

19th February 1942

# THE LEGISLATIVE ASSEMBLY DEBATES

## Official Report

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Volume I, 1942

*(11th February to 10th March, 1942)*

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## FIFTEENTH SESSION OF THE FIFTH LEGISLATIVE ASSEMBLY, 1942



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# CORRIGENDA

In the Legislative Assembly Debates, Budget Session, 1942,—

- (1) Volume I, No. 1, dated the 11th February, 1942, page 31, line 20, for "Muslims" read "Muslim";
- (2) Volume I, No. 15, dated the 5th March, 1942, page 708, line 20 from the bottom, for "Suppression" read "Supersession";
- (3) Volume II, No. 5, dated the 17th March, 1942,—
  - (i) page 1207, line 4, delete the full stop after the word "statement"; and
  - (ii) page 1265, lines 5 and 22, for "The Honourable Sir Homi Modi" read "The Honourable Sir Homi Mody";
- (4) Volume II, No. 7, dated the 19th March, 1942, page 1357, line 15 from the bottom, for "The Economist news" read "The Economist news-";
- (5) Volume II, No. 8, dated the 20th March, 1942, page 1422, line 13 from the bottom, delete the second "that" at the end of the line;

- (6) Volume II, No. 9, dated the 23rd March, 1942,—
  - (i) page 1429, line 1, insert the word "is" after the word "blood"; and
  - (ii) page 1457, line 8 from the bottom, read "are" for the word "they";
- (7) Volume II, No. 11, dated the 25th March, 1942, page 1539, line 18 from the bottom, for the word "who" read "why";
- (8) Volume II, No. 13, dated the 1st April, 1942, page 1651, line 21, for the word "attacks" read "attack";
- (9) Volume II, No. 14, dated the 2nd April, 1942,—
  - (i) page 1688, line 17, for "It is given to C class" read "I said that A and B class";
  - (ii) page 1693, line 22, for "Syed Murtuza Sahib Bahadur" read "Maulvi Syed Murtuza Sahib Bahadur"; and
  - (iii) page 1729, line 19 and page 1730, line 9 for "Diwan Bahadur Sir A. Ramaswami Mudaliar" read "The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar".

# LEGISLATIVE ASSEMBLY.

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The Honourable Sir ABDUR RAHIM, K.C.S.I.

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## *Assistants of the Secretary:*

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Captain Haji Sardar NUR AHMAD KHAN, M.C., I.O.M., I.A.

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Mr. JAMNADAS M. MEHTA, M.L.A.

Sir ABDUL HALIM GHUZNAVI M.L.A.

Mr. N. M. JOSHI, M.L.A.

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# LEGISLATIVE ASSEMBLY

*Thursday, 19th February, 1942.*

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

## STARRED QUESTIONS AND ANSWERS.

### (a) ORAL ANSWERS.

#### MEANS OF REDRESS OF GRIEVANCES OF SUBORDINATE RAILWAY EMPLOYEES.

†57. \*Mr. Amarendra Nