conducted by the Head Masters' Association, Delhi.
- (iv) Tabulator or scrutinizer of the examination results of the Board of Secondary Education, Delhi?

(b) Will Government be pleased to state what other duties have been entrusted to the stenographer mentioned above?

(c) Will Government be pleased to state whether all of these functions or any one of them were entrusted to the predecessor of the present incumbent?

(d) If the reply to part (c) above be in the negative, will Government be pleased to state the reasons for entrusting so many duties to the present incumbent?

(e) Will Government be pleased to state what remuneration for each work is earned by the stenographer?

Mr. G. S. Bajpai: (a) (i) and (ii). The attention of the Honourable Member is invited to the replies given to his starred questions Nos. 1633 and 1634 on the 12th December, 1932.

(iii) No.

(iv) The Board of Secondary Education, Delhi, cannot for obvious reasons divulge the names of tabulators and scrutinizers of results in public examinations.

(b) Besides the normal duties of stenographer and the supervision of clerical work of the Central India Branch in the office of the Superintendent of Education, Delhi, Ajmer-Merwara and Central India, no other duties have been entrusted to him by the Superintendent of Education.

(c) With the exception of (i) none of these duties are in the gift of Government. In the case of (i) the secretariat portion of the work—now transferred to Delhi, because the Superintendent of Education has been made Secretary to the Agent to the Governor General, Central India for Education—was done and the allowance therefor drawn by an assistant in the office of the Central India Agency at Indore till February 1932. The question of entrusting these duties to the former stenographer did not, therefore, arise.

(d) Does not arise since the present incumbent performs only the duties mentioned in (i) and (ii) of part (a) of the question. The reasons for entrusting him with these duties have already been fully explained in the answers given to the Honourable Member's previous questions on the same subject.

(e) For (i) Rs. 25 per mensem.

For (ii) a total payment of Rs. 50 for the examinership.

Mr. M. Maswood Ahmad: Is it a fact that some of these posts mentioned in part (a) have been entrusted to this stenographer by some semi-official bodies?

Mr. G. S. Bajpai: I am afraid I am not responsible for the activities of the so-called semi-official bodies.

Dr. Ziauddin Ahmad: May I ask, what are the educational qualifications of this wonderful stenographer who acts as an examiner in the commercial diploma examination, in the examination of Secondary Education Board and elsewhere, and is also competent to tabulate the results and does other educational work and is thoroughly reliable?

Mr. G. S. Bajpai: He is an Honours Graduate of the University of Delhi. What subjects he took for that examination, I am not in a position to say, but I can ascertain that and convey the information to the Honourable Member. I would, however, point out that he is appointed as an examiner, not by the Superintendent of Education, but by the Board of Secondary Education, and I presume they know their business.

Dr. Ziauddin Ahmad: Is it not a fact that the Superintendent of Education is the Chairman of this Board and, as such, he has got full powers? Also is it not a fact that the Superintendent conducts himself the commercial diploma examination and, therefore, he has got the complete handling of the appointments of examiners?

Mr. G. S. Bajpai: My Honourable friend is a past master in the subject of education and he ought to know, as well as I do, that the Chairman of a Board—be it a Board of Education or any other—has merely the casting vote and that the decision is the decision of the Board itself, that is to say, the decision of the majority.

Dr. Ziauddin Ahmad: This is not the case. He has not only the casting vote, but he has the deciding vote.

Mr. G. S. Bajpai: I have taken the precaution to ascertain from the Superintendent of Education that, at any rate, in this Board the normal procedure, namely, the decision of a matter by a majority is followed.

Dr. Ziauddin Ahmad: Is it a fact that this is a very unusual practice that the stenographer of the Superintendent should be appointed an examiner in all these departments which are conducted by the Superintendent himself?

Mr. G. S. Bajpai: My Honourable friend, Sir, seems to have missed the point of the answer which I gave last Session, namely, that this stenographer was appointed an examiner before he was appointed to the post of the stenographer. If my Honourable friend's suggestion is that his appointment as a stenographer should penalise him and he should not be given the appointment of an examiner, that is another matter.

Dr. Ziauddin Ahmad: So long as the person has not been appointed as a stenographer to the Superintendent, he may be doing any work, but, as soon as he accepts this particular office, it becomes very unusual that the stenographer of the head of the department should be appointed an examiner?

Mr. G. S. Bajpai: I am quite prepared to accept my Honourable friend's version that it is unusual, and will convey it to the authorities concerned.

Dr. Ziauddin Ahmad: From a series of questions that have been asked in this Assembly about this stenographer, it strikes me as though he is the custodian of the wisdom of the Superintendent and his office.

Mr. G. S. Bajpai: That, Sir, is a suggestion which I for one am not prepared to accept.

Mr. M. Maswood Ahmad: Is it not a fact that apart from his duties, this stenographer prepared the general Educational Tables of the Central India Agency and got a remuneration of something like Rs. 90?

Mr. G. S. Bajpai: I confess that the Department of Education, Health and Lands has not yet converted itself into an encyclopædia of the activities of this stenographer. It may be that he did get Rs. 90 for doing some tabulating work. If my Honourable friend will put a specific question on this subject, I shall be glad to obtain the information for him.

Mr. M. Maswood Ahmad: I have already asked that information in part (b) of my question which runs:

"Will Government be pleased to state what other duties have been entrusted to the stenographer mentioned above?"

Mr. G. S. Bajpai: My Honourable friend seems to have missed my answer which says that Government can give information as regards the duties which they have entrusted to this stenographer, but they cannot make an omnibus inquiry as to the duties which are entrusted to him by somebody else.

Mr. Gaya Prasad Singh: Is this stenographer a non-Muslim, Sir?

Mr. G. S. Bajpai: I believe that is a fact.

Mr. Gaya Prasad Singh: Is it a fact that he has failed a few Muslim candidates in the examination?

Mr. G. S. Bajpai: Will the Honourable Member kindly repeat his question? I could not catch it.

Dr. Saadulla Ahmad: If this is the insinuation in the last question, I should certainly suggest that he should cease to be a stenographer. I leave it here and have no more questions to ask.

Mr. G. S. Bajpai: I am not in a position to say anything in the matter.

Mr. M. Maswood Ahmad: May I ask, Sir, whether these functions are performed by the stenographer during his office time or during this leisure time?

Mr. G. S. Bajpai: The functions that he is called upon to perform as an officer of Government are performed both in office time and, if necessary, outside office time as well. The functions which are entrusted to him by an outside body can only be performed by him outside office hours.

ALLOTMENT OF A FREE QUARTER TO THE STENOGRAPHER TO THE SUPERINTENDENT OF EDUCATION, DELHI, AJMER-MERWARA AND CENTRAL INDIA.

239. ***Mr. M. Maswood Ahmad:** (a) Is it a fact that a free quarter has been allotted to the stenographer of the Superintendent of Education, Delhi, Ajmer-Merwara and Central India?

(b) Is it a fact that the quarter in question was taken from the Chief Commissioner, Delhi, for the free lodging of the Ajmer office clerk?

(c) Is it a fact that two clerks of the Ajmer-Merwara office refused to stay in that quarter, because they were inhabitants of Delhi?

(d) Will Government be pleased to state whether it is a fact that the present clerk of the Ajmer office applied for the same quarter and was refused?

(e) If the reply to part (d) above be in the affirmative, will Government be pleased to state the reasons why the Ajmer clerk was not allotted the quarter which was meant for him?

(f) Is it a fact that the predecessor of the present stenographer was not favoured with a free quarter?

Mr. G. S. Bajpai: (a), (b) and (c). The attention of the Honourable Member is invited to the reply given to his starred question No. 1631 on the 12th December, 1932.

(c) No.

(d) Yes.

(f) Yes.

Dr. Ziauddin Ahmad: Has the Honourable gentleman made inquiries about the matter? Is he sure that the answer he has given is correct?

Mr. G. S. Bajpai: I am quite sure, Sir, that the answer is correct, because this is not the first time that the question has been asked.

BOMB EXPLOSION INCIDENT NEAR JUMA MOSQUE, DELHI.

240. ***Mr. M. Maswood Ahmad:** (a) Will Government be pleased to state full facts about the bomb explosion incident near Juma Mosque, Delhi?

(b) Has the above-mentioned incident any connection with the *Muhajrin* of Alwar?

(c) Will Government be pleased to state whether the rumour that the bomb was placed by some one to injure the *Muhajrin* of Alwar has any truth?

The Honourable Sir Harry Halc: (a) On the 7th of January, 1933, it was reported to the police that a bomb had exploded near the Juma Mosque. The Police found some fragments of an exploded bomb and two more live bombs within a few feet of the road and at a distance of 25 yards from the camp of the refugees from Alwar. The bombs were about the size of tennis balls and appeared to be ordinary *patakas* with the addition of broken glass. Two brothers, Samiullah and Rafiullah, received minor injuries from the explosion; they had brought a motor lorry alongside the road and Samiullah had accidentally moved the bomb which exploded injuring them both. The persons responsible for the bombs have not yet been traced.

(b) and (c). Though the incident happened near the camp of the *Muhajrin* of Alwar there is no proof that it was intended to injure them.

ELECTION OF GOVERNMENT SERVANTS TO MUNICIPAL BOARDS.

241. ***Mr. T. N. Ramakrishna Reddi** (on behalf of Mr. B. Rajaram Pandian): Will Government be pleased to state:

- (a) whether it is a fact that Government servants are debarred from seeking election to the Municipal Boards and, if so, under what authority; and
- (b) whether they are aware of any instances in which a Government servant was asked to resign his membership of the Board?

The Honourable Sir Harry Haig: (a) I invite the Honourable Member's attention to rule 23 (4) of the Government Servants' Conduct Rules, a copy of which is in the Library of the House.

(b) Government have no information.

ASSESSMENT OF INCOME-TAX AND SUPER-TAX IN THE PUNJAB.

242. ***Sardar Sant Singh** (on behalf of Mr. Jagan Nath Aggarwal): Will Government kindly state:

- (a) how much (i) income-tax and (ii) super-tax was assessed in the Punjab in the year 1930-31;
- (b) how much under each of the above two heads was assessed communitywise, viz. (i) Hindus, (ii) Sikhs and (iii) Muhammadans?

The Honourable Sir George Schuster: I invite the Honourable Member's attention to the reply which I gave to a similar question (No. 95) by Mr. B. R. Pari.

RELAXATION OF AGE-LIMIT FOR ENTRANCE INTO PUBLIC SERVICE.

243. ***Mr. Lalchand Navalrai:** (a) Are Government aware that on account of retrenchment, when no new recruitment is being made in service, candidates are likely to get over-aged for entrance into public service?

(b) Do Government propose to condone their age limit when the time comes to admit such new recruits into service? If not, why not? If yes, do Government propose to issue such a circular?

The Honourable Sir Harry Haig: I would refer the Honourable Member to the reply given on the 1st February, 1933, to Mr. Maswood Ahmad's starred question No. 16.

Mr. Lalchand Navalrai: I know that reply: it was in the negative. What I want to know is whether any way out of the difficulty has been found for these people who could not anticipate that there would be no recruitment and have now been stranded?

The Honourable Sir Harry Haig: It is a hardship, I admit. But these are exceptional conditions and whatever we do is bound to upset the normal course of events.

Mr. Lalchand Navalrai: Is it not also an exception made in the case of these men and should not some time be given to them? Are Government inclined to consider this question again?

The Honourable Sir Harry Haig: I think, Sir, in the question of age limits some discretion remains with the head of a department.

Mr. K. Ahmed: Was it not the retrenchment rule that after a certain age officials must retire and be removed?

Mr. Lalchand Navalrai: Will the Honourable Member be pleased to ask the heads of offices to use their discretion in this matter when applications are made?

The Honourable Sir Harry Haig: I am sure the heads of offices will be fully aware of the complaint to which the Honourable Member refers.

Mr. M. Maswood Ahmad: Is it a fact that heads of departments can condone the age limit?

The Honourable Sir Harry Haig: I think, Sir, there is a certain amount of discretion reserved to heads of departments in certain cases.

Dr. Ziauddin Ahmad: May I put the question in another form? Will Government be pleased to consider the question of increasing the age limit for the next two years in view of the fact that for three years the Government of India had no appointments on account of retrenchment?

The Honourable Sir Harry Haig: No, Sir; I think that would give rise to considerable inconvenience.

Mr. K. Ahmed: If one officer retires on account of having reached the age limit, can he be re-appointed in another place under Government?

The Honourable Sir Harry Haig: I am not sure that I quite followed the case that the Honourable Member was putting.

Mr. K. Ahmed: For instance, if an officer retires from a certain judicial post, can he be taken in another statutory post under Government?

The Honourable Sir Harry Haig: I think, Sir, there are certain rules under which a pensioned officer may, under certain conditions, be re-employed.

Mr. K. Ahmed: What are those conditions?

The Honourable Sir Harry Haig: I am afraid I have to refer the Honourable Member to the Civil Service Regulations or some other compilation in which the details are given.

Mr. K. Ahmed: Is it not a fact that the Secretary of State has already forwarded certain rules to the Home Department of the Government of India and the Home Department did not follow them in certain cases and that their recommendation was over-ruled?

The Honourable Sir Harry Haig: I am afraid I have no idea of what the Honourable Member is referring to. If he will put down a specific question, I shall be very glad to have the matter looked up and give him an answer.

Mr. K. Ahmed: Is it not a fact that in the case of certain people whose age limit was in question, the Government of India recommended their retention beyond 60 years of age and the Secretary of State cancelled it?

The Honourable Sir Harry Haig: I have already said that I do not know what the matter is that the Honourable Member is referring to and that, if he will put it down in plain language and give me notice, I shall be very glad to give him an answer.

Mr. M. Maswood Ahmad: Are Government aware that by condoning the age limit temporarily, they may get a wider range for selecting candidates for employment?

The Honourable Sir Harry Haig: I do not think there is any suggestion that we are unable to obtain suitable candidates.

Mr. S. C. Mitra: Will it not affect the claims of others who will come of age by that time if Government are over-anxious to provide for these age-barred candidates only?

The Honourable Sir Harry Haig: That is certainly the case.

TEN PER CENT. EMERGENCY CUT.

244. ***Mr. Lalchand Navalrai:** Will Government be pleased to state if it was not the express intention of Government to limit the operation of the ten per cent. emergency cut to March, 1933? If yes, is that cut going to be abolished from April, 1933? If not, why not?

The Honourable Sir George Schuster: The Honourable Member's attention is invited to the Press communiqué on the subject dated the 3rd February, 1933.

Mr. Lalchand Navalrai: May I know if Government is in a mood to reconsider it when circumstances change and increase the amount of restoration?

The Honourable Sir George Schuster: It was clearly explained in the Press communiqué that Government had reached a certain conclusion after very careful consideration of all the relevant facts. That conclusion was reached on the 3rd February, that is to say, not more than three days ago; and I think it is hardly likely that Government are yet in a mood to reconsider the matter. Government will not be in a mood to reconsider the matter until the facts on which such decisions were based are changed.

Mr. Lalchand Navalrai: Then am I to understand that Government are open to conviction when circumstances change?

The Honourable Sir George Schuster: Obviously Government's action in this matter is determined by the circumstances at the time. If circumstances change, Government's decision on the matter might also change.

Sardar Sant Singh: Is it not a fact that the Chambers of Commerce in India are against the restoration altogether, because interests other than the salaried servants of Government require relief?

The Honourable Sir George Schuster: That view has been expressed in certain quarters; I do not know that the Chambers of Commerce are specially associated with it.

Dr. Ziauddin Ahmad: Did Government fully consider the income and expenditure of the Government of India when they restored this five per cent. cut?

The Honourable Sir George Schuster: I think it must be obvious to my Honourable friend that that was the chief consideration in Government's mind.

Dr. Ziauddin Ahmad: Then does it not follow that the expenditure which they are going to demand from the Assembly and the income which they are going to demand under the Finance Bill are supposed to have been already sanctioned by the Assembly, and our future discussions will all be a farce?

The Honourable Sir George Schuster: I think my Honourable friend is under some misapprehension in the matter. The extra expenditure which Government will incur as a result of reducing the cut from ten per cent. to five per cent. in comparison with the expenditure which they are incurring this year will all, so far as it is votable, have to come before the Assembly for its approval. There is no distinction between the increase caused by this proposal and any other grant for expenditure.

Mr. M. Maswood Ahmad: Will Government be pleased to state whether they will gain or lose by this circular?

The Honourable Sir George Schuster: I am afraid I have not quite followed the question, but it must be obvious what will be the result of a reduction of the cut from ten per cent. to five per cent. I do not follow what my Honourable friend is asking.

Mr. M. Maswood Ahmad: My point is that by the present circular the Honourable Member has restored five per cent. of the cut and they intend to take the higher income-tax from their employees. By that do they expect some gain to the Indian treasury or do they apprehend some loss?

The Honourable Sir George Schuster: I am sorry that I did not follow my Honourable friend's question. Of course that is the result. As far as the Government of India are concerned, they will recoup to

themselves quite a substantial portion of the extra amount incurred on salary expenditure out of the income-tax levied on salaries of Government officials.

Sardar Sant Singh: May I know if the Standing Finance Committee of this House was consulted before this cut was restored?

The Honourable Sir George Schuster: There is no provision in the regulations which govern the procedure of the Standing Finance Committee which would have made it appropriate for the Government to put a proposal of this kind before it.

Mr. Gaya Prasad Singh: Do I understand that in making this reduction in the cut, Government have taken note that no additional burden in the way of new taxation should be imposed upon the tax-payers of the country?

The Honourable Sir George Schuster: Government certainly took that aspect of the matter into account. But my Honourable friend will understand that I cannot give him a categorical answer to that question without disclosing what is the Government's budgetary plan for this year; and that, if I may say so, is one of the reasons why it would have been exceedingly difficult to discuss the matter yesterday if you, Sir, had allowed a discussion.

Dr. Ziauddin Ahmad: May I ask if there is any regulation defining the powers of the Standing Finance Committee?

The Honourable Sir George Schuster: The Standing Finance Committee deals essentially with what are described as new services. Everything which is technically a new service has, according to the regulations, to be submitted to the Standing Finance Committee. The restoration of normal rates of pay is not in any sense a new service.

Dr. Ziauddin Ahmad: Does any regulation exist defining the powers of the Standing Finance Committee? Do not the powers and duties of the Standing Finance Committee depend on the sweet will of the Finance Member?

The Honourable Sir George Schuster: No, Sir; it is not dependent upon the discretion of the Finance Member at all. The Standing Finance Committee works according to a certain procedure which has been established in various ways.

Sardar Sant Singh: May I know, if the Government, when coming to this decision that salaries should be restored to the extent of five per cent. took into consideration the fact that other interests, especially the agricultural interests, have suffered more from the present depression and that they stand in need of more relief than the salaried people?

The Honourable Sir George Schuster: My Honourable friend can be satisfied that the Government took all the relevant facts into consideration.

Mr. Lalchand Navalrai: May I know from the Honourable Member that, in order to give full information to the House, whether he proposes to place all the facts and figures which actuated his decision at the time of the Budget discussion?

The Honourable Sir George Schuster: I think if my Honourable friend has been present in former years and has heard my Budget speech or read it afterwards, he will readily concede that it has not been my practice to withhold relevant information from the House.

NEW SCALES OF PAY FOR GOVERNMENT SERVANTS.

245. ***Mr. Lalchand Navalrai:** (a) Will Government be pleased to state in what respects the new scales of pay for Government servants will be different from the existing scales?

(b) When will they be brought into force?

(c) To whom will they be applicable?

(d) Do Government propose to safeguard the interests of the present incumbents?

The Honourable Sir George Schuster: I would refer the Honourable Member to the reply I gave on the 1st February to an identical question by Mr. M. Maswood Ahmad.

Mr. Lalchand Navalrai: I do not think the Honourable Member has replied as to the information required in clause (d) of the question, whether the Government propose to safeguard the interests of the present incumbents.

The Honourable Sir George Schuster: Will my Honourable friend specify in what respects my reply was inadequate?

Mr. Lalchand Navalrai: With regard to clause (d), I wanted information whether the Government proposed to safeguard the interests of the present incumbents, as distinguished from those who have yet to come.

The Honourable Sir George Schuster: I am quite aware that my Honourable friend requires that information and, in order to supply him with that information, I referred him to the reply which I gave on the 1st February.

Mr. Lalchand Navalrai: I understood that the reply that was given did not give a reply to part (d) of my question.

The Honourable Sir George Schuster: If my Honourable friend will tell me in what respects my reply was inadequate, I will do my best to supplement it with further information.

Mr. Lalchand Navalrai: The Honourable Member knows the reply more than I do and, therefore, I would like to know whether the reply to clause (d) is included in that: if so, I am satisfied.

The Honourable Sir George Schuster: The question asked by Mr. Maswood Ahmad was identical with my Honourable friend's question.

Mr. Lalchand Navalrai: I do not think the last clause was in it.

The Honourable Sir George Schuster: I am afraid I am not in a position to verify the matter, because I have not got a copy of the previous reply; but I am prepared to assert with a great degree of confidence that the question asked before was identical with this question, and, in that case, I have given what I consider to be an adequate reply.

Mr. S. C. Mitra: In cases of promotion of a first grade assistant to the Superintendent's grade, whether the present incumbent will get the salary of a Superintendent as now prevail or he will get the salary as Superintendent on the new scales?

The Honourable Sir George Schuster: I am afraid, I must ask for notice of that question.

TRANSFER OF CERTAIN MEN OF THE COMMERCIAL STAFF EMPLOYED IN THE QUETTA DIVISION OF THE NORTH WESTERN RAILWAY.

246. ***Mr. Lalchand Navalrai:** (a) Will Government be pleased to state if certain men of the Commercial staff employed in the Quetta Division of the North Western Railway were transferred to other Divisions in pursuance of the North Western Railway Agent's Circular No. 940-E./481, dated the 1st June, 1928?

(b) Is it a fact that the transfers were made for three years under a three-year scheme with a view to giving opportunities to the station and running staff of the Quetta Division to gain experience of the heavy traffic which prevails on the plains sections of the main line and *vice versa*?

(c) Will Government be pleased to state how many persons were so transferred from the Quetta to the Delhi Division, and when?

(d) Is it a fact that some persons so transferred to other Divisions were allowed to go back to the Quetta Division under exchange notes before the expiry of three years? If so, how many were allowed to go back and after how much time?

(e) Is it a fact that those transferred to the Delhi Division still continue to remain in that Division? If so, how many are they, for what period have they so remained, and to which province do they belong?

(f) Is it a fact that they have since long completed their three years' period and have often applied for return to the Quetta Division?

(g) Are Government aware that they are anxious to go back even at their own expenses?

(h) Is it a fact that the Delhi Divisional Office recommended their return to Quetta?

(i) Will Government be pleased to state if their application reached the Agent's Office; if so, what is the result? If not, why not?

(j) Do Government propose to take early measures to transfer them back to Quetta or, in the alternative, to the Karachi Division?

(k) What is the policy of Government in regard to the transfer of low paid railway servants from their home Divisions keeping in view the interest of economy and efficiency?

Mr. P. R. Rau: Government have no information. The matters referred to are all within the competence of the Agent to decide, and I have sent a copy of the Honourable Member's question to the Agent of

the North Western Railway in order that he may consider the complaints and the suggestions contained in it.

Mr. Lalchand Navalrai: May I know from the Honourable Member whether this House is entitled to get information on questions which are within the competency of the Agent or not, or if we have to go to the Agent for information?

Mr. P. R. Rau: I understood that my Honourable friend's object was to get the grievances, that he complains of, remedied, and I thought the best way to take action in that matter was to send the question to the Agent in order that he might consider the complaints and suggestions contained in it.

Mr. Lalchand Navalrai: As the question is worded, there is so much information to be asked for, from clause (d) to clause (i): therefore the House should have been given an opportunity to know about these matters. This is a very hard case and the House should get information: merely sending on the question to the Agent is not enough.

Mr. P. R. Rau: If my Honourable friend is only anxious that information should be obtained and not that action should be taken on his question, I should be quite prepared to get information and place it on the table.

Mr. Lalchand Navalrai: I want to have both and, for that purpose, I request the Honourable Member to get me information on these questions and not merely that the Agent should throw these papers into the waste paper basket and do what he likes. Is the Honourable Member prepared to do that?

Mr. P. R. Rau: I am prepared to get the information, but I am not prepared to interfere with the detailed working of the North Western Railway.

Mr. Lalchand Navalrai: The Honourable Member has said several times in this House that the Board and the Government have got power of superintendence over what the Agent does and, if the Agent does not do anything rightly, it is for the Board and the Government and the Honourable Member to make the Agent do the right thing. Is the Honourable Member in this case only leaving it to the Agent to decide, or will the Honourable Member be prepared to see that justice is done and that the people who are rotting in Delhi for so long a time are given a chance of going back to Quetta?

The Honourable Sir Joseph Blore: My Honourable friend will I think realise that it is quite impossible for the Government of India to interfere in every detail of the day to day administration of the Railways. But if any really important matter or any grave scandal is brought to their notice, my Honourable friend may rest assured that the Government of India will direct necessary inquiries to be made.

Mr. Lalchand Navalrai: I say that injustice has been done in this case on the facts that we have got and especially when we have also asked what is the policy of the Government in regard to the transfer of low-paid railway

servants from their home divisions, keeping in view the interests of economy and efficiency, it is not an individual case: it becomes a general case which will govern the fate of a large number of these people who have been taken outside their divisions, and I, therefore, request the Honourable Member at least to give consideration in this matter: mere getting of information will not do.

The Honourable Sir Joseph Bhoré: I am not prepared on that information to decide whether it is a case of general importance. I shall, however, look into the matter and, if I find that it is a matter of any very general interest or importance, I shall certainly do what I can.

Dr. Ziauddin Ahmad: The main question has not been answered: whether the Agents are the subordinates of the Railway Board or their masters?

Mr. Lalchand Navalrai: I would also like to have the information on the other points on which I want information.

PROHIBITION OF THE USE OF *KHADDAR* IN QUETTA.

247. ***Mr. Lalchand Navalrai:** (a) Is it a fact that people in Quetta are not allowed to wear clothes made of *khadi* according to their wishes, and white caps known as "Gandhi caps"?

(b) Is it a fact that people in Quetta have been prohibited by Government authorities to use *khaddar*?

(c) Have Government ascertained how many shops in Quetta are selling Indian-made clothes and cloth made of pure *khadi*?

(d) Is it a fact that passengers arriving in Quetta wearing *khaddar* clothes are questioned by the police, detained and asked to report themselves at the *Thana*?

(e) If so, under what law, regulation or Ordinance?

Mr. H. A. F. Metcalfe: (a), (b) and (c). No.

(d) No,—unless there are other reasons for suspecting passengers clothed in this manner.

(e) Does not arise.

Mr. Lalchand Navalrai: May I inform the Honourable Member that generally all people, who are seen with a Gandhi cap, at the Quetta station are detained. Is the Honourable Member prepared to refute that?

Mr. H. A. F. Metcalfe: I have given the House what information I have received from the authorities in Quetta. I have no reason to believe that that information is incorrect.

Mr. Lalchand Navalrai: In my humble opinion the information given to the Honourable Member seems to be inadequate. Is the Honourable Member prepared to make further and fuller inquiries?

Mr. H. A. F. Metcalfe: The Honourable Member's question was sent to the Quetta authorities for inquiry, and I have given the House the reply that I have received. I cannot do more unless the Honourable Member places some specific cases before me.

Sardar Sant Singh: Is it not a fact, Sir, that every person wearing a Gandhi cap is regarded as a suspect and is detained?

Mr. H. A. F. Metcalfe: I have already replied to that in my answer to part (d) of the question. It is not a fact.

Mr. Lalchand Navalrai: What are the other reasons which lead the officers there on the spot to regard people who put on Gandhi caps as suspects?

Mr. H. A. F. Metcalfe: I cannot give the Honourable Member the exact reasons which lead the police to suspect people. The police have their own reasons.

Mr. Lalchand Navalrai: Is it arbitrary with them?

Mr. H. A. F. Metcalfe: Will the Honourable Member repeat the question?

Mr. Lalchand Navalrai: Is it all arbitrary with the police or there are certain definite reasons which enable them to come to that conclusion?

Mr. H. A. F. Metcalfe: I am unable to say that. I imagine they do receive instructions of some kind as to the people whom they are expected to deal with.

Sardar Sant Singh: May I know if the Honourable Member can say what is the number of people who have been suspected in this manner by the police and how many of them were wearing *Khaddar* or Gandhi cap?

Mr. H. A. F. Metcalfe: I should like to have notice of that question. I am afraid, I have no figures available.

PRISONERS CONVICTED FOR PARTICIPATION IN THE CIVIL DISOBEDIENCE MOVEMENT.

248. ***Kumar Gupteshwar Prasad Singh** (on behalf of Lala Rameshwar Prasad Bagla): (a) Will Government please place on the table, for the information of the House, a statement, as it would be on the 1st January, 1933, showing the number of prisoners in the various provinces convicted on account of their participation in the civil disobedience movement?

(b) Are Government aware that the Government rules regarding the classification of political prisoners have not been strictly adhered to, and that both men and women of high social status and academic qualifications have been placed in 'C' class?

(c) Will Government please state if they have received any representation from public, inviting their attention to the arbitrary and high-handed manner in which the District Officers dealt with the political prisoners in the matter of their classification?

(d) If the reply to part (c) be in the affirmative, will Government please state what action, if any, they took on these representations?

(e) Will Government please state if they are aware whether or not the Provincial Governments also received representations complaining against rules regarding classification of prisoners not being observed in practice? If so, what action each took on those representations?

(f) Have Government considered the question of the desirability of addressing immediately all the Provincial Governments urging upon them the necessity of instructing the District Officers in their respective provinces to give particular attention to the question of classification of political prisoners in future?

The Honourable Sir Harry Haig: (a) I would refer the Honourable Member to the statement laid on the table in reply to Mr. M. Maswood Ahmad's starred questions Nos. 96 and 97.

(b) to (f). The Western India National Liberal Association addressed the Government of India on this subject in April, 1932, and the action taken by Government on the statement made by the Association is indicated in the replies given by me on the 7th September, 1932, to supplementary questions on Mr. Lalehand Navalrai's starred question No. 108.

CONVENING OF A MEETING OF THE INDIAN RAILWAY CONFERENCE ASSOCIATION (MEDICAL BRANCH) ON A GAZETTED HOLIDAY.

249. ***Mr. S. C. Mitra:** (a) Is it a fact that Railway authorities are convening a meeting of the Indian Railway Conference Association (Medical branch) on a gazetted holiday?

(b) Is it not known to Government that on *Sree Panchami* day, Hindus are enjoined not to have anything to do with reading or writing?

(c) Are Government aware that this action of Government is liable to offend the religious susceptibilities of the Hindus and that, out of regard for this, the days have been declared as gazetted holidays?

(d) Is it not against the policy of the Government to make officers and clerks work on gazetted holidays?

(e) Do Government propose to see that gazetted holidays are observed in the true spirit of their purpose?

Mr. P. B. Rau: (a) Government have no information. The Indian Railway Conference Association is an autonomous body not under the control of Government in these matters.

(b) My Honourable friend is a better authority in these matters than I am, but I am not aware that such an injunction, if it exists, is generally observed; in fact it is not known in many parts of India.

(c) As I have already explained, this cannot be called an action of Government.

(d) This is generally so, but some times in case of urgent necessity both officers and clerks have to work on such holidays.

(e) The policy of Government in this matter is well known and no fresh orders are considered necessary.

Mr. M. Maswood Ahmad: Do Government propose to issue circulars that Hindus and Mussalmans should not be put on duty as far as practicable on their respective festival days, and as far as practicable duties should be so arranged that employees of a particular community will be off duty on their festival days if it will be practicable?

Mr. P. R. Rau: As I have already said, the policy of Government in this matter is well known, and I do not think, therefore, any fresh circulars are necessary.

Mr. M. Maswood Ahmad: Do Government propose at least to discuss this matter at the Agents' meeting, I mean whether members of a particular community should be off duty as far as practicable on their respective festival days?

Mr. P. R. Rau: It is not considered necessary.

Dr. Ziauddin Ahmad: May I just ask this? How will it work if half the members of a Committee sit on one day and the other half sit the other day?

(No reply.)

HEALTH OF MR. SUBHAS CHANDRA BOSE IN JAIL.

250. ***Mr. S. C. Mitra:** (a) Will Government please explain what steps have been taken about Mr. Subhas Chandra Bose's health?

(b) Is he going to be released soon? If so, when?

(c) Are there any conditions attached to his release? If so, what are the conditions?

(d) Is he being taken out of India? If so, at whose expense? Is there any condition about his coming back to India or any period fixed for his stay outside India?

The Honourable Sir Harry Haig: The Medical Board at Bhowali and the Civil Surgeon, Lucknow, have recommended that Mr. Subhas Bose should go to Europe for treatment and the latter has suggested that France or Switzerland would be suitable for this purpose. In view of these opinions the Government of India have informed Mr. Bose that if he wishes to proceed to Europe for treatment, they are prepared to remove the obstacle presented by the fact that he is detained at present in India as a State Prisoner under Regulation III of 1818, by the cancellation of the warrant from the date he sails from Bombay, and that he will be granted a passport for France and Switzerland. On a further representation, Government have agreed to extend the passport to Italy and Austria. He would travel to and remain in Europe at his own expense. No period has been fixed for his stay outside India.

Mr. K. Ahmed: In view of the fact that Mr. Bose will be a free man when he leaves this country, I suppose that he will enjoy the same freedom after he returns to India?

The Honourable Sir Harry Haig: That, Sir, depends entirely on the circumstances at the time.

Mr. K. Ahmed: How can the Government, after giving him full liberty, detain him again? Under what circumstances can he be detained again?

The Honourable Sir Harry Haig: It is reasonable to suppose that if his activities are likely to be similar to those for which he is at present detained, this action will be justified.

Mr. K. C. Neogy: Are Government prepared to afford necessary facilities to Mr. Bose to meet his parents before he sails from India?

The Honourable Sir Harry Haig: We have already informed Mr. Bose that we shall give him every facility to meet his parents either in Lucknow where he is at present detained or in Bombay from where it is proposed he should sail.

Mr. K. C. Neogy: Are Government aware that Mr. Bose's father who, I am told, is an old man of 80 years, is not in a position to move out of the place where he resides?

The Honourable Sir Harry Haig: We did receive a representation, Sir, that it might be difficult for him to move, but I am afraid that would present us with great difficulty, because we cannot very well transfer Mr. Bose from one place to another in India in order to meet relatives. It raises a very difficult problem.

Mr. K. Ahmed: If the doctor can recommend that Mr. Bose can move from Lucknow to Bombay, can't he go and see his old father, mother and other relative on his way to Bombay *via* Calcutta?

The Honourable Sir Harry Haig: I was not aware that the normal route from Lucknow to Bombay was *via* Calcutta. (Laughter.)

Mr. S. C. Mitra: In view of the fact that Mr. Bose's father is suffering from heart disease and is an old man of about 80 years of age and has been advised by his medical advisers not to move from Puri, will it be possible for Government to allow Mr. Bose to meet his father before Mr. Bose leaves the shores of India if necessary under police arrangement or under any other necessary precaution?

The Honourable Sir Harry Haig: It is quite certain that we could not relax the police precautions on Mr. Bose so long as he remains in India. That is quite certain.

Mr. K. C. Neogy: Supposing the necessary precautions are taken, are the Government prepared to reconsider the matter and allow Mr. Bose to meet his father where he is at present residing?

The Honourable Sir Harry Haig: Well, Sir, I am not satisfied with the Honourable Member's information that Mr. Bose's father is quite incapable of leaving Puri; I am not yet satisfied about that point.

Mr. K. C. Neogy: Will the Honourable Member order a medical examination of Mr. Bose's father for the purpose of finding that out?

The Honourable Sir Harry Haig: That may not be necessary, but it may be necessary to make certain inquiries.

Mr. S. C. Mitra: If we can convince the Honourable the Home Member that the present state of health of Mr. Bose's father will not permit him to move from Puri, will Government be pleased to afford facilities to Mr. Bose to interview his father under necessary precautions?

The Honourable Sir Harry Haig: I would suggest to the Honourable Member that if Mr. Bose's father is really in this condition, the situation would be just the same if Mr. Bose continued to be detained at Lucknow. The mere fact that it is proposed that he should go to Europe really does not affect the case.

Mr. S. C. Mitra: In case of any very serious attack, will Government be pleased to permit him to interview his father, because Lucknow to Puri takes only two days' journey, but from Europe it will not be possible again to come back and meet his father. So far as I know, Mr. Bose's father is in a bad state of health.

The Honourable Sir Harry Haig: I cannot give any assurance on the subject, but I will look into the matter on the information which my Honourable friend has given.

Mr. K. C. Neogy: Will the Honourable Member look into the matter sympathetically?

The Honourable Sir Harry Haig: I will look into the matter with due regard to administrative convenience as well as to domestic considerations.

Mr. K. Ahmed: In view of the fact that there will not be any political or administrative difficulty, and in view of the fact that the leading politicians are detained in jails and there is no trouble on the road beginning from Lucknow *via* Calcutta to Bombay, will Government propose to consider sympathetically and give opportunity to the old parents to see their young son?

The Honourable Sir Harry Haig: I think I have already dealt with the points raised by my Honourable friend.

STATEMENTS LAID ON THE TABLE.

The Honourable Sir Harry Haig (Home Member): Sir, I lay on the table the information promised in reply to Sardar Sant Singh's starred questions Nos. 453 and 454, on the 19th September, 1932, and No. 988 on the 7th November, 1932.

RETRENCHMENT IN THE ALL-INDIA SERVICES.

*453. (a) The principle adopted in the selection of officers for retrenchment is the interest of the public service and not the age of officers. The length of service of the officers retrenched varies considerably in consequence of the application of this principle.

(b) (1) Nil.

(2) Nil.

(3) Three Europeans, one Indian and one Burman.

(4) Nil.

(c) In selecting officers to be discharged as a measure of retrenchment the records of all officers are taken into account and some have been selected for retrenchment on the ground that their efficiency was below a reasonable standard. In such cases there is no advantage in trying them in other provinces.

(d) (1) Indian Civil Service—Nil.

(2) Indian Medical Service—Nil.

(3) Indian Forest Service—eight Indians and two Europeans.

(4) Indian Police Service—four Indians and two Europeans.

RETRENCHMENT IN THE ALL-INDIA SERVICES.

*454. (a) and (b). Under Rule 55 of the Civil Services (Classification, Control and Appeal) Rules, no order of dismissal or removal can be passed on a member of a Service unless he has been informed in writing of the grounds on which it is proposed to take action, and has been afforded an adequate opportunity of defending himself. The number of times an officer may be warned before action is taken against him depends on the circumstances of each case. Temporary officers or officers on probation may, however, be discharged without warning, if they are found to be inefficient.

(c) The length of time necessarily depends on the circumstances of each case.

(d) I have not the information required by the Honourable Member and regret I am unable to undertake to collect it.

(e) The number of officers retrenched in the various All-India Services is as follows :

Indian Forest Service—

Three Europeans.

One Indian.

One Burman.

Indian Forest Engineering Service—

Five Europeans.

Indian Veterinary Service—

One European.

Indian Agricultural Service—

One European.

One Indian.

Indian Service of Engineers—

Eight Indians (including two statutory Natives of India).

Five Europeans.

RETRENCHMENT OF INDIANS IN THE IMPERIAL SERVICES.

*938. (b) and (d). The suggestion in the question that young Indians are selected for retrenchment in preference to others is not correct. In selecting officers for retrenchment, the criterion is not the age or the nationality of the officers, but the interests and the efficiency of the public service. Regarding the number of Indian officers retrenched in the All-India Services, I would refer the Honourable Member to the reply to part (e) of his question No. 454.

(c) None.

(e) In the All-India Services, to which recruitment is made annually, there is at any one time generally a number of officers who are nearing retirement.

(f) and (g). Of the three All-India Services, in which officers have been retrenched, recruitment to two Services, viz., the I. A. S. and the I. S. E. (Buildings and Roads Branch), ceased some years ago, while recruitment to the I. F. S. has been suspended, pending a decision on the recommendation of the Round Table Conference for the provincialisation of that service. The question of incurring fresh expenditure on the training of Indian recruits to these three Services does not therefore arise.

The Honourable Sir George Schuster (Finance Member): Sir, I lay on the table the information promised in reply to starred question No. 1619 asked by Mr. B. N. Misra on the 12th December, 1932.

MANUFACTURE OF SALT AT HUMMA, SORDO AND NAUPADA IN THE GANJAM DISTRICT.

*1619. The quantities of salt manufactured were as below :

Year.	Quantity of salt manufactured in Humma (now known as Ganjam factory).	Sumadi factory.	Naupada head-quarter factories, viz., Naupada, Moolapeta and Bhavanapadu.
	Mds.	Mds.	Mds.
1923	102,502	Nil	1,136,087
1924	109,342	158,704	1,100,638
1925	169,376	205,024	963,581
1926	394,280	52,308	1,746,012
1927	512,524	429,008	1,732,998
1928	109,998	53,928	1,090,660
1929	396,776	477,240	1,621,436
1930	166,126	262,612	1,128,580
1931	539,308	126,408	1,875,150
1932	178,452	301,452	1,255,016

There is no factory of the name of Sordo. The reference is obviously to Sumadi.

The Honourable Sir Frank Noyce (Member for Industries and Labour): Sir, I lay on the table the information promised in reply to supplementary questions to starred question No. 1452, asked by Mr. M. Maswood Ahmad on the 28th November, 1932.

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

*1452. There are nine Town Inspectors, all of whom are Hindus.

Mr. G. S Bajpai (Secretary, Department of Education, Health and Lands): Sir, I lay on the table the information promised in reply to starred question No. 1187, asked by Sardar Sant Singh on the 15th November, 1932.

DISCHARGE OF SIX PROVINCIAL FOREST SERVICE OFFICERS BY THE PUNJAB GOVERNMENT ON COMPENSATION PENSION.

*1187. (a), (b), (c) and (d). After a thorough investigation the Government of the Punjab decided last year to reduce the cadre of the Punjab Forest Service, because there was an excess of officers over requirements and financial considerations made it necessary that there should be economy in every Department. In pursuance of this decision seven officers were retired, two on retiring pensions under Article 465A, Civil Service Regulations, and five on compensation pensions under Article 426, Civil Service Regulations. Through an oversight the approval of the Governor General in Council required under the second proviso to sub-rule (1) of the Classification Rule 40 was not obtained before the reduction in the number of posts was carried out, but when the circumstances were reported to the Government of India, the latter were satisfied that the action of the Government of the Punjab was justified, and that if application had been made for the necessary previous sanction it would have been forthcoming. The Local Government were accordingly informed that the reduction made by them might be deemed to have been made with the previous sanction of the Governor General in Council. In the circumstances it is clear that the officers concerned were in no way prejudiced by the failure to obtain the previous sanction which admittedly should have been obtained. The Government of India have however impressed on Local Governments the necessity of careful observance of all requirements imposed by the Classification Rules.

Mr. G. E. F. Tottenham (Army Secretary): Sir, I lay on the table the information promised in reply to starred question No. 1548, asked by Mr. Jaggan Nath Aggarwal on the 5th December, 1932.

TENDERS FOR STALLAGE OF MEAT MARKET, BAKERY AND DAIRY SHOPS BY THE JULLUNDUR CANTONMENT BOARD.

*1548. (a), (c), (e) and (h). After tenders for the lease of beef and mutton markets had been received, the Cantonment Authority let out the right to all the stalls in these markets for the year 1932-33 to the previous occupants on their paying in advance a

rent which the authority considered suitable. Under the Cantonment bye-laws licences for the sale of beef and mutton are granted only to stall holders. This has been the practice for the last 25 years. No licence fee is charged.

(b) Yes.

(d) (i).

	Rs.
Beef Market No. 1 with cattle enclosures and offal shed and skin shed	6 491
Beef Market No. 2	1,173
Mutton Market with goat enclosure and offal shed	2,697
Dairy stall with cattle enclosure	1,000
Bakery	946

(d) (ii).

Markets.	1927-28.	1928-29.	1929-30.	1930-31.	1931-31.
	Rs.	Rs.	Rs.	Rs.	Rs.
Beef Market No. 1 with cattle enclosure and offal shed, etc.	1,112	1,088	1,049	969	685
Beef Market No. 2	196
Mutton Market with goat enclosure and offal shed	326	204	215	348	354
Dairy Stall with cattle enclosure	96	111	96	90	102
Bakery	168	168	171	168	168

(d) (iii).

	Rs.
Beef Market No. 1	1,566
Beef Market No. 2	330
Mutton Market	624
Dairy Stall	158
Bakery	256

(f) Government are informed that prices are generally lower than they were formerly. Some complaints about the quality of the articles were received, but proved to be unfounded.

(g) Government have no information regarding the terms on which the stall holders have sub-let vacant stalls.

(i) The Cantonment Board in 1926 proposed to lease the mutton market to a single contractor, but, on considering a representation from the stall holders, cancelled the contract without reference to the Command.

(j) No complaints have been received by the Authority about the Dairy, the location of which has not been changed for the last 15 years.

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

- (i) the information promised in reply to starred question No. 689 asked by Mr. N. M. Joshi on the 23rd September, 1932;
- (ii) the information promised in reply to starred question No. 688 asked by Mr. N. M. Joshi on the 23rd September, 1932;
- (iii) the information promised in reply to starred question No. 631 asked by Mr. A. H. Ghuznavi on the 22nd September, 1932;
- (iv) the information promised in reply to starred question No. 249 asked by Khan Bahadur Haji Wajihuddin on the 12th February, 1932; and
- (v) the information promised in reply to starred question No. 1465 asked by Mr. K. Ahmed on the 28th November, 1932.

PROMOTION TO HIGHER GRADE POSTS IN THE CHIEF TRAFFIC MANAGER'S OFFICE, GREAT INDIAN PENINSULA RAILWAY.

*689. (a) and (b). Promotion is governed by seniority combined with efficiency and suitability of the persons concerned.

(c) Seniority is governed by the date of appointment to the grade of the respective incumbents of the posts.

(d) There is only one procedure in calculating seniority.

(e) No.

(f), (g) and (j). Do not arise.

(h) 47 clerks in the Rs. 60—5—80 grade have reached their maximum pay. Out of them 29 clerks have been drawing the maximum pay for over five years.

(i) Attention is invited to the reply given to parts (a) and (b) above.

QUALIFICATIONS FOR APPOINTMENT AS DISTRICT COMMERCIAL INSPECTORS ON THE GREAT INDIAN PENINSULA RAILWAY.

*688. (a) No selection for the post is made from among the staff experienced in outdoor duties; but there is nothing which limits the selection to such staff.

(b) Yes.

(c) An Anglo-Indian previously working in the Staff Section of the Chief Traffic Manager's office of the Great Indian Peninsula Railway has been recently appointed as District Commercial Inspector. He superseded two Assistant Commercial Inspectors, of whom one had had his promotion stopped on account of his failing for the second time in the Senior Refresher Course at the Dehra Dun Railway Staff College, and the other was considered definitely unsuitable for promotion to District Commercial Inspector. The latter has since been transferred to another branch.

(d) He had had no outdoor experience, and although this is usually necessary, it is not essential. It was considered in this case that he would be able to discharge his duties satisfactorily.

FREIGHT EARNED BY STATE RAILWAYS ON COAL.

*631. As no figures have been maintained showing the total tonnage of coal carried for the public and the earnings therefrom by zones, a statement showing total tonnage of coal, coke and patent fuel carried for the public and the earnings therefrom on the Bengal Nagpur and East Indian Railways, month by month, for the period from February to June, 1932, as compared with the corresponding months of the previous year, is attached.

Statement showing total tonnage of coal, coke and patent fuel carried for the Public and earnings therefrom, on Bengal Nagpur and East Indian Railway month by month for the period from February 1932 to June 1932 as compared with the corresponding months of the previous year.

Total tonnage of coal, coke and patent fuel, carried for the public and earnings therefrom.

	February.		March.		April.		May.		June.	
	1931.	1932.	1931.	1932.	1931.	1932.	1931.	1932.	1931.	1932.
Railways.										
	Tons.	Rs.	Tons.	Rs.	Tons.	Rs.	Tons.	Rs.	Tons.	Rs.
Bengal Nagpur .	399,516,979,264	7,67,341	419,689,419,420	9,27,623	419,689,419,420	9,43,068	434,963,409,760	8,61,538	388,196,391,919	7,33,799
East Indian.	703,036,658,212,29,15,019	3,72,867	754,948,697,190,39,81,369	9,24,664	774,306,711,976,31,09,481	20,68,167	712,108,000,611	28,38,577	616,649,612,46,24,3	9,693,28,47,304

HOUSE RENT AND MILEAGE ALLOWANCES OF TICKET CHECKING STAFF OF THE
EAST INDIAN AND OUDH AND ROHILKHAND RAILWAYS.

*249. (a) The reply is in the affirmative.

(b) The mileage allowance has been withdrawn as they are not running staff.

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

*1465. (a) and (b). The Agent, East Indian Railway reports that he is not aware of any cases in which appeals have not been dealt with strictly in accordance with the existing orders or where an interview has been refused when the circumstances of the case justified the granting of it. All appeals, as a rule, receive the most careful consideration and whenever further information is necessary it is obtained from Divisional Superintendents before the appeal is finally disposed of.

THE INDIAN MARINE (AMENDMENT) BILL.

Mr. G. R. F. Tottenham (Army Secretary): Sir, I move:

"That the Bill further to amend the Indian Marine Act, 1887, for a certain purpose, be taken into consideration."

This, Sir, is a small Bill and one that I hope will be accepted by the House without difficulty. I see that there are amendments on the paper asking that the Bill should be published and also that it should be referred to a Select Committee. I wish to make it clear at the outset that, if it is really the wish of the majority of this House that either of these courses should be adopted, we shall not object. We have no desire whatever to rush this Bill through the House. At the same time I very much hope that, after I have explained the objects and nature of the Bill, the House will agree that neither of these courses is necessary.

The Bill itself is a small, but necessary, part of an interesting proposal made by the Flag Officer Commanding the Royal Indian Marine to bring into existence a small reserve of officers for that force on very much the same lines as the Army in India Reserve of Officers on the army side. If the idea of such a Reserve commends itself to the House, then I think that the actual provisions of the Bill can give no difficulty of any kind. Section 2 of the present Indian Marine Act defines persons who are subject to the Act and includes among them "gazetted officers," and a further clause in section 2 of the existing Act goes on to describe what gazetted officers are. By this Bill we merely wish to place officers of the Reserve in the same position as the gazetted officers of the Royal Indian Marine, that is to say, to ensure that they shall be subject to exactly the same code of discipline when they are under training or when they are called up for service. I think it will be agreed that that is a perfectly reasonable and necessary provision, if we are going to have a Reserve at all. The issue, therefore, is, as I understand it, whether we should have a Reserve or not. That, Sir, is the only issue that we could refer to the public if the Bill were circulated, and that again is the only issue that we could refer to a Select Committee, if this Bill were

referred to a Select Committee. My submission is that, if it is desired to test public opinion in this matter, the best way of doing so is to constitute the Reserve and to throw it open and see whether gentlemen will come forward to join it. There is no compulsion of any kind in the matter. It is an entirely voluntary matter and this Bill will not compel anybody to do anything.

Mr. B. V. Jadhav (Bombay Central Division: Non-Muhammadan Rural): What will be the conditions of admission?

Mr. G. R. F. Tottenham: They will be published before anybody is asked to join the Reserve. Then also, the question whether there should be a Reserve or not is one on which I think a Select Committee would be in no better position to give an opinion

Mr. Deputy President (Mr. R. K. Shanmukham Chetty): Mr. Maswood Ahmad has withdrawn his motions for circulation and reference to a Select Committee. There are no amendments, therefore, now for circulation or for reference to a Select Committee.

Mr. G. R. F. Tottenham: Then, Sir, I need not dwell further on that point. Let me go on now to give the House a brief description of the nature and objects of this Reserve and leave it to them to decide whether it is a good idea or a bad one.

As the House is aware, the Royal Indian Marine is a small force, which is now a naval force in all but name. It is organised on a combatant basis; its ships carry guns and are entitled to fly the White Ensign; and its officers and men are trained in naval duties. During the last five years, under the distinguished command of Admiral Sir Humphrey Walwyn, remarkable progress has been made in improving the efficiency of this force. The efforts made have attracted the attention of the officers in command of the East Indies Squadron of the Royal Navy and have elicited their praise, and from time to time we have issued communiqués to the Press explaining what has been done and what is being done. The fact remains, however, that the Royal Indian Marine is an extremely small service, and if India, as we hope, is going to assume responsibility eventually for her own defence, she must not forget that that defence cannot rest on land and air forces alone. The importance and the cost of naval defence are, I am afraid, sometimes apt to be overlooked, but to me it is obvious that both the strength of India's naval forces and the expenditure on them must increase, if the object in view is to be attained. We are, therefore, anxious to do all that we can to stimulate public interest in naval matters, and also to assign to the Royal Indian Marine definite duties of importance in the scheme for the defence of India's ports and harbours.

This Reserve is a small and a very cheap step in these directions. On the one hand, we have reason to believe, or at least we hope, that there may be a certain number of gentlemen in places like Bombay, Madras or Karachi, both Indian and European, who are keen on nautical matters, who go in for sailing, yachting and so on, and who would welcome the opportunity to receive a small amount of naval training. The idea is that the size of the Reserve should be limited to 50 or 60 officers in the first instance, perhaps even less to begin with. It will be open, as

[Mr. G. R. F. Tottenham.]

I said, equally to Europeans and Indians. Membership of it will entail the liability to undergo a short period of annual training and, of course, members of the Reserve will also have to undertake to place their services at the disposal of the State in the event of a major emergency. This annual training will be performed, we hope, partly at sea in one of His Majesty's Indian ships, that is to say, in one or other of the sloops of the Royal Indian Marine, and partly on shore by means of drills and lectures, and so on. The existence of the Reserve will thus, we hope, stimulate interest in naval matters and help to popularise the Royal Indian Marine as a whole.

Then, Sir, on the other hand, we hope that the Royal Indian Marine will be entrusted in war time with an important share in the actual defence of India's coasts and India's harbours. There are many local duties connected with the defence of harbours, coastal shipping, and so on, which can be performed in war time in small craft which can be hired for the purpose; but the difficulty at present is to provide the trained personnel to man them. The small regular cadre of the Royal Indian Marine is not sufficient to supply officers for this purpose. It is duties of this kind—local duties, purely confined to the defence of India's coasts and harbours—which officers of the Reserve may be called upon to perform in a major emergency such as the war. In this way we hope that the Reserve will be of practical importance, as well as of theoretical importance.

The expenditure involved is small. We calculate that for a Reserve of 60, assuming that the full numbers are obtained, about Rs. 25,000 would be required initially to provide outfits and uniforms. Of course if the numbers did not reach 60, the full amount would not be required; and the full amount would not in any case be of a recurring nature. Then, Sir, there would be the amount required for the pay and allowances of the officers during their annual training; and we calculate that for a full Reserve of about 60 officers this might come to another Rs. 20,000. In any case, however, the passage of this Bill would not immediately commit Government to bringing the Reserve into existence. We must necessarily wait until the funds can definitely be provided. All that I am asking the House to do today is to pass this legislation, so that, if and when the funds become available, we may be in a position to start the Reserve without delay. The whole proposal is a simple and straightforward one. There is nothing complicated or abstruse about it and there is nothing in my opinion that requires lengthy or prolonged consideration. I very much hope, therefore, that the scheme will commend itself to Honourable Members and that the House will agree to the passage of this small Bill. Sir, I move.

Mr. Deputy President (Mr. R. K. Shanmukham Chetty): Motion moved:

"That the Bill further to amend the Indian Marine Act, 1887, for a certain purpose, be taken into consideration."

Mr. B. V. Jadhav: I support the motion just made. Indians ought to be prepared to take up the defence of their country and, as is well known, Indian coast is very vulnerable, and, therefore, marine defence is absolutely necessary. It was the neglect of this defence that gave an opportunity to foreign nations to come and attack India and the

same mistake need not be committed again. When India gets dominion status, she must be fully prepared to take up the responsibility of her coastal defence and, therefore, I welcome this first move as an earnest in initiating Indians in the art of naval warfare. The Honourable the Mover has told us that it is a very humble measure and I fully realise that the officers of the Reserve will not get much practical experience of naval warfare. All the same, I welcome this attempt and I heartily support the measure.

Mr. Deputy President (Mr. R. K. Shanmukham Chetty): The question is:

“That the Bill further to amend the Indian Marine Act, 1887, for a certain purpose, be taken into consideration.”

The motion was adopted.

Clauses 2 and 1 were added to the Bill.

The Title and the Preamble were added to the Bill.

Mr. G. R. F. Tottenham: Sir, I move that the Bill be passed.

The motion was adopted.

THE INDIAN FOREST (AMENDMENT) BILL.

Mr. G. S. Bajpai (Secretary, Department of Education, Health and Lands): Sir, I beg to move:

“That the Bill further to amend the Indian Forest Act, 1927, for a certain purpose, be taken into consideration.”

Honourable Members will have observed that it is a very short Bill. In fact, substantively it is only a one clause Bill and the object is stated in the Statement of Objects and Reasons. Under section 38 of the Indian Forest Act, it is permissible for an owner to take steps to call upon Government aid for the extension to his forest land of the protective provisions of the Act. It has been held by one legal authority that the definition of “owner” in the Act does not cover the Court of Wards and the result, therefore, is that the Court of Wards cannot take advantage of this provision as it is not considered an “owner” of the land or forest of which it is in charge as a trustee. We are, therefore, taking steps to remedy that defect now by the Bill which is before the House and we are also taking advantage of this opportunity to extend the other protective sections of the Act to include the Court of Wards as owner.

Mr. Deputy President (Mr. R. K. Shanmukham Chetty): Motion moved:

“That the Bill further to amend the Indian Forest Act, 1927, for a certain purpose, be taken into consideration.”

Mr. K. P. Thampan (West Coast and Nilgiris: Non-Muhammadan Rural): Sir, it does not seem to me that this Bill is so simple and innocent as it looks. I, for one, feel confronted with certain difficulties.

[Mr. K. P. Thampan.]

Sir, the Court of Wards is a Department of the Government. (*An Honourable Member*: "Louder, please; we cannot hear you.") The Court of Wards is a Department of the Government and, at any rate in the parts from which I come, the Government, having only comparatively small tracts of forests, are always casting covetous eyes on the private forests adjoining theirs. They take long leases of the private forests from their owners, and my Honourable friend, the Raja of Kollengode, will bear me out when I say that certain portions of his forests are leased for 99 years or so to the Madras Government. They have taken a similar lease also from the Raja of Nilambur. Whenever the interests of the owners of the private forests are in conflict with those of the Government, there is a tendency on the part of the latter to acquire or come into possession of those forests. It often happens that the estates which own these forests come under the management of the Court of Wards. Recently, the Zamorin's estate—one of the biggest estates in my district—was under the management of the Court of Wards. Now, under this law, it was easy for the Court of Wards to give over the forests of the Zamorin to the Forest Department for better management or otherwise on terms that may be even detrimental to the estate of the Zamorin. That is certainly an easy way of getting of private property. Now, so long as the Court of Wards manages an estate, they are vested with the rights of absolute management including the right of alienation and the loans raised by them are binding upon the estate. There is also a condition in the Court of Wards Act that so long as the loans continue, the estate need not be handed over to the owner. That is why the estates of the Raja of Sivaganga are still in the hands of the Court of Wards. What I mean to say is, the Court of Wards have such unlimited powers that the agreement made by them cannot be questioned by the owner of an estate even after it is handed over to him. I apprehend, therefore, that there will be real trouble and danger if the Court of Wards are given this right, so far as the Madras Presidency and, particularly, Malabar is concerned. I, therefore, think, Sir, the principles underlying the Bill ought to be well thrashed out by this House before it approves of them. It is not an emergency measure and ought not to be rushed through like this.

Kunwar Raghubir Singh (Agra Division: Non-Muhammadan Rural): Sir, this Bill seeks to give power to the Court of Wards to act as owners in respect of the forests of estates which they are looking after. Now, as the Bill shows, their position is one of trustees, and the powers of trustees are wide enough as we see in the case of British Indians as a whole. The British Government say that they are the trustees of India, and, Sir, they are exercising all the powers which an owner does. Now, in the United Provinces, from which province, I am glad to think, the Honourable the Mover also comes, they have been trying to associate non-officials with the administration of the Court of Wards. But nothing tangible has been done. So, unless the constitution of the Courts of Wards is changed so that it may become more popular, it would not be in the interests of the public to give them more powers. Therefore, Sir, I would impress upon the Government the necessity of considering the proposal of associating the Court of Wards administration with non-official opinion before suggesting any more powers for the Court of Wards as is proposed to be done in this case. Sir, I oppose the Bill.

Mr. G. S. Bajpai: Sir, I think there must be some misunderstanding in the minds of Honourable Members as to what is exactly intended by this Bill. It is not a new principle that we are introducing. Section 38 says:

"The owner of any land, or if there be more than one owner thereof, the owners of shares therein amounting in the aggregate to at least two-thirds, may, with a view to the formation or conservation of forests thereon, represent in writing to the Collector their desire:

(a) that such land may be managed on their behalf by the Forest officer as a reserved or protected forest on such terms as may be mutually agreed upon, or

(b) that all or any of the provisions of this Act be applied to such land."

It is, in other words, dependent upon the volition of the owners as to whether the provisions of the section are invoked or not invoked. It is not intended to empower Government to act on their own initiative. The initiative rests with the owner.

Mr. K. P. Thampan: The owner is represented by the Court of Wards and the Court of Wards is a body of a Department of the Government and they may collude and arrange terms to the detriment of the owner of the estate.

Mr. G. S. Bajpai: My Honourable friend seems to suggest that the state of affairs in Madras is very very unfortunate.

Mr. K. P. Thampan: That is the state of affairs throughout the country and not only in the Madras Presidency.

Mr. G. S. Bajpai: So far as I am aware, the initiative in this matter, which comes from Bengal, has been taken with the goodwill of the owners. They came up to the Government and said: "here is land which we would like to be taken over for purposes of management by a forest officer and we cannot do it because the Advocate-General, Bengal, holds that the Court of Wards is not empowered . . ."

Mr. K. P. Thampan: Then have a measure like this for Bengal.

Mr. G. S. Bajpai: I do not see any reason why the provisions of the section should be limited to Bengal. We have consulted all Local Governments and they have expressed their willingness.

Mr. K. P. Thampan: Because it is in their own interest.

Mr. G. S. Bajpai: My Honourable friend seems to think that because the interests of the Government happen to synchronise with the interests of a private owner, therefore the interests of the owner cease to be his interests. I confess, that is not logic which convinces me. My friend from the United Provinces has said that the Court of Wards management should be brought more and more under the control and influence of non-officials. I submit that that hardly arises out of the Bill which I have put before the House. However, I am quite prepared to convey that suggestion for the consideration of the Government of the United Provinces, to which, I am glad to acknowledge, I am as happy to belong as my Honourable friend, Mr. Raghbir Singh.

Mr. Deputy President (Mr. R. K. Shanmukham Chetty): The question is:

"That the Bill further to amend the Indian Forest Act, 1927, for a certain purpose, be taken into consideration."

The motion was adopted.

Clauses 2 and 1 were added to the Bill.

The Title and the Preamble were added to the Bill.

Mr. G. S. Bajpai: Sir, I beg to move that the Bill be passed.

Mr. K. P. Thampan: Sir, I oppose, this motion. I have already stated my reasons and they need not be repeated again. This is certainly a highhanded way of doing things and I feel that Government have not given that consideration which they ought to have given to this subject. Presumably all the Local Governments and those people that would be affected by this Bill have not been consulted and I protest with all the strength that I can command that the Bill should now be allowed to be passed into law in this way. I protest also against the manner in which the Government have rushed through this measure.

Mr. G. S. Bajpai: I am extremely sorry, Sir, that my Honourable friend thinks that Government are using highhanded methods in order to put this Bill through the House. It was announced, I think last week, by the Honourable the Leader of the House that the Bill would come up for consideration now. Government have already taken the precaution of consulting the Local Governments concerned. There has been no suggestion at any stage made to Government either by the Honourable Member or anybody else that there is anything contentious in this matter. In the circumstances, I fail to see how the charge of high-handedness can be brought against Government. I have already ventured to explain, when I was dealing with my Honourable friend's objections, what the provisions of the Bill are and I do not think that the mischief which he is anticipating would really ensue from its provisions.

Mr. Deputy President (Mr. R. K. Shanmukham Chetty): The question is that the Bill be passed.

The motion was adopted.

THE INDIAN RAILWAYS (AMENDMENT) BILL.

(AMENDMENT OF SECTIONS 108 AND 131.)

The Honourable Sir Joseph Bhoré (Member for Commerce and Railways): Sir, I move:

"That the Bill further to amend the Indian Railways Act, 1890, for a certain purpose (*amendment of sections 108 and 131*), be taken into consideration."

This is a small amendment of the Railways Act to provide for a higher penalty for pulling the communication cord when this action is taken in order to obstruct traffic. Under the existing law, section 108 runs as follows:

"If a passenger, without reasonable and sufficient cause, makes use of or interferes with any means provided by a railway administration for communication between passengers and the railway servants in charge of a train, he shall be punished with fine which may extend to Rs. 50."

We propose to add to that a sub-clause (2) which runs thus: .

“If a passenger so makes use of or so interferes with such means of communication with the intention of obstructing traffic, he shall be punished with imprisonment, for a term which may extend to six months, or with fine, or with both.”

The stoppage of trains through pulling the communication cord has been a growing evil and it has been quite clear in a large number of cases that this has been done deliberately with the intention of obstructing the administration. On a single railway in a single month one individual stopped trains no less than 11 times. He was punished on nine occasions and, out of these nine occasions, on four occasions he was punished with the maximum penalty, but, unfortunately, Sir, the infliction even of the maximum penalty had no effect in stopping further recurrences of this offence.

Mr. Gaya Prasad Singh (Muzaffarpur *cum* Champaran: Non-Muham-
madan): That adds to the income of the railway.

The Honourable Sir Joseph Blore: Unfortunately, the fines, I understand, go to general revenues.

Mr. Gaya Prasad Singh: Even then the Government benefit.

The Honourable Sir Joseph Blore: Well, Sir, the House will realise that such stoppages cause considerable inconvenience to the public and also they lead to the dislocation of traffic and this amendment has really been put forward largely in the public interest. The other clause provides

Mr. Lalchand Navalrai (Sind: Non-Muhammadan Rural): May I know, Sir, when did the last case of this nature happen?

The Honourable Sir Joseph Blore: I really have not the dates. The information I gave relates to a particular railway on a particular occasion.

As regards section 131 (1), the only proposal is to insert this new section 108, sub-section (2) among the other sections for which it is provided that there may be an arrest, without warrant or without written authority, by any railway servant or police officer. That, Sir, is, I submit, obviously a corollary to the introduction of a severer sentence. If a severer sentence is impossible, obviously it would be of little use if it were not possible to bring the offender to justice. Experience unfortunately has shown that in many cases it is usual to give wrong names and addresses. The result is that the offender escapes conviction. I venture to hope, Sir, that the mere provision of this higher penalty may result in discouraging people from indulging in this particular type of offence and I hope the House will agree with me that it is a measure in the public interest.

I move it.

Mr. Deputy President (Mr. R. K. Shanmukham Chetty): Motion moved:

“That the Bill further to amend the Indian Railways Act, 1890, for a certain purpose (*amendment of sections 108 and 131*), be taken into consideration.”

Mr. C. S. Ranga Iyer (Rohilkund and Kumaon Divisions: Non-Muhammadan Rural): Sir, I rise to oppose the motion. The Honourable Member in charge of the Bill was pleased to say that because there was a repetition of the same offence by a particular gentleman for some time, therefore that is an adequate reason for bringing an all-round legislation of this kind.

The proposed sub-section runs:

"If a passenger so makes use of or so interferes with such means of communication with the intention of obstructing traffic, he shall be punished with imprisonment for a term which may extend to six months."

I admit

The Honourable Sir Joseph Bhoré: Will my Honourable friend read to the end?

Mr. C. S. Ranga Iyer:

"or with fine, or with both".

I am quite willing to admit that there is a provision for fine, but there is also a provision for imprisonment which may extend to six months. I admit that the intention of obstructing traffic is to be proved; but supposing my friend, the Raja Saheb of Kollengode, is travelling from Delhi to Madras and, supposing, in the neighbourhood of Nagpur, one of his young children rather carelessly played with the chain and pulled it and the train is stopped, his children might be arrested.

Mr. K. O. Neogy (Dacca Division: Non-Muhammadan Rural): He himself might be arrested, because nowadays fathers are punished for the sins of their children.

Mr. C. S. Ranga Iyer: As my friend says, he himself might be arrested, because the sins of the children are now being visited on the father. That, Sir, reduces the sublime to the ridiculous. Without pursuing that line of argument, I would say the arresting section must go.

Supposing a child or a grown-up person pulls the chain, either out of necessity or out of accident, I admit in the court of law it has to be proved that the intention was to obstruct traffic. But has he not to provide for witnesses to prove that his intention was not to obstruct traffic? At any rate there is a suspicion. I personally am not taking an obstructive attitude in this matter. But there is a certain amount of apprehension in the public mind as to whether this increased punishment will not mean adding to the difficulties of the travelling public. It is for the Honourable gentleman, when he answers the points raised from this side, to make this issue very clear, for we do not want to increase the troubles of the travelling public.

Mr. B. V. Jadhav (Bombay Central Division: Non-Muhammadan Rural): Sir, I rise to oppose the motion which is now before the House. The Honourable the Mover proposes to move an amendment of section 108 and it will be a permanent addition to that Act. The evil, if there is any, is a temporary one due to the political unrest in India and I should have expected the Honourable the Home Member to bring in an amendment of the Ordinance Bill. It would have been more properly inserted

in that legislation. In this legislation it is out of place, because this provision will be incorporated permanently in the Act. Under the Ordinance Act, it would have continued only for three years after which it would automatically cease to have any effect. I, therefore, oppose this motion on the ground that this permanent addition should not be made in this Act; and, if it is to be made in this Act, its duration should be limited to one year only.

Mr. M. Maswood Ahmad (Patna and Chota Nagpur *cum* Orissa: Muhammadan): Sir, I should like to know whether my motion about circulation will be taken up after this motion is disposed of or whether both will be taken together.

Mr. Deputy President (Mr. R. K. Shanmukham Chetty): The Honourable Member can move his amendment.

Dr. Ziauddin Ahmad (United Provinces Southern Divisions: Muhammadan Rural): Sir, if this question of consideration is defeated, the question of circulation would not arise.

Mr. Deputy President (Mr. R. K. Shanmukham Chetty): The Honourable Member very well knows the practice of this House. I will allow the Honourable Member, Mr. Maswood Ahmad, to move his amendment for circulation. Then there will be a discussion both on the motion made by the Honourable the Railway Member and also the amendment, and before finally putting the question the amendment of Mr. Maswood Ahmad will first be put to the vote of the House.

Mr. M. Maswood Ahmad: Sir, I beg to move:

"That the Bill be circulated for the purpose of eliciting opinion thereon by the 31st July, 1933."

In moving this motion, I want to make it perfectly clear that I do not approve of the action of certain volunteers who unnecessarily pull the chains of the railway trains and stop them. At the same time, I maintain that the amendment which is sought to be made in the Railways Act is rather very severe and very harsh and many innocent persons may come within its mischief. In section 108, you will find:

"If a passenger, without reasonable and sufficient cause, makes use of or interferes with any means provided by a railway administration, for communication between passengers and the railway servants in charge of a train, he shall be punished with fine which may extend to fifty rupees."

That is to say, in the original section there is definite provision that unless the act is without reasonable and sufficient cause, it is not punishable. The present position is that the prosecution should prove that the action of pulling the chain was without reasonable and sufficient cause. But in the present Bill there is no mention of those words "without reasonable and sufficient cause" in the proposed sub-clause. If an innocent man with an honest intention pulls the chain even for reasonable and sufficient cause, he comes under this new clause; because when he has made use of the chain, his intention must be taken to be to detain the train, although it was done with an honest intention and for a reasonable cause. That is one defect of the Bill.

[Mr. M. Maswood Ahmad.].

Further, up till now, section 131 had reference to sections 100, 101, 119, 120, 121, 126, 127, 128 and 129 onwards. It was not for such ordinary acts as pulling the chain. Now, my Honourable friend, the Railway Member, wants that this action of pulling the chain should come under the purview of section 131 which provides that the offender may be arrested without warrant or other written authority by any railway servant or police officer or by any other person whom such a person or officer may call to his aid. This is very hard and most objectionable. Clause 3 of the Bill should be deleted. I will rather request the Railway Member to withdraw the Bill. Now, it will be very difficult for the accused to prove in a Court of law that the chain was not pulled with the intention of obstructing traffic. To illustrate my point fully, with your permission, Sir, I shall give a concrete example. Suppose we have a villager who does not know to what use the chain is put and he innocently pulls it out of curiosity or out of negligence only and the train comes to a stand still, thereby obstructing the train. His intention was not to stop the train at all. It will be very difficult for him to prove that his intention was not to obstruct the traffic. The Judge also will be in great difficulty in deciding about the intention of the accused. May I inquire from the Honourable the Railway Member whether such a man will come under the purview of the proposed amendment or will he be dealt with at all? I think he will say that ignorance of law is no excuse. I quite admit it, but I will say that for that offence only a penalty of 50 rupees should be imposed as at present. This must be realised from him; but to send him to jail is not at all justified. The punishment which it is proposed to inflict is rather hard and I am of opinion that nothing should be done unless we are assured that there is a real necessity of making the punishment so severe in character. For a temporary movement, we cannot upset the whole machinery. We cannot allow the Government to have such drastic measures for simply two or three, or, as stated by my Honourable friend, the Railway Member, 11 or 12 cases; we cannot allow them to have such a drastic measure for a few cases. This is a very wide question. Imprisonment was not sought by the law till now for pulling a chain, and so I say that this is a fit case for circulation with a view to knowing the public opinion on this point.

Mr. Deputy President (Mr. R. K. Shanmukham Chetty): Amendment moved:

"That the Bill be circulated for the purpose of eliciting opinion thereon by the 31st July, 1933."

Mr. Muhammad Yamin Khan (Agra Division: Muhammadan Rural): Sir, there have been certain cases and there are judgments of Courts when a man lost his property after it had dropped out of the train, and he pleaded that it was a sufficient and reasonable cause to pull the chain. It has been held in these cases that it was not a reasonable and sufficient cause if the property was worth only about fifty rupees. Judgments have been delivered on the basis of the law, as it stands, and we know that the words "without reasonable and sufficient cause" do not protect even these genuine cases. We have to see if there has been a misuse under a misapprehension that a reasonable cause will allow them to go without any penalty.

We have seen that trains have been pulled without any reasonable cause, where there existed not even the slightest pretension that the property dropped out of the train and there was no other motive, but the motive was to stop the traffic and to cause inconvenience to the travelling public and dislocate the trains; and the whole system of the trains passing at a particular time from a particular station had been dislocated causing a great deal of inconvenience and costing a lot of money to the Railway Department. Leaving aside this question and ignoring the volunteers altogether, I say that if a person—not a Congress volunteer, but anybody—comes with this particular intention as is given in this Bill, if the intention is nothing else excepting an intention to obstruct traffic, if a man comes up with this motive only, is it justifiable that the man should be let off only with fifty rupees fine? He has got no other motive, but to obstruct the traffic. I could not understand my Honourable friend, Mr. Maswood Ahmad's arguments. He says that if a villager comes up and pulls a chain out of curiosity, and says at the same time, that he had no intention of stopping the train,—well, the innocent act does not apply to this Bill. This Bill deals with a man who interferes with such means of communication with the intention of obstructing the traffic. The intention of obstructing the traffic is the whole ingredient of this offence. If the prosecution cannot prove that this was the intention, then how will there be any offence committed by a person who accidentally pulls a chain? My Honourable friend argues against himself. He gives an illustration which has made no case, no justification for eliciting public opinion. What is the public opinion that is required for this purpose? If he had sent in an amendment to change the wording of the clause, that would have been justifiable. I had my own doubts, but when I looked into the Bill, I found that the clause is so simple that it will be waste of money and waste of energy to send it out for taking public opinion thereon. The High Courts may be consulted; the Local Governments may be consulted; Bar Associations may be consulted; everybody may be consulted, but, may I ask, for what? Whether it should be an offence if a man pulls a chain with the intention no other than to obstruct the traffic. Is it justifiable to give him a higher penalty than fifty rupees or not? That is the whole crux. My Honourable friend thinks that these public men have got no other work to do; they have got absolute leisure to give their opinions on such simple matters and my Honourable friend does not think himself to be competent to form proper judgment and give his verdict. I would understand him when he comes and opposes this Bill, but what is the sense in asking for circulating it for eliciting public opinion thereon? The public opinion can be obtained here. Here we are; we can give the public opinion on such a simple measure. It is the representatives of the people who can give full judgment. There might be certain cases, certain Bills which affect a particular community which want to bring a new law which are so vital that there should be required certain public opinion on which the Assembly cannot form any judgment; but here is the simple matter that a penalty is already provided for that, **if without reasonable and sufficient cause anybody pulls a chain, then he has to pay a penalty which is a maximum of fifty rupees.** Here is a case when a man does not pull a chain without reason, but he has got one motive and no other motive, and that is to stop the traffic: the Honourable Member wants that such a case should be dealt with with punishment which rises up to six months. That does not mean that a man will be given six months: he may be given a fine of only ten rupees. It says "or

[Mr. Muhammad Yamin Khan.]

with fine or with both". This will happen only when the case is made out and the prosecution is able to prove it. It is a lawyer's point. I suppose every Member in this House who is connected with law will know that, whenever it is put down "with the intention of doing something", the burden of proving the intention is on the prosecution, not for the defence to come up and say that here the intention was absent. That cannot be proved by the very fact that he has pulled it if it is not proved that this was the intention. Because this is absolutely a different section. If section 108(1) (b) is read, then the Judge, who tries the case, will know that one section requires "without reasonable and sufficient cause" and another section wants something more,—proof from the prosecution,—and that is the intention to be proved and the burden of proving will fall on the prosecution, not one which can be presumed. There can arise no presumption in this case, but there must come definite evidence which will be required before the conviction or fine. I do not see that a case has been made out, either for circulation or even for opposition in this case, and I support the motion which has been made by my Honourable friend, the Commerce Member.

Mr. T. N. Ramakrishna Reddi (Madras ceded Districts and Chittoor :

1 P.M. Non-Muhammadan Rural): Sir, I had no intention to take part in this debate, but after the observations which fell from my learned friend from Meerut, I feel inclined to say a few words on his speech. My learned friend says there is no necessity to send this Bill for circulation as we, the representatives of the people, are here and our opinion can be substituted for the opinion of the country, and that we represent the public opinion. If that is the case, then some changes will have to be made in the Manual of Procedure of this House and we will have to delete the clause referring to the circulation of a Bill to elicit public opinion. Apart from that, I would like to ask my learned friend, if all the Members are the true representatives of the people outside, and do they represent the opinions of their constituencies correctly? May I ask my friend to say whether the opinions he expresses here is the opinion of his own constituency on each and every Bill?

Mr. Muhammad Yamin Khan : Yes, always.

Mr. T. N. Ramakrishna Reddi : I know, Sir, there are so many considerations which come up in this House before a Member makes up his opinion, whatever view his constituency may expect a Member to express in this House. Secondly, my friend says that there is already a provision making the offence penal by the imposition of a fine of Rs. 50 for committing this offence and that we should not object to the addition of another penal clause. He, however, does not make any distinction between the punishment which exists already and the deterrent punishment which is sought to be imposed under the clause in this Bill. Here the offence is punishable with imprisonment, and that makes a vast difference. I think, as a lawyer of standing, my friend ought to know the difference between merely a fine and imprisonment. The Honourable the Commerce Member, in introducing the Bill, stated that certain cases had arisen in which one man pulled the cord for a number of times, and hence an amendment of the Railway Act was considered necessary. After all, the Railways have been in existence for so many

years, the Railway Act has been there without this particular clause which makes the offence punishable with imprisonment, and simply because a few stray cases of this kind have occurred, the Honourable Member says it is necessary to change the ordinary punishment into a deterrent one. Sir, this is only a temporary phenomenon; it is not to be a permanent one, and as such I do not see any necessity for introducing this deterrent punishment. Even if there is any necessity, since it is to put a check on this temporary phenomenon, I think there should be a time limit for the operation of this measure. There is no such time limit specified in this Bill.

Then, Sir, it is very difficult to prove the intention. Of course, the prosecution has to prove the intention, but the very fact that a man has pulled the chain and the train stopped is enough to prove the intention of the accused to stop the train, but, on the other hand, the accused has to prove that he had no intention to stop the train and dislocate the traffic, that his intention was quite good and not bad, and this it will be very difficult for him to prove. As my friend, Mr. Ranga Iyer, pointed, a man may be travelling miles away from his native place, and, in a strange place like Itarsi or at some other way side station, it will be difficult for him to get the necessary witnesses to prove that he had no bad intention.

Again, Sir, the handle of the chain is placed near the berth of a passenger, and it is written there in letters, either in English or in one of the local languages, that a misuse will be punishable with fine. If it is in Southern India, it will be written in Tamil characters, and if it is in Northern India, it will be written in Hindustani. Even some of the educated people cannot read what is written there if the characters are in Urdu in case he is a Southerner, and in Tamil in case he is a Northerner, and much more will be the difficulty with regard to illiterate people. They do not know what is written there, and the handle will be dangling before them so temptingly that some one might, as my friend, Mr. Maswood Ahmad, just said, out of sheer curiosity, pull the chain. Sir, in the Law of Torts there is what is called traps in the premises. If a person has laid traps in his own premises or in a public place to which many people resort, and if a person sustains any injury by falling into that trap, then he can sue the owner of the premises for laying a trap. In the same way, the Railway Company has placed a trap before the passengers and it is the passengers who have a right to sue the Railway Company. Further more, the punishment that is suggested here is very deterrent; it is too severe for the trivial offence that is contemplated under this section. For all these reasons, Sir, I support the amendment of my friend, Mr. Maswood Ahmad, for the circulation of this Bill to elicit opinion thereon, because it concerns the public of the country as a whole.

Mr. S. G. Mitra (Chittagong and Rajshahi Divisions: Non-Muhammadan Rural): Sir, I accept the suggestion of my friend, Mr. Yamin Khan, and oppose the motion for circulation as well as the main motion for the consideration of this Bill. I would have understood the Government point of view if they had stated that, from a general study of such cases, they considered that the present punishment was not sufficient, and so they wanted to have a deterrent punishment. That would have been quite a different issue. The Honourable the Commerce Member said that one man in the course of a month or two had eleven times pulled

[Mr. S. C. Mitra.]

the chain, but he did not tell the House what the aggregate number of cases has been during the last two years, and what is the last date when such an occurrence happened. The fact is, the Government are very much nervous over the civil disobedience movement. Whatever they may say that they have controlled the movement, in their heart of hearts, on almost every occasion, we find that they appear to be very nervous about the civil disobedience movement. Sir, it is a passing phase. Some little boys might have taken into their heads to harass the Government, because, so far as I know, it is not in the programme of the Congress to take to these small tricks of pulling the chain or doing anything of the sort.

Sir Muhammad Yakub (Rohilkund and Kumaon Divisions: Muhammadan Rural): What is their programme?

Mr. S. C. Mitra: If this thing had formed part of the Congress programme, then, as my friend, Mr. Jadhav, pointed out, it should have found a place in the emergency legislation that was enacted for three years, and it should not find a permanent place on the Statute-book of the land, I mean in the Railways Act, because it is well known to every body that these small tricks of boys will last for six or eight months and then they will disappear as they have already disappeared to a great extent. The Honourable the Commerce Member himself said that these boys were not giving their correct names or their proper addresses. That also proves that this is not a part of the Congress campaign, which is a Satyagraha campaign, where persons found to disobey laws do not plead not guilty, but boldly come forward and say that they committed the offence, and court or welcome imprisonment. They never try to escape under false pretences. That proves that it is not a part of the civil disobedience campaign or any big programme in the political fight of this country. It is some small trick which has carried away the fancies of these young boys and they are trying it, and I do not think that there is any case for Government to amend the permanent laws. I hope the Honourable the Commerce Member will give us the figures for the last two years which have compelled him to bring in such a legislation now without adequate notice. There is no motion at present for reference to a Select Committee and so I do not like to speak on it. I hope that when such a motion comes before us, you will give us an opportunity to speak on it. Sir, I oppose this motion

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. Deputy President (Mr. R. K. Shanmukham Chetty) in the Chair.

Sir Muhammad Yakub: During the last Simla Session, when the Ordinance Bill was introduced, as well as during the last special Session of the Assembly, when we were discussing that controversial Bill, it was abundantly shown and proved that stringent measures were required to

stop the mischief done by the Congress movement. It is needless for me, on this occasion, to repeat the strong arguments which were advanced on that occasion. On this occasion I have only to submit that attempt to stop the trains, by pulling the chain, is one of the items on the programme of the Congress and, I submit, that it is not so innocent or so harmless as my friend, Mr. Mitra, who, I am sorry to note, is not in his seat now, would have us to believe. No doubt there are certain occasions when Congress volunteers pull the chain simply for the sake of fun and stop the train, but then there are also occasions when this method of stopping the train has been used for more dangerous purposes. It has sometimes happened that certain persons, who wanted to commit robbery in the train, had their accomplices on the roadside, and one of them got into the train and, when the train was in a thick jungle, the chain was pulled, the robbers got into the train and committed dacoity and, in committing dacoity, they wounded the people, took away the treasures from the brake van.

Mr. K. P. Thampan (West Coast and Nilgiris: Non-Muhammadan Rural): Is not committing dacoity a graver charge than pulling the chain?

Sir Muhammad Yakub: I do not understand what my friend is murmuring about, but I would submit that these dacoities have been committed by pulling the chain and stopping the train. Human life is in great danger these days and any weapon which is forged in order to protect human life should not be objected to. My friend, Mr. Maswood Ahmad, in his usual way, has put in an amendment that the Bill ought to be circulated for eliciting public opinion.

Mr. M. Maswood Ahmad: You are also supporting the Bill in your usual way.

Sir Muhammad Yakub: When a measure is tabled, his amendment is sent to the notice office even before the measure is before the House. My friend, in his speech, delivered this morning, has totally failed to make out any case for the circulation of this Bill. It contains only three small clauses and the chief clause of the Bill is only one. It aims at enhancing the punishment for pulling the chain for the purpose of obstructing traffic in a moving train. What is there in this Bill which requires that public opinion should be elicited about it. It is not a big enactment. The clauses are not so intricate as to require the opinion of jurists or public bodies. I know very well what would be the result if a Bill like this is circulated. The result would be that all Congress minded people, on the one side, and the people who want to encourage disorder in the country, the people who aim at coming into limelight by making speeches which are against law and order,—all persons, who want to carry on an election propaganda by such means, would say that the Bill ought to be thrown out on the other hand. All the law abiding people in the country, all the lawyers and the Judicial officers will support the Bill and say that the enhancement of the sentence is really necessary.

Now, as regards the provisions of the Bill, my friend, Mr. Ranga Iyer, has pointed out that the provisions of the Bill may hurt the innocent and that even children, who only pull the chain for the sake of fun would be prosecuted and get imprisonment. Probably he has not carefully gone into the clause. The clause says "with the intention of obstructing

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traffic." If the chain is pulled with this object, he will come under the purview of this clause, but not if it is pulled for some emergent purpose, such as a valuable box falling down, and so on. Moreover, the punishment of imprisonment has not been made compulsory under the provisions of the new Bill. We find that in certain circumstances Courts have been given discretion to give sentence of fine as well as punishment. The only punishment given by the old section was fine, while this clause adds imprisonment. The Honourable Member in charge of the Bill has shown that the present punishment has not proved sufficiently deterrent to stop the recurrence of the offence and it was considered necessary to enhance the sentence by adding imprisonment also. It has been shown that the same persons go on committing this offence again and again, a fact which shows that the fine of Rs. 50 is not enough to stop the mischief. Therefore, the punishment of imprisonment has been added. It is not necessary that in every case the extreme punishment should be inflicted. The sentence always varies with the circumstances of the case and if the Magistrate finds that there are extenuating circumstances, he will not inflict a punishment of six months to which my friend has taken exception. For all these reasons, I submit that the need for this amendment has been abundantly proved and, there being no reason why a small measure like this should be circulated, I support the motion before the House.

Mr. Amar Nath Dutt (Burdwan Division: Non-Muhammadan Rural): Sir, I beg to oppose the consideration of this Bill, which, in the opinion of my Honourable friend, the *ex-Speaker* of this House, Sir Muhammad Yakub, is not a big enactment and which, therefore, ought not to be circulated for eliciting public opinion thereon. Sir, I do not also stand for its being circulated for public opinion: I want the total rejection of the consideration of this Bill, and my reasons are these. Sir, in the Statement of Objects and Reasons we find it stated:

"Numerous cases have recently occurred of misuse of the means of communication between passengers and the railway servants in charge of a train for the purpose of paralysing the train service."

Evidently when section 108 of the Indian Railways Act was enacted, the framers had in view the fact that there was every likelihood of such misuse of the alarm chain and they inserted a section penalizing the same. Sir, this alarm chain is an innovation during our life-time. There was a time when there were no alarm chains in railway trains. This is an innovation of very recent times. Formerly, when we used to make long journeys, we had no means of communication with the guard. I may tell this House that almost from my infancy I have been accustomed to making long journeys from one end of India to the other, even outside India where there are railway lines, I mean up to Baluchistan, and there were then no alarm chains. We never needed one, but somehow or other the necessity was felt, and it might have conduced to the benefit of some people for whose benefit it was brought into existence. But, during the last 57 years of my life, I never had occasion to use an alarm chain. Sir, I do not see any necessity of penalizing the use of a thing which was brought into existence for the purpose of safeguarding the interests of the travelling public. For intentional misuse penalty was provided in section 108. But what do they want to do now? They want

to increase the punishment for such misuse and, I beg to submit, that I cannot compliment the Treasury Benches for their draft of this Bill, which is an all-India Bill. That draft ought to be of a far better type than the one which has been introduced, and the insertion of another sub-clause (2) makes the draft rather very clumsy,—because here we have all the elements and everything that is necessary in section 108 for an offence of this kind with only less punishment than what is now intended. Section 108 is as follows:

“If a passenger, without reasonable and sufficient cause, makes use of or interferes with any means provided by a Railway Administration of communication between passengers and the railway servants in charge of a train, he shall be punished with a fine.”

In the Bill before us, there is also the same thing, only in altered language, *viz.*:

“(2) If a passenger so makes use of or so interferes with such means of communication with the intention of obstructing traffic, he shall be punished with imprisonment for a term which may extend to six months, or with fine, or with both.”

only, the penalty is more.

Now, evidently any such use interferes with and obstructs railway traffic. There can be no doubt about that. That being so, I think, instead of having two sub-clauses, they might have introduced the words “or to imprisonment”, say, for two years or seven years, or, if necessary, to transportation or, for the matter of that, to capital punishment, subject to confirmation of the High Court or not subject to the confirmation of the High Court, after the words “with a fine” in section 108 of the present Act. I really fail to understand why there should be two sub-clauses like these. Here the phrase is very plain even to a layman: “without reasonable and sufficient cause”. What is reasonable and sufficient cause is a matter for judicial decision. There is little or no difference between an intention to do a thing and doing a thing without reasonable and sufficient cause. Intention is of course distinct from knowledge and one may not have the intention of obstructing traffic, but, merely for the sake of curiosity, one may pull the chain or accidentally touch or fall over the alarm chain when attempting to alight from the upper berth. (Laughter.) There is nothing to laugh at. Supposing I have got a suitcase on the upper berth and somehow or other I want to take it down and it touches the alarm chain and it comes down.

An Honourable Member: Or it may be for the sake of fun.

Mr. Amar Nath Dutt: Now, if it is for the sake of fun or accidentally, it ought to have been clearly stated that “if a Congress volunteer, in furtherance of the civil disobedience movement—as I understand my Honourable friend, Sir Muhammad Yakub’s meaning to be—pulls the alarm chain.....” That would have been intelligible. I regret, Sir, that this Bill should have been introduced by the Honourable the Commerce Member. I think he has encroached upon the province of the Honourable the Home Member, probably thinking that he is over-worked and he wants to give him a little respite. Whatever may be the case, I beg to submit that the wording of this Bill is very unhappy. We have been told by no less an authority than His Excellency the Governor General that the situation was well nigh in hand, that the civil disobedience movement was

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dying out and, if I understood my Honourable friend on the other side aright, that this additional punishment was only meant for the civil disobedience-walas as explained by my Honourable friend, who, I think, is also to a certain extent in the confidence of those who are responsible for the maintenance of law and order. That being the case, I think that time has gone for any reactionary legislation like the one that is being attempted to be introduced. Then, Sir, it has been said that a fine of Rs. 50 is a very paltry sum. Of course, men with long purses can say that and I have no quarrel with them. Whether Rs. 50 is a very paltry sum or is a large sum is a matter on which we may disagree, but at least my friend, Mr. Joshi, will disagree with the Honourable the ex-Speaker of this House.

Sir Muhammad Yakub: Everybody would agree that the Congress has got a very long purse.

Mr. Amar Nath Dutt: I do not know what the purse of the Congress is like, but it has been said on the floor of the House here that the Congress is dead.

Sir Muhammad Yakub: But a cat has seven lives!

Mr. Amar Nath Dutt: The Congress has been described, Sir, as a cat, but I think the Congress has been killed more than seven times. I remember the day when, after the third Congress at Madras, the then Viceroy, Lord Dufferin, said that it was a big jump into the unknown, and characterised the same as a microscopic minority. We also remember the opposition that was offered by the Government by setting up certain retrograde politicians in this country like Raja Siva Prasad and another person whose name I need not mention. They tried to destroy the fourth Congress at Allahabad. A year after, the Congress met at Bombay when it was graced by the presence of Mr. Charles Bradlaugh: then, also, they tried to put it to death once more. Then, again, when the Congress, rejecting the beggar's bowl, asserted its determination to get Swaraj, various kinds of impediments were put at several stages to kill it, and it was killed. So, my friend may rest assured that the seven lives of the Congress have been taken away.

Sir Muhammad Yakub: You have mentioned only three or four instances: what about the rest?

Mr. Amar Nath Dutt: I can go on multiplying the instances, but I do not think that will be relevant. Besides, it will be taking too much advantage of the Honourable the Deputy President for saying things which are irrelevant. (*Honourable Members:* "They are very interesting: go on.") Now, Sir, we may take it that the Congress activities, which the Government of India do not approve and which the people do not approve, are non-existent.

Sir Muhammad Yakub: They can pull your chain!

Mr. Amar Nath Dutt: My chain! Sir, I should characterise the pulling of chains as a boyish prank. If we go back to our boyhood, we will find that we did more mischievous things than these. That being

the position, I submit, Sir, that the Statement of Objects and Reasons is not convincing at all for a further amendment of the Indian Railways Act. If the Government of India wanted to put a stop to any mischievous acts of that class of people, who are said to be still prowling over the country, then, I think, it ought to have been brought in along with the measure which we passed in the last Session, namely, the Ordinance Bill. It is not in the province of the Honourable the Commerce Member to come up to us for a legislation which smacks of law and order. Sir, when the Honourable the Commerce Member took over the charge of the Railways, we congratulated ourselves that an Indian was put in charge of the Railways and we expected more facilities for the travelling public. If, by pulling the chain, we can get more comfort in the railway train, I think we may consider it as a facility. Supposing the train is passing through a desert and there is not a drop of water to be had in the compartment, and if one pulls the chain to get water, I would say that it is a facility. I expect my Honourable friend, the Commerce Member, to come up to this House with this kind of legislation to grant more facilities to the travelling public. He ought to have some legislation for stopping the bad food that we get all over the East Indian Railway, at least the food that is supplied to Indians. Then we want more reserved berths, especially from intermediate stations where an attempt is being made to charge us from the very starting point to which my Honourable friend over there did meekly submit, because he is an official. I have neither the long purse nor the desire to submit to such things and we do find that we do not get reserved berths from intermediate stations even after the assurance of the Financial Commissioner for Railways. But what do we find now? We find practically the same things which we had during the régime of the Honourable Member's predecessor, namely, more penalising and more discomfort for the passengers. Sir, it is a great pity that I have to make these observations when the department is in charge of such a sympathetic Member as the Honourable Sir Joseph Bhoré. I have a shrewd suspicion that somehow or other he has been made a cat's paw and probably the Home Member got tired of repressive legislation of which he had had enough of late. So he wanted to have this legislation through Sir Joseph Bhoré. Sir, be that as it may, I have already said that I cannot support the circulation of the Bill, because it does not deserve to be circulated. The reasons that were advanced for its circulation were, to my mind, not convincing.

It was said by an Honourable friend, whom I do not find here now, the leader of a great party, Mr. Yamin Khan, that there was
 3 P. M. no sense in asking for public opinion. Of course, Sir, party leaders know that they represent all the wisdom of the public, but we, the humble camp-followers of party leaders, who were never party leaders and who are often taken to the slaughter house by party leaders, do not possess the same wisdom and we cannot flout public opinion in the way in which they can afford to do it.

Mr. F. E. James (Madras: European): Form a new party.

Mr. Amar Nath Dutt: I should like to do it with Mr. James and also the occupants of the Treasury Benches if they would follow my leadership in which case I would show them the right path. But that is not to be soon.

An Honourable Member: What about your own party leadership?

Mr. Amar Nath Dutt: The Honourable Member knows as much about my leader as I do. A brilliant lawyer, with triple doctorate, an ex-Vice Chancellor of an University and a great jurist, whose books we have often to quote, anything said about him irreverently would be the height of impertinence. He is one of the greatest party leaders that this House has ever possessed and I am proud to be his follower.

However, Sir, I beg to submit that this Bill does not deserve to be considered at all by this House; at best we may, by way of co-operation with Government, agree to its circulation. Besides party leaders like Mr. Yamin Khan, there is a vast number of thinking public outside who are behind us who would like to know how they will be affected by this Bill. As I have already said, during the last 57 years I have never had occasion to use this chain and it does not interfere with my comforts, and I do not care whether you keep it or not, because it could not save my purse from being stolen recently. If they are worried over this alarm chain business, I would suggest that they should have telephonic communication with the guard and the passengers. My Honourable friend said that the train is often stopped in the jungle and the perpetrator can easily run away. I do not know whether my Honourable friend is aware of daily passengers whose houses are near the railway line and who stop these trains near their houses by pulling the alarm chain after dusk and then run away to their homes. It never occurred to them before that some method ought to be devised to stop that kind of mischief. But it occurs to them now when, according to them, the civil disobedience movement is a spent force and is on the wane. Even as regards the Congress people, I would point out that they would prefer jail to fine. That has been found in many cases; they prefer to go to jail rather than pay the fine. By filling our jails with convicts like these, there have been deficit budgets both in the provinces and here. If Government could convince us of a real necessity for this Bill, I would like to have more fines instead of imprisonment. Be that as it may, there are judicial aberrations and judges also make mistakes and take a wrong view of the evidence. That being so, it may be that an innocent man, who pulled the chain accidentally and not wantonly without any intention of obstructing traffic, may be fined. If you send such innocent man to jail who had never any intention of joining the civil disobedience movement or the Congress, you take away one man from the ranks of your supporters. I am never tired of repeating that a little more conciliatory policy from the official benches would convert many civil resisters into law-abiding citizens. Furthermore, I beg to submit that the repressive measures of the Government have been alienating the sympathies of those who would willingly support law and order; by unnecessarily harassing them, you drive them over to the other camp, to the camp of the civil resisters. That is a thing which I most respectfully request you to consider, whether or not this is the case. When you go on having collective fines, making no discrimination between innocent men and the real wrong doers—it may be that there are only half a dozen wrong doers in a city, but you go on putting collective fines over a whole class of citizens by their religion—when you do this, you alienate their sympathy. Take, for example, the case of Chittagong where the Hindu residents only, 85 per cent. of whom

Mr. Deputy President (Mr. R. K. Shanmukham Chetty): Order, order. I would like to know from the Honourable Member whether, in his opinion, he thinks the remarks that he is now addressing are relevant really to the amendment that we have before us.

Mr. Amar Nath Dutt: I am just coming to the conclusion. By putting collective fines on a certain section of the community who profess a particular religion, because a few of them, say, fifty, were concerned in committing a crime in a population of a lakh of people of whom about 20,000 are Hindus, instead of punishing these fifty, you punish these 20,000, you take away the sympathy of these other 19,950 people from the side of the Government to the side of the civil resisters; and, that being so, I submit, that if really they want to have legislation which would go for the comfort of the people, as well as for the facility of the travelling public over the railways, they ought to devise some other means than penal legislation like the one which has been introduced. Furthermore, I submit that this Bill is not consistent with the dignity of an all-India legislative enactment and not consistent with the dignity of this House to consider. I think it need not be considered, but if the House is so minded and if there are some of us who are in favour, let us know public opinion. I would rather have that instead of saying that we are the public.

As regards my friend, Sir Muhammad Yakub's argument, that the burden of proving intention is on the prosecution

Sir Muhammad Yakub: I never used that argument.

Mr. Amar Nath Dutt: I took down notes, unless of course I was mistaken. I beg to apologise to Sir Muhammad Yakub. It was Mr. Yamin Khan, the learned leader of the United India Party, who said that the burden of proving intention was on the prosecution. Of course he is also a lawyer: I am also a lawyer of thirty years' standing and perhaps not altogether inapt. That being so, it would be better if we were before a Court of justice arguing our case and then we might have given whatever interpretation to suit our case. Here, when we are legislating for the people, I think he should not have said that the burden of proving intention lies on the prosecution, for section 39 of the Indian Penal Code provides that:

"A person is said to cause an effect voluntarily when he causes it by means whereby he intended to cause it, or by means, which, at the time of employing those means, he knew or had reason to believe to be likely to cause it."

That being so, I do not think that intention has to be proved in cases of this nature. There is a well known saying that even the devil himself does not know the intention of an act. My Honourable friend has come after I have finished. (Laughter.)

An Honourable Member: Repeat your arguments!

Mr. Amar Nath Dutt: I have already taken much of the time of the House and I do acknowledge that at times I brought out certain facts which are not, strictly speaking, relevant, and I do not wish to traverse the same ground which I did in order to please my friend over there: it would be an injustice to the House. But, in opposing this Bill, I should

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say that the whole body of public opinion is behind us; the whole of the travelling public is behind us. I challenge how many of us, out of 140, had ever occasion to use the alarm chain, and I shall leave it to Dr. Ziauddin to calculate in a population of thirty crores, of whom one crore may be said to be travelling public, to calculate percentage. Without consulting railway travelling public, to take this Bill into consideration and have it passed today, I cannot agree. A person is said to cause an effect voluntarily when he causes it by means whereby he intended to cause it or by means which, at the time of employing those means, he knew or had reason to believe to be likely to cause it. That that intention is different from knowledge cannot be denied; but here we have neither the intention nor anything of the kind, but we have the words, "If a passenger so makes use of, so interferes with such means of communication". In every case there will be obstruction of traffic, whether it is for a lawful purpose or an unlawful purpose, whether it is to annoy or to commit robbery, as my friend has experienced over there. . . .

An Honourable Member : Who?

Mr. Amar Nath Dutt: Sir Muhammad Yakub. But if he makes use with the intention of obstructing the traffic, he is punished. In the original section you will find the words "without reasonable and sufficient cause". I think that will cover every silly use of this alarm chain. I do not know what harm is there if my friend had used those words even if he thought that sub-clause (2) was necessary instead of having a higher punishment in one section.

Sir Muhammad Yakub: Put in an amendment to that effect.

Mr. Amar Nath Dutt: I beg to submit that as I have already said, if you are so minded you might have raised the fine of fifty rupees to one hundred rupees. I may be thinking that I am right in pulling an alarm chain, while the Judge may decide otherwise by taking a perverse view of the evidence and when these railway people take it into their heads and the police also to prosecute a man, the Judge in our country, who is generally a man with an executive bias, has generally a fondness for conviction. In fact the saying goes, "No conviction, no promotion". That being so, I submit, that this Bill should not be considered by this Assembly and passed. It can go for circulation in which case, of course, I am willing though reluctantly to vote for circulation; and I think the Honourable Member in charge of this Bill will appreciate the wisdom of my suggestion. It is a sort of compromise between my position and having it passed now and here. I think there is no harm if the Bill is circulated for eliciting public opinion. Really, where is the harm? It is not for your convenience that the Railways exist.

An Honourable Member : Whom do you mean by you?

Mr. Amar Nath Dutt: I don't mean the Chair, but I address the Treasury Benches through the Chair; it is not for the Government's convenience that all these things have to be enacted, because we must not forget the fundamental fact that all these enactments are for the benefit of the people, and that they should be enacted by the people and for the

benefit of the people. It is not for the benefit of a few servants of the Government. Sir, we have found a great improvement in the services recently. They are more willing to serve—I do not know whether they say so only by words,—but at least they profess that they are really the servants of the people. If that is so, I would suggest to the Honourable Member in charge to withdraw this Bill, have it re-drafted and in a better form, and not to have this unhappy specimen of legislative draftsmanship to go forth over the world which will show that “here is the Legislative Assembly of India, enacting sub-section after sub-section, adding one section here and another section there” in a haphazard manner. I would ask the Treasury Benches to imitate the draftsmanship employed in this great Code, by that great man, Lord Macaulay, I would ask the drafter of this measure. . . .

An Honourable Member : Whom do you mean?

Mr. Amar Nath Dutt : I am not going to name him. . . .

An Honourable Member : Lord Mitchell?

Mr. Amar Nath Dutt : I would ask to have a better draft before we can consider the Bill. In fact, we have our friend, my Leader over there, who has drafted the whole Hindu Code (Applause from the Nationalist Benches), and, in spite of his presence here, nobody ever thought of him, they perhaps thought that it would be derogatory to their sense of dignity if they took into confidence the Opposition Leader regarding the draft of a Bill. It is with pain and regret that I make this observation and object to its provisions. Therefore, I do not agree either with the Statement of Objects and Reasons or with the provisions, and so I oppose this measure.

Khan Bahadur H. M. Wilayatullah. (Central Provinces: Muhammadan): Sir, after listening to the many speeches which have been made today over this small measure, I think, if there had been a communication cord in this House, I would have pulled it (Laughter) to stop this train of the speeches which are going on uninterruptedly, whatever the punishment might have been for me for so doing.

An Honourable Member : You would have lost your pension.

Khan Bahadur H. M. Wilayatullah : No, not for stopping this train here. Sir, the proposition before the House is very simple. Some provision is necessary to deal with cases of deliberate mischief-doing. I shall come to the merits of the Bill later on.

My friend, Mr. Amar Nath Dutt, just asked the Members of the House to say how many times they had pulled the chain. I did so twice (A Voice: “Eh!”), and I will describe to the House the two occasions on which I had to pull the chain. Once I was travelling on Government duty, and the train was to stop at the station of my departure for only two minutes. I had a ticket. It was then raining very heavily. All the first class carriages were closed from inside and none would open a door for me and the train began to move. I had, therefore, to enter a third class compartment and pull the chain. When the railway authorities asked me why I pulled the chain, I said that I had to go on important Government duty and could not stay behind.

Mr. Amar Nath Dutt: Were you not prosecuted?

Khan Bahadur H. M. Wilayatullah: No. On another occasion, when the train was about to move, a passenger unfortunately forgot to pick up his child and left it on the platform. He himself was busy in transferring his luggage into the carriage, and when he entered the compartment and the train started, he discovered that he had left his child behind. The child was too young and could not even speak, and the man began to cry. There was a great noise, and I looked out to see what it was all about. I saw that this poor man was quite ready to jump out of the carriage. I then shouted at the top of my voice and beckoned to him not to jump out and I pulled the chain. These are the two occasions on which I had to pull the cord to stop the train.

The proposition before the House is very simple. Section 108 punishes with fine only those persons who improperly and without sufficient justification pull the chain. Now, when a man with no money in his purse is determined to pull the chain, even if you place him before a Magistrate, nothing can be recovered from him. Of course, the railway people will not be able to get anything out of this man and the Magistrate is equally unable to recover any thing. When the chain is pulled again and again, people are put to much inconvenience. Under these circumstances, when a man pulls the chain with the deliberate intention of obstructing the traffic, and it can be proved satisfactorily that his intention was nothing else, such a person deserves severer punishment. You must leave it to the Magistrate to find out whether the case was such in which there was justification for the man to pull the chain or not, and when it is proved that he pulled the chain with the deliberate intention of obstructing the traffic, he certainly deserves a more severe punishment than what has been provided in law hitherto. Magistrates, who have to administer the law, are better judges of these matters than many of the Honourable Members who have no experience of such things. When I was in service, several such cases came up before me in which people were produced before me for recovery of penalty and I could recover nothing from them.

There are certain sections of the Railway Act under which only money can be recovered, and when the Railway authorities find that a person has no money, they ask the police to recover it, but they too can do nothing in the matter. The man is placed before a Magistrate who also can do nothing and the offender is let go. In a case like the one contemplated in this new sub-section to section 108, when a man intentionally pulls the communication cord with the object of obstructing the traffic, I think there should be a more severe form of punishment than is ordinarily awarded under section 108 and a sentence of imprisonment would be appropriate. I, therefore, support this measure.

Mr. K. O. Neogy: Sir, within barely 24 hours, this House has been called upon to consider a second small Bill seeking a small amendment of the Railway Act. Evidently the Honourable Member in charge is a believer in small doses of legislation, so far as the Railway Act is concerned. For aught I know, he may be a believer in Homeopathy, but I may tell him that when the medicines are of high potency, the doses, however small they may be, must not be repeated too frequently. If it is done it is liable to destroy the confidence of the patient in the Doctor, and

that is a very serious result which I do not want to contemplate with reference to my Honourable friend, the Member in charge

An Honourable Member: The Doctor has not yet spoken.

Mr. K. C. Neogy: The Doctor is there in charge of the Bill. If the Bill is short, the Honourable Member's speeches both yesterday and today, in support of these small measures, have been as beautifully short. Now, what my Honourable friend said today was more or less a paraphrase of what we have got in the Statement of Objects and Reasons. Numerous cases have arisen which require the tightening up of the alarm chain. That is more or less the Government position. Now, this Statement of Objects and Reasons, to which my Honourable friend is signatory, bears the date 22nd November, 1932. My Honourable friend,—I sympathise with him,—is new to the Department. He was away from the country for a pretty long time, and within a few weeks of his arrival here he was called upon to put his signature to this Statement of Objects and Reasons, and perhaps he had no opportunity at the time to go into the matter as carefully as we at least on this side of the House would wish. It bears the date 22nd November, 1932, and says "Numerous cases have recently occurred". Now, we have got to interpret the word "recently" with reference to that date. It has already been asked as to when was the last case reported. Can the Honourable Member give this House a list of the cases together with the dates, showing also the different parts of the country where they occurred, and where and when was the last case? Is it a continuing evil? That is a very legitimate question which has not yet been answered. Then there is the question, how many of these cases were taken up to Courts of law and with what result; what observations were made by the presiding officers of those Courts of law with reference to the adequacy or the inadequacy of the punishment as provided under the existing law; in how many cases was the maximum penalty imposed, and in how many such cases the offence was repeated? These are questions which require to be looked into before any one on this side can be expected to give his assent to such a measure. My Honourable friend, I dare say, is conversant with all the sections that are to be found in this Chapter which deals with Penalties and Offences. He has chosen one particular section for amendment. Now, may I draw his attention to one other section, namely, section 121, which runs to this effect:

"If a person wilfully obstructs or impedes any railway servant in the discharge of his duties, he shall be punished with fine which may extend to one hundred rupees."

There is no imprisonment provided under this section. The evil which my Honourable friend is anxious to attack is the obstruction of traffic. It is of very little consequence as to whether that traffic is obstructed by obstructing a railway official,—may be the guard, may be the driver of the train,—or by pulling the communication cord. Supposing someone, in order to obstruct traffic, obstructs the driver of a train, he is punishable under section 121. The result is the same—the train cannot move. In that case, the only penalty provided is a fine up to Rs. 100. But, here, in this case, the Honourable Member is not satisfied, because perhaps he attaches some kind of sanctity to the communication cord. Communication cords must not be lightly tampered with,—that perhaps is his attitude. It does not matter whether something else leads to the very same result. I understand, because I was not here during the November Session, that

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my Honourable friend is a great believer in the principles of reciprocity. Now, this Chapter of the Railway Act, to which I have made reference, mentions in the various sections not only offences that may be committed by the public as against any railway authorities, but there are also offences specified of which the railway authorities themselves may be guilty: There is one particular section to which I would like to draw my Honourable friend's attention, and that is section 102, which is being violated every day of our life by almost every railway man who is in charge of a train. On grounds of reciprocity, I would like to have the law tightened up, so far as that is concerned. I will just read out the section:

"If a railway servant compels or attempts to compel or causes any passenger to enter a compartment which already contains the maximum number of passengers exhibited therein or thereon, he shall be punished with fine which may extend to Rs. 20."

Now, Sir, is it not our common experience that if prosecutions were undertaken, there could be any number of prosecutions launched every day throughout India under this particular section? I am sure that my Honourable friend, Mr. Joshi, who has made a special study of the grievances of third class passengers, will have something to say in support of this contention of mine. Now, supposing—why supposing, it is a fact, that notwithstanding this provision of the law, railway servants have never cared to discharge their duties as contemplated under this particular section. I can as well argue that the penalty provided there does not frighten the railway official, and when the penalty is only a maximum fine of twenty rupees, he knows that he can with impunity break this particular provision of the law. Now, supposing I were to demand, on grounds of reciprocity, in which my Honourable friend is a believer, that this provision also should be tightened up, that is to say, if a railway official is found to be guilty under this section more than once, he should be sent to prison for a term of months, and, if the offence goes on unchecked, even the Honourable Member in charge should not be above the law and he should be put into prison.

My Honourable friend, Mr. Wilayatullah, has given his personal testimony, his personal experience about this chain pulling business. I myself had unfortunately on one occasion to stop the train, but I am not going to relate to the House the circumstances in which I had to do it. I am certainly prepared to say, however, that I did pull the communication cord on that particular occasion with the definite intention of obstructing traffic. If I were not in a position to obstruct the traffic, my whole object would have been lost. I wanted to obstruct traffic by impeding the progress of the train and that certainly is the result that one intends—the obstruction of traffic. I do not want to relate the particulars of the case, because I may be accused of being prejudiced. I will refer to another incident where I was merely a witness. It was about three years ago when I was on my way to Simla to attend the Session of the Legislative Assembly. In the same train, though in a different compartment from mine, there happened to travel a responsible member of an all-India Service. He was going up to Simla on official duty. He had just been asked to proceed to Europe for special study of some kind. He had to sail within a week and he was asked to see his official superior before he sailed. When the train arrived at the Tundla Junction, he was met by a party of his friends. He naturally

got down from the train and talked to his friends on the platform. Just when the train was about to start, he came back and found that all his luggage was strewn about the platform, and when he looked about, he found that there were some white faces in the compartment which had been so far tenanted by him. The train was about to start. With the help of his friends, who had come to see him, he managed to put in his luggage and he somehow scrambled into the compartment. Within barely half a minute of that, the train was pulled up with a jerk. I had not known anything about these incidents till the train had been pulled up. The train had not yet left the platform and the whole lot of the railway officials, white and semi-white, trooped into the compartment and there was a great row created. I was wondering whether anything serious had happened, whether somebody had been murdered. When I got out, I found that the whole lot of the railway officials were threatening that Indian official with prosecution for stopping the train. When I could go sufficiently near him and ascertain the facts, I was told that as soon as he had got into the compartment, he was about to be assaulted by one of the white men who had got into the train at that station, but this explanation would not satisfy the railway officials. I understood that his luggage was thrown out on the platform with the help of the railway officials themselves, because these people were friends of those railway officials, and now the Indian official was about to be dragged down from the train. Meanwhile the police were called in. I found that in this case the police were more reasonable than usual. When they came in, they took down the statement of this official and allowed him to go. So this is how that official was enabled to see his official superior in time for him to catch the boat by which he was to leave on official duty. This incident is particularly relevant to clause 3 of the Bill which seeks to give the power to arrest without warrant not merely to police officers, but also to railway officials. What would have happened in this case, supposing this power had been granted to the railway officials? They would have dragged down from the train this official and he could not have seen his official superior in time. In view of these circumstances, I am sure, that the Honourable Member expects too much if he really counts on the support of this side of the House.

Mr. Lalchand Navalrai: Sir, I am sure, I will not give an opportunity to the Chair to pull the alarm chain in order to ask me to be relevant on this Bill. I must say that I have very grave misgivings with regard to this little Bill. We have a provision in the Railway Act which was enacted in 1890. Under section 108, it is provided: "if a passenger, without reasonable and sufficient cause, makes use of or interferes with any means provided by a railway administration for communication". This has been paraphrased by the railway by putting a notice underneath the alarm chain in the carriages to say "penalty for improper use of the alarm". These words "improper use" have been misconstrued many a time and the provisions of this section 108 have been abused so many times. On that account, it is very necessary to see that no amendments should be made to cause more trouble than what people are experiencing already.

Instances have been given where this trouble and inconvenience have been given to passengers. Two instances have been quoted by my Honourable friend on my left which showed, however, that the occasion for pulling the chain was very necessary and very innocent, but there have been cases where there is a doubt as to how the railway authorities or even the Magistrate would construe the particular occasion on which this chain

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is pulled. I will give personal instances. I was returning from Ceylon. There I happened to buy a shaving brush which was made of rubber. It was a nice one. I liked it, but I paid Rs. 5 only for it. While I was travelling in the train, it slipped out of my hand and went down. I very much liked that it should not go. I then thought of pulling the alarm chain, but there was a doubt in my mind. I knew that the railway authorities had been misconstruing the meaning of section 108. So I had to forego that brush, and did not pull the chain. There I treated the matter very cautiously, but there are people who would say why, in a matter like this, the alarm chain should not be pulled. In my own opinion, I feel that on an occasion like that, it would have been proper to pull the alarm chain. There was another instance where a great row was created. I was travelling with my servant and when I came to Samasata, there were two trains for Delhi. One was to go direct and the other *via* Bhatinda. I was in the train which was going to Lahore direct and my servant got down on the platform and, when the train moved, he just got in. On his entering, persons in the compartment asked him where he was going. He said he was going to Delhi, whereupon they told him that train going to Delhi was higher up on the opposite side. The train had moved by this time and, at that time, the boy, out of anxiety, jumped out and fell flat on the platform. Just coincidentally I found that the boy had jumped out of the train and I pulled the chain. Fortunately the boy had not been hit hard. When the train stopped, the boy was taken in, but the guard created a great row. He said it was not a proper use of the chain.

An Honourable Member: Were you prosecuted?

Mr. Lalchand Navalrai: I was not prosecuted. Better sense prevailed and advisers like you told that they would be befooling themselves. The point is not whether a man is prosecuted or not. The point is whether the clause is likely to be abused or not. The main point that one has got to look to, when enacting a clause which is vague and loose, is whether there is any danger of its misuse and, it is for this reason, that I object to this Bill being taken into consideration.

Sir, in section 108, the words are:

"When a passenger, without reasonable and sufficient cause, makes use of," etc.

The words in this clause are:

"whoever with the intention of obstructing the traffic",
pulls the chain.

Now, the doing of a certain thing without reasonable and just cause would certainly amount here to obstructing the traffic, and, therefore, why should it not be considered that even though there exists the word "intention" in this clause to which I am just coming, yet, when the object is to obstruct the traffic, any one coming under the clutches of section 108 can equally come under the purview of this clause. Therefore, this clause is not happily worded and this clause is not aimed at securing the object with which this amendment is sought to be enacted.

Now, let me come to the Bill itself. Sir, you find that here the words have been put that "whoever makes use of the communication

alarm chain with the intention of obstructing the traffic". Now, that is too general and would include many incidents. What is the real intention of the Government in asking for this amendment? For that, we must go to the Statement of Objects and Reasons and there we find that there the object is different, but that when a general term is used in the Bill itself, the object is absolutely departed from. So the Bill becomes more elastic than intended to be passed.

Mr. K. Ahmed (Rajshahi Division : Muhammadan Rural): Why did you not give notice of an amendment?

Mr. Lalchand Navalrai: It is not a question of amendments. I think the whole Bill should be overhauled. In the Statement of Objects and Reasons, we find it stated :

"Numerous cases have recently occurred of misuse of the means of communication between passengers and the railway servants in charge of a train for the purpose of paralyzing the train service."

Now, if the phraseology "whoever paralyzes the train services will be punished with imprisonment" had been used, there would have been some sense, but to say, "with the intention of obstructing the traffic" would mean anything and everything and, on that account, to inflict a punishment up to six months' imprisonment is absolutely cruel and inhumane. Then, Sir, it seems to me that the enactment goes too far when it provides such stringent penalties, for instance, "imprisonment of six months" and makes the offence non-bailable and cognizable—cognizable not only by the police, but cognizable by even a railway servant or any person deputed by a railway servant or the police. Now such stringency belongs only to the Ordinances that have been now-a-days in vogue and in the emergent Bills which have been passed by this House—under what circumstances the country knows; but, to make a law like this for ordinary circumstances, by way of an ordinary statute which is to remain permanently, is absolutely wrong.

Sir, it seems to me that what Government really contemplate or have in view is to meet the non-co-operation or the civil disobedience or the terrorist movements and probably this is one of the Bills which is aimed at stopping their activities. So far it may be all right. But, Sir, may I ask, is it conceivable that people in general have got so mad that everyone would be coming round and pulling the chain in order to stop the railway traffic? No. It would be only those particular people who may be in that movement that may sometimes do it, and for the matter of that, certain boys with immature minds might come and do such things. Now, to meet such rare contingencies, would the Government like that a general enactment should be made, and that also of a permanent character? If a Bill were aimed specifically at such persons and if an appropriate Bill were before the House, I think the House, if satisfied that such cases are numerous, would look at such a Bill with sympathy, but until such a case was made out and a separate Bill introduced for that particular purpose, to punish people at large generally under this Bill for so-called obstruction of the traffic is not fair or correct.

Sir, a point was raised that between this Bill and section 108 of the Railway Act there is a difference, and I am not surprised that my Honourable friend, Mr. Yamin Khan—who is not present now—oh, I see he is

[Mr. Lalchand Navalrai.]

present, but not in his seat—took up the brief for the prosecuting officers and said that as it has been provided in this Bill that an intention has to be proved, Government would do that. But, Sir, we know in such cases very often the accused have been made to prove their intention, as soon as it is merely proved that the chain was used.

Mr. Muhammad Yamin Khan: The words in the proposed section are “with the intention of”.

Mr. Lalchand Navalrai: The Honourable Member should not think that I have not understood the section. Let me develop my point. Sir, what I mean to say is that even though this clause pre-supposes an intention to be proved, yet, in practice, as soon as they have shown in Court that there was no sufficient or reasonable cause for the act, they presume a *prima facie* case for intention made out, and what reply will my Honourable friend then make? In the Court, as soon as it is proved that such an act has been done by the accused without sufficient or reasonable cause, it is very likely, the burden will at once be thrown on the accused to prove his own intention,—and, Sir, I ask, is it not very difficult? Take the case of the man who has pulled the chain. They take him to Court, and the prosecutor puts in the plea that he has done it without reasonable or sufficient cause: certainly the accused will be asked to say what intention he had. So, it is not an easy thing to say that, because the word “intention” has been put in the clause, the prosecution will be so wise to say to the Magistrate, “we do not press the case, because we have not proved the intention”. They will generally say that the intention is a matter within the knowledge of the accused, and may refer to section 105 of the Evidence Act. My Honourable friend from Meerut knows law and he knows that, under section 105 of the Evidence Act, when a particular thing is within the knowledge of a particular man, he must prove it. The Honourable the Law Member has on many occasions taken shelter in matters like this under section 105. Sir, what I mean to urge is that by only inserting the word “intention”, the mischief of the

Bill has not been removed. Under these circumstances I am
 4 P.M. against this Bill unless it is overhauled and the strict and loose provisions are taken away with regard to the offence being non-bailable and cognizable. As I have pointed out by narrating several cases, if this clause had been thus amended at that time, as it is now being sought to be amended, there would have been so much difficulty. The policeman could have arrested on the spot and the man would have been asked to prove his intention in the Court.

Then, Sir, with regard to the question of circulation, the Honourable Member from Meerut considers that the suggestion of circulation by my Honourable friend, Mr. Maswood Ahmad, is a senseless one. On the contrary, I maintain that it is full of sense. The Honourable Member from Meerut was not able to imagine the reasons for its circulation. There are two outstanding reasons for its circulation which would appeal to anyone. It will be acknowledged that this is not an ordinary law. It will not apply to anybody and everybody. It will apply only to those people who, under the present movement, have been doing that mischief, but that disease is not prevalent among all the sections of the railways. It may be found in some terrorist country where such an Act may prove of some use to Government. But to find out which are those sections

and in what places this Act should be applied can be done only by means of circulation. You must have the opinions of people to find out as to which part of the country this Act should be applied. The second reason why this Bill should be circulated is that this legislation must have some age; it should not be for all time. If an emergency has arisen and this legislation is required because of the civil disobedience movement, then let it be for some fixed period. I, therefore, submit that there is every justification for the circulation of this Bill and if the circulation is not going to be agreed to by Government, then there are clear reasons for throwing out this measure.

Several Honourable Members: The question may now be put.

Mr. Deputy President (Mr. R. K. Shanmukham Chetty): The Honourable Sir Joseph Bhole.

Dr. Ziauddin Ahmad: On a point of order, Sir. In a measure like this, I think full liberty ought to be given to the Members to express their views, because there is going to be a great departure in the procedure.

Mr. Deputy President (Mr. R. K. Shanmukham Chetty): I thought everybody had spoken.

Dr. Ziauddin Ahmad: I want to speak.

Mr. Deputy President (Mr. R. K. Shanmukham Chetty): The Honourable Member is quite welcome to speak.

Dr. Ziauddin Ahmad: Sir, any person, who would write the history of communications of the world in future, will have to begin a new chapter from the 7th February, 1933, on account of new departure we are making today. I have never seen in any regulations dealing with communications in any country that the breaches of those regulations are punishable with imprisonment: they are always punishable by fines. The present Bill is really a new departure in the history of the communications of the whole world. Before I develop my argument, I would like to narrate a story. A person lost his fowl and he was weeping and crying. His neighbours went to him and asked him why he was crying so much for the loss of only one fowl; they would compensate by subscription. Then he said: "It is not only the loss of the fowl for which I am weeping, but the Angel Gabriel has seen the house and we do not know what will happen tomorrow". I will tell you why I have given that story. I know it very well and my distinguished friend, Sir Joseph Bhole, also knows it equally well that the President of the Railway Conference recommended that if a person be found to be travelling without a ticket, he should be imprisoned. It was Sir George Rainy, for whom we have great admiration, who stood out, and never allowed a legislation of that kind to be moved in this House. I know, several representations have been made by various Railway Administrations for the incorporation of imprisonment for breaches of Railway rules. This measure is the first attempt to enlarge the scope of the Indian Penal Code by punishing the breaches of Railway rules by imprisonment. I first brush aside the argument that this Bill is brought in the name of law and order. I maintain that the pretence of "law and order" and the "non-co-operation movement" has

[Dr. Ziauddin Ahmad.]

been simply brought in to get the votes of certain individuals whose faith is that anything which is done in the name of law and order ought to be supported. If this legislation were necessary because of the civil disobedience movement, it ought to have been brought in as a temporary provision and not in the Railway Act, but in the Indian Penal Code. But this legislation is going to be a permanent one and is intended really to shelter the weak administration of the railway officers. What they cannot do by means of wise administration, they want to do by an alteration in the Indian Penal Code. May I ask, Sir, why the chains are provided for? Are they not provided for the comforts of the passengers? Or, are they provided to send the people to jails? If they are provided for the comfort of the passengers and they do not like to use them properly, then by all means take them away. Let them be put only in such compartments where they are most needed, like the First and Second Class compartments and in the Ladies compartments. If there is a sufficiently large number of cases where these chains have been misused, then take them away altogether as a provisional measure and see how the public takes it. My Honourable friend, Mr. Amar Nath Dutt, has asked me to calculate, but nobody can calculate without any data. No figures and facts are given to us. Neither the Honourable Sir Joseph Bhore nor any of the supporters of the Bill has made out any case. The only argument which the Honourable Member himself has advanced is that one man was found to have used the chain 11 times on a particular line in one month. If the officials had any humour about them, they would have at once removed the chain in that particular line and awaited for the results. Probably wiser counsel and public opinion would have stopped this thing for ever. If, however, this mania of pulling the chain had spread all over the railway lines, then there would have been some justification for a measure like this. In that case it ought to have been considered at the time of the amendment in the Indian Penal Code and not as an alteration in the Railway Act.

I would also like to point out another thing. If in the railway compartments you put notices that the penalty for the wrong use of the chain will be a fine of Rs. 50 and an imprisonment of six months, it will give room for propaganda against railway travelling. People who are against Government will misguide ignorant village people by preaching that if a man travels by rail, he will be imprisoned. Look into notices. The result will be that the uneducated villagers will give up travelling by rail and there will be a loss of revenue to Railways. Then this bad enactment will be followed by an Ordinance which is sure to be issued when people will carry on propaganda on these lines, and all these on account of the fact that the Honourable Members on the Treasury Benches have got no humour about them. They should have dealt wisely in one case and tried the experiment of removing the chain altogether and seen the salutary effect of that.

Many Honourable Members gave illustrations of definite cases. I will also give an illustration and I will take the case of the Bengal and North Western Railway which is so popular with the Treasury Benches, and so unpopular on this side. This particular line is famous for overcrowding the compartments; that is to say, a compartment intended for 10 passengers very often carries 20, and there are passengers to be found on the foot boards and also on the top of carriages. You know that

no railway servant was ever punished for this breach of the law, namely, allowing a compartment to be filled in with more passengers than the maximum. Though they have been deliberately guilty of forcing more people into a compartment, no penal or departmental step was ever taken. If anyone sees passengers travelling on the top of a carriage and intentionally pulls the chain to stop the train, will he or will he not be guilty, under the Act, of committing a crime? Certainly he has intentionally impeded the traffic and would certainly come under the purview of this particular provision. Therefore, cases like this would arise. Again, several cases have been quoted by my friend, Mr. Neogy, and my friend, Khan Bahadur Wilayatullah. I ask both of them whether they would have pulled the chain in those exceptional conditions had there been a notice in the compartment that they would be punished, not only with fine, but also with imprisonment which may extend to six months. I dare say that even in good cases they would probably refrain, because there they would not incur the risk. The very object of the existence of chains would have been lost.

Sir, I give one reason why we press for circulation. This particular thing is provided for the comfort of the people and not for the comfort of Railway Administration; and if the people themselves are not prepared to have them, you had better remove these chains altogether. Therefore, the right measure is to ask the people themselves whether they are prepared to have legislation on this particular subject or whether they can use their own moral force to stop the people from pulling these alarm-chains. I think this is a point on which public opinion will be very valuable. If the measure is really intended to meet the Congress activities,—I very much doubt, whether it is the Congress activity,—the penalty of fine will really have more deterrent effect than sending them to jail. The Congress volunteers court imprisonment and they say that they have no means of subsistence in this world, but they find some kind of living in jail and hence they would welcome it. Therefore, I suggest that if a fine of Rs. 50 was not sufficient, I thought the first course for the Honourable Member was to increase the fine to Rs. 100 and not to make history.

It is the first occasion in the history of communications of the world that a breach of rules of communication would be punishable with imprisonment. I appeal to this House once more that we should not make ourselves the laughing stock of the world and we should not show to the world that our administration is so rotten that pulling the railway chain is punishable with imprisonment. Take a better view of the whole situation; if certain persons for a certain time lose their head, there ought to be other methods of meeting the situation instead of having a permanent enactment and creating a new precedent. With these words, I support the motion for circulation.

Mr. N. N. Anklesaria (Bombay Northern Division: Non-Muhammadan Rural): Sir, the amusing irrelevancies and the fantastic arguments addressed from the other side leave me absolutely unconvinced about the justification or the reason for this motion for circulation. I can understand a proposition for circulating a measure if there is any conceivable difference of opinion about the policy or the principle involved in a Bill. But so far as the policy or principle involved in this Bill is concerned, I submit there can possibly be no two opinions. Sir, every Honourable Member of this House and, I believe, every sane person in this country,

[Mr. N. N. Anklesaria.]

will agree with the proposition that attempts to paralyse the railway traffic must be dealt with, and dealt with firmly and effectively; and I ask, how can you deal with this offence firmly and effectively except by imposing a punishment which would really prove deterrent?

Sir, it has been said that this Bill will involve either the innocent or the inadvertent user of the chain, but a mere cursory glance at clause 2 of the Bill will convince anybody who has got the slightest knowledge of law that this is not the case. There is a very clear provision about intention of the accused person who is to be hauled up before a Court of law. Unless and until the prosecution proves that intention, the accused cannot possibly be convicted. Sir, I challenge the Honourable Members who have opposed this Bill to produce one single instance in which an innocent or inadvertent user of the chain has ever been punished; on the other hand, scores of instances are on record in which a clear attempt to paralyse railway traffic can be seen. And, I think, Sir, the section of the Railway Act which provided for punishment by fine only contained a serious lacuna, and, in the present circumstances of the country, Government would have been guilty of a serious dereliction of their duty if they had not tried to fill it up by this legislation.

It is said that it is an enactment to deal with a mere temporary evil. But I ask the other side if anybody on the other side can guarantee that the evil, which this Bill seeks to deal with, is only a temporary evil and not a permanent concomitant of human nature like all other evils dealt with under our penal laws which depend on human volition. It is said that ordinary experience shows that a man has simply to be brought up before a Magistrate and it has simply to be proved that he pulled the alarm chain so that the Magistrate can immediately convict him. That may be the experience of many of the Honourable Members who have spoken against the Bill, but that is an argument not against the law to be embodied in the Bill; that is our argument against the Magistrates who administer the law, and that is perfectly irrelevant to the present discussion. With these words, I support the motion of the Honourable the Railway Member.

Sir Hari Singh Gour (Central Provinces Hindi Divisions: Non-Muhammadan): Sir, from the attitude of Honourable Members who have spoken on this Bill, it must be obvious by this time to the Honourable the Commerce Member that there is very strong opposition to this Bill and that it is not wholly groundless. I shall very briefly state for the consideration of the Honourable Member three objections which I see before me and, I am sure, that the Honourable the Commerce Member will pause before precipitating a division on his motion that this Bill be taken into consideration.

I understand and the Honourable the Commerce Member has made no secret of the fact that the primary object of this legislation is to cope with a nuisance connected with the civil disobedience movement. A very large number of cases are said to have occurred. I shall assume that those cases have occurred; but who were the offenders? The offenders in those cases were people connected with the civil disobedience movement and the pulling of chain was one of those acts which those who had launched on the civil disobedience movement resorted to for the purpose—I do not know what—but they will say for the purpose of

bringing the Government into contempt or for paralysing the Government. If that was their intention, it was certainly not their intention to cause obstruction to traffic. Within the narrow limits of those terms, as will be presented by a lawyer and judged by the High Court, if the case went up before a High Court, and the Crown Counsel said "The accused in the dock had the intention of obstructing the traffic", and the accused in the dock said "My Lord, I have had no such intention at all: I had the intention of pulling this chain for the purpose of bringing the whole of your administration into contempt and, so far as possible, paralyse it. But I have the very best of wishes for traffic, and this is only one of the ways in which I can draw public attention to a grievance from which I and others, who think with me, suffer". Could any High Court say that this was his primary intention—to cause obstruction to the traffic? My friend, the Honourable the Law Member, will understand me that the criminal jurisprudence takes note of the primary intention, what is called the *mens rea*, and, if that primary intention was not to cause obstruction to traffic, it will cause a great deal of difficulty in the working of this section, and the difficulty would be enhanced by the fact that the offence being triable by any Magistrate and the punishment being for six months, the case would not go to the High Court except on revision. The ordinary forum for the hearing of appeals would be either a First Class Magistrate or a District Magistrate. That is the first question that you have to take into consideration. It is a highly technical objection, I grant, but, after all, we have to deal with all the objections that occur to us in connection with this Bill.

Now, the second point that has been made by several speakers from these benches is that in all countries—and I happen to know of at least half a dozen countries—the pulling of the communication cord for no sufficient cause is visited with a penalty of, say, £5 or Rs. 50 as it is the case here. It is regarded as one of those delicts for which this penalty is considered to be sufficient. I fully realise what the Honourable the Commerce Member said. He said: "We have cases on record where the penalty is not sufficiently deterrent, and, therefore, we wish now to enhance the penalty". I ask the Honourable the Commerce Member to consider for one moment this fact: if the penalty of fifty rupees was not sufficiently deterrent, should he not have for subsequent offences provided for enhanced penalty? In all the bye-laws and regulations—and this is more or less a railway bye-law which is going to be enacted—for all recurring and repeated violations of certain rules, for example, under the municipal law or in the various other laws, enhanced penalty is provided. For example, if you pull the cord for the first time, you pay fifty rupees; if you go to a gambling den for the first time and are caught, you are fined five rupees; but if you are caught again in the gambling den or pull the cord again, the penalty is raised to twice or thrice or four times the amount. But this Bill which proposes to raise *per saltum* the penalty from 50 rupees to the maximum of six months is, I think, far too drastic and, I think, unjustifiable in the circumstances of the case. The punishment must be deterrent, but it must not be vindictive. This borders on the vindictive when you provide a maximum punishment of six months. That is the second objection.

The third objection is the objection of gross and unfair inconvenience to the travellers. You must remember, Sir, that we have about 40,000 miles of railways in this country; and a man may be a resident, I will say, of Bombay, and he may be caught somewhere in the backwoods of Assam pulling the communication chain. Any railway servant—*vide* the

[Sir Hari Singh Gour.]

Statement of Objects and Reasons—a porter, fireman and, for the matter of that, any menial has got the right to arrest him without a warrant and detain him and hand him over to the nearest Magistrate for trial. He goes before the Magistrate and you have the evidence of the man on the spot that he has committed this offence of intentionally causing obstruction to traffic. Now, he is far from his home, thousands of miles away; he has not got the means of defending himself; and the result of that would be that, in a very large number of cases, instead of proceeding to his destination, his travel will be interrupted and a case launched against him. Now, if he had intentionally caused obstruction to the traffic, he deserves to be pulled up, and what is more, he deserves to be punished. But suppose some man,—and we have such men as jacks in office,—suppose such a man catches hold of him for no reason whatever, because the man is perhaps rude to him or he has got into the bad books of one of these menials at the railway station and says: “I catch you, because you have pulled the chain”,—of course, he pulled the train, that is perfectly right, but he pulled the cord for a reasonable cause and the menial says: ‘No, you have done it to obstruct the traffic’: then there is an altercation resulting in the man being seized and handed over to the magistracy for trial. He may be acquitted; if he is guilty, he will be convicted and then there is an end of it, but the danger of an innocent man being caught and handed over to the magistracy in cases of this kind by irresponsible railway servants is the danger which has to be guarded against, and I wish to ask as to what safeguard there is in this Bill against the frivolous and vexatious use of this Act by an irresponsible railway servant. And, that is what is at the back of the minds of many of my Honourable friends on this side. This may be used as an engine of oppression in the hands of an irresponsible railway servant, and some provision should be made against the abuse of the Act. I, therefore, think that the objections which have been raised, and which seem to me to be weighty, are worthy of consideration, and I would ask the Honourable the Commerce Member to let this Bill stand over till he has reflected upon the value of these objections and provided against them. It may be that by lobbying with some of the Members who have these apprehensions he may be able to overcome their apprehensions and that a *modus vivendi* may be reached, when the object of the Honourable the Commerce Member would be achieved and the reasonable apprehensions of Honourable Members on this side allayed. I do not think this is a Bill of sufficient importance upon which the Honourable the Commerce Member should make it a point of honour to precipitate a division either for the purpose of passing or for reference to a Select Committee. This is one of those measures in which my advice to the Honourable the Commerce Member will be *festina lente*, and I, therefore, think that the Honourable the Commerce Member will be ill advised in pushing on with this Bill. Now, it is a late hour, and I would ask the Honourable the Commerce Member to take time to consider as to how he can improve upon the various objections to which this Bill is subject.

The last point that was made by one Honourable Member which must not be dismissed from our sight is that the Bill has been drawn up in view of the civil disobedience movement. We had an *ad hoc* legislation in November last to deal with this movement. If this was one of the methods of disseminating civil disobedience, I should have thought that it would be made a part of the temporary measure. I do not think the

trouble would ever have grown to larger dimensions independently of the civil disobedience movement. The Railways have been in existence here for a long number of years, and it is only in connection with the civil disobedience movement that this Bill has become necessary. We hope that the civil disobedience movement has not come to stay and, if that be so, I do not see why this Bill should find a permanent place upon the Statute-book. All these are questions that require examination, and till that examination is made, I would ask the Honourable the Commerce Member not to hurry on with the Bill.

Mr. S. C. Sen (Bengal National Chamber of Commerce: Indian Commerce): Sir, I am sorry I have to oppose this Bill both as regards its being taken into consideration as well as the motion for circulation. I am really sorry that I have to move the rejection of the Bill which has been introduced by my friend, the Honourable the Commerce Member, for whom I have got the greatest respect. My objections are, firstly, that no case has been made out for the incorporation permanently in the Railway Act of a provision of this nature. The Honourable Member stated that there was a growing menace about the pulling of the communication cord in Railways. We have not heard of any. I remember that about a year and a half ago, during the early part of the civil disobedience movement, certain local trains,—and not mails or express trains,—between Bandel and Calcutta on the East Indian Railway were stopped by some persons, but since then I have not heard of any such cases. Probably the Honourable the Commerce Member will be able to give us more instances of the misuse of the pulling of the communication cord, but to my knowledge there are none, and, therefore, my first objection is that no case has been made out for the introduction of this measure.

Secondly, what is meant by this clause, namely, “if a passenger so makes use of or so interferes with such means of communication with the intention of obstructing traffic”? Now, the cord is there for obstructing traffic. Traffic has been defined in the Railways Act, and, therefore, the meaning of “obstructing traffic” will be with reference to such definition. Now, traffic here includes rolling stock of every description as well as passengers, animals and goods. Therefore, to obstruct traffic means to obstruct the rolling stock, namely, the train, etc. What is the cord there for? It is for the purpose of stopping the train, and for no other purpose. In case of emergency, you have to pull the cord for the purpose of stopping the train, so that the emergency may be met. Therefore, by introducing these words “with intent to obstruct traffic”, you do not provide a sufficient safeguard. The section might have been left alone as it is in the original section 108. No new ingredient has been introduced. That is my second objection.

Moreover, I find that this clause is likely to be misused by railway officials. Without this clause, people have been maltreated and the powers of the railway officials have been misused. I know of a case when a respectable pleader of the Police Court in Calcutta was travelling from Burdwan to Calcutta. A child fell down from one of the carriages and he had to pull the cord. The train stopped. He was hauled up before the Station Master of the next station, he was kept there, the train was allowed to go on, but he had to find somebody to stand surety for him, so that he could come at the time when a case might be instituted

[Mr. S. C. Sen.]

against him. Subsequently, certain correspondence ensued between him and the Railway Department and I claimed damages on behalf of that gentleman from the railway. The late Mr. Macnair, the then head of the firm of Messrs. Morgan and Co., who were solicitors to the East Indian Railway, sent for me and expressed regret. He got a letter from the Agent of the Railway expressing regret for the maltreatment of that gentleman. That is the sort of treatment that is meted out to the public apart from the Bill itself. Under these circumstances, after the Bill is passed into law, I do not know what will be the fate of any person who will think of honestly using the cord even for legal purposes.

Now, under section 131, you are trying to give power to railway officials to arrest a man and to keep him in custody. They won't look into the circumstances, whether they were reasonable or proper. They will simply take into consideration the fact that the cord has been pulled. That is the only thing for them and they will arrest the man. Sir, under these circumstances, I submit that this Bill ought to be thrown out until a further case has been made out by the Commerce Department for the provision of such a drastic measure and proper safeguards against abuse are provided.

The Honourable Sir Joseph Bhoré: I will refer, in the first instance, to the motion moved by my Honourable friend, Mr. Maswood Ahmad. I had hoped that it was by error that he had made this motion. (*An Honourable Member:* "No, it was deliberate.") I had thought that in the sheaf of motions of a similar character which he had put in on almost every Bill, which Government have presented to this House, this had crept in by mistake. But, evidently, I was wrong.....(*An Honourable Member:* "Obstructing the business of the House!")....., and I am afraid that I must oppose his motion. I cannot really and honestly conceive what purpose would be served by circulating this measure, and I would ask the House to accept the view, that if a measure is not circulated for any adequate reason, then it is merely a waste of public time and money. Now, the issue in this case is a perfectly clear and simple one, and it is this. Is not the stoppage of trains for the purpose of deliberately obstructing traffic objectionable? If it is, is it not reasonable that the magistracy should be allowed power to impose a heavier penalty than has hitherto been leviable, if we have found that that penalty in the past has not been sufficiently deterrent? Sir, that is a simple question, and I submit that the House is perfectly competent to come to a decision upon that point. Therefore, I must oppose the motion for circulation.

If the House is not satisfied with this measure, then by all means let it throw it out, but I do submit that, in view of the simplicity of the issue and the straightforwardness of the issue, there is no reason whatsoever for the Members of this House to seek for further inspiration from outside the four walls of this Chamber.

Turning to the merits and the arguments that have been advanced, my Honourable friend, Mr. Ranga Iyer, drew a very harrowing picture of what might happen to the Rajah of Kollengode if a child belonging to his party in a spirit of fun pulled the communication cord, and my Honourable friend, Mr. Maswood Ahmad, was very perturbed at the possibility of a curious villager being submitted, by reason of his curiosity,

to a severe sentence. Now, I am sure that my Honourable friends have entirely overlooked the fact which has been referred to by more than one previous speaker, that the burden of proof in this particular case rests upon the prosecution. I would submit that Honourable Members have not drawn the distinction that they should have drawn between an intention to stop a train and an intention to obstruct traffic. If I pull the communication cord, with the intention of stopping the train, I may be perfectly justified in doing so. If the Court holds that I am not justified, the Court may still hold that I have done so without due cause or reason, but that, in the circumstances of the case, it is not necessary to impose a deterrent sentence. But when the intention is deliberately to obstruct traffic, then, I submit, that a good case exists for a deterrent punishment such as we have proposed. I would like to make it perfectly clear that I have nowhere in any of the speeches that I have made here suggested that this legislation is in consequence of the civil disobedience movement. My Honourable friend, Mr. Mitra, contended that the obstruction of traffic in this way was not part of the civil disobedience movement. Well, then, I submit, if that is so, and if instances have occurred, that is the most conclusive reason for placing this bit of legislation permanently on the Statute-book.

Dr. Ziauddin Ahmad: Will you give some statistics of these instances?

The Honourable Sir Joseph Bhowe: In regard to statistics, I would bring to the notice of the House that when I quoted the fact that in a single month a single individual on a certain railway had been guilty of pulling the cord eleven times, I was merely giving one single instance. The latest figures, that I have, deal with August 1932, and I find that in that one month there were no less than eight such cases. (*Mr. Gaya Prasad Singh:* "Only eight cases?") And I find during a past period of eighteen months, there were over 140 to 150 cases. Of course, in some of these cases I have no doubt that the pulling of the communication cord was possibly justified, because it is impossible at this date to get full and complete details in regard to each particular case.

Mr. N. M. Joshi (Nominated Non-Official): What is the average number of cases in past years?

The Honourable Sir Joseph Bhowe: I am not in a position to say, but I know this that the railway managements have said that this evil was not existent to any serious extent in the past.

Turning now to my Honourable friend, Mr. Neogy, I am afraid that in his somewhat heated manner he attempted to discover rather far-fetched reasons against this Bill. His first complaint was that my speeches were short. May I point out to the Honourable Member that there may be certain individuals who may be able to say what they have to say in five minutes, whereas other individuals may take an hour to say nothing, and I have too much regard for Members of this House to waste their time unnecessarily. Then, my Honourable friend asked if it was necessary to provide special penalties for this new offence under section 108 of the Railway Act why it was not necessary to provide similar penalties under section 121, that is, for the wilful obstruction or impeding

[Sir Joseph Bhore.]

of a railway servant in the discharge of his duty. My reply to that is this—that our experience has not shown that offences under section 121 have been sufficiently numerous for us to ask for a deterrent punishment.

Mr. K. C. Neogy: Is the Honourable Member in a position to give us the number of cases under that section?

The Honourable Sir Joseph Bhore: I am not in a position to do so, but I naturally assume that there has not been any large number of cases under this section as railway administrations have not thought it necessary to ask us to provide for a severer punishment. Then, Sir, with regard to section 102, my Honourable friend asked me to apply the principle of reciprocity. There, again, if I were aware of the existence of reasons rendering it necessary to tighten up this section, I should be perfectly willing to consider the point.

Mr. K. C. Neogy: You will never realise that, because it affects your own men.

The Honourable Sir Joseph Bhore: I am not disposed to defend my own men against any just accusation that may be brought against them. I would point out that section 102 refers to the compelling of or attempting to compel or causing any passenger to enter a compartment and I think it is for that reason possibly, because of the element of compulsion, that private individuals have not been able to launch successful prosecutions, but, in any case, if my Honourable friend were in a position to satisfy me by reason of the cases that had occurred and been successfully prosecuted in the Courts that some tightening up of this section was required, I should be most ready to consider it.

Then, Sir, it has been suggested that there might be a provision for a graduated scale of punishment in such cases. With all due respect to my Honourable friend who made this suggestion, I would point out that it might well defeat the whole object of the legislation we are undertaking. The deterrent effect lies in the fact that the intending offender does not know what penalty may be imposed upon him. He merely knows the maximum and, I submit, that the whole deterrent effect of this section would be removed if the suggestion put forward by my Honourable friend were accepted. But, from the speeches delivered in the House today, I realise that there is a great deal of feeling in regard to clause 3 of the Bill. Instances have been given in which Honourable Members themselves have pulled the communication cord. I am not able to see exactly the relevancy of those instances, because I understand that in almost every case those gentlemen pulled the communication cord with impunity. At any rate they were not punished, nor were they put to any trouble in consequence. At the same time I do feel that there is a considerable amount of apprehension in regard to clause 3 which gives the power to the police or to railway servants to arrest without written orders or without warrant. If there is any general feeling in this House in respect of that clause, though I think it is rather dangerous for us to drop it, I would be perfectly willing to meet my Honourable friends opposite and accept a motion to delete clause 3. But, Sir, in that case I must ask that the rest of the Bill be accepted as it stands.

Mr. Deputy President (Mr. R. K. Shanmukham Chetty): The question is:

"That the Bill be circulated for the purpose of eliciting opinion thereon by the 31st July, 1933."

The motion was negatived.

Mr. M. Maswood Ahmad: It is going to be five o'clock

Mr. Deputy President (Mr. R. K. Shanmukham Chetty): There has been a very full and fair discussion of the merits of the Bill and if I allow the Honourable Member now to move his motion for the Select Committee, I cannot allow him to repeat the arguments and go into the merits of the Bill again.

Mr. M. Maswood Ahmad: Sir, I move:

"That the Bill be referred to a Select Committee consisting of the Honourable the Law Member, the Honourable Sir Joseph Bore, Mr. J. Ramsay Scott, Mr. N. M. Joshi, Lala Rameshwar Prasad Bagla, Raja Bahadur G. Krishnamachariar, Mr. Amar Nath Dutt, Mr. Gaya Prasad Singh, Mr. T. N. Ramakrishna Reddi, Mr. S. C. Mitra, Dr. Ziauddin Ahmad and the Mover, and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five."

I find that there is a competition for this panicky legislation in all the legislatures of the country. I find that every province is trying to have some legislation of this kind. Amongst Members who are habitual supporters of the Government I find that there is a competition to support this measure and now I find that in Treasury Benches there is a competition to have these measures. We must be prepared for some such legislation from the Labour Member as well. As you have just now pointed out, we have discussed this measure very fully. So I do not want to take up the time of the House, but there are three or four points which we can discuss in the Select Committee. One is the life of the Bill. The other is, whether the fine should be enhanced to Rs. 100 or Rs. 500. The third is whether the imprisonment should be for six months, three months, or not at all. These are questions which we can very well discuss in the Select Committee instead of discussing them on the floor of the House. There is also the point as to where the accused will be tried. If he is tried in a locality which is very far from his own place, then it will be very difficult for him to get the necessary help for defence. These are the few points which we can discuss in the Select Committee. For this reason, I move that the Bill be referred to a Select Committee.

Kunwar Hajee Ismail Ali Khan (Meerut Division: Muhammadan Rural): I propose that the name of Kunwar Raghbir Singh be added to the Select Committee.

Mr. M. Maswood Ahmad: I have no objection in accepting that, but you have ruled that no names should be added after the motion has been moved. I leave it to the House to decide. I personally have no objection.

Mr. Deputy President (Mr. R. K. Shanmukham Chetty): I ruled yesterday that this practice should be very strongly deprecated. I take it that the Honourable Member's party was consulted by Mr. Maswood Ahmad.

Dr. Ziauddin Ahmad: In this particular case, the leaders were not consulted. The addition may be allowed as a special case.

Kunwar Hajee Ismail Ali Khan: Sir, I proposed the name of Kunwar Raghbir Singh, because there was not a single Member from my Party for the Select Committee. (*Voices:* "Certainly." "Yes.")

Mr. Deputy President (Mr. R. K. Shanmukham Chetty): The question is:

"That the name of Kunwar Raghbir Singh be added to the list of members of the Select Committee."

The motion was adopted.

The Honourable Sir Joseph Bhoré: Sir, I do not wish to make a long speech. I merely want to invite my Honourable friend to withdraw his motion for referring this Bill to a Select Committee. I think I have, in agreeing to meet my Honourable friends opposite in regard to clause 3, taken away what I hold to be the most contentious part of this measure. It was quite open to my Honourable friend to have put in a motion, if he thought that six months' imprisonment should not have been entered in clause 2, and to have tabled a definite amendment giving effect to his view; but, having gone so far to meet my Honourable friend, I do hope that he will not press his motion. I think that there is very little, after clause 3 has been omitted, for us to discuss in Select Committee. I would, therefore, ask my Honourable friend not to press his motion.

Mr. M. Maswood Ahmad: Sir, I want merely to say that this matter should be postponed so that we may discuss it with the members of our Party as to whether we should be satisfied with the suggestion that only clause 3 should be omitted or whether we should press for this motion which has been moved. It is now over five, and so I would request you, as well as the Honourable the Railway Member, not to press this point today, so that we may get a chance of discussing it with the members of our Party, and with members of other Parties.

The Assembly then adjourned till Eleven of the Clock on Wednesday, the 8th February, 1933.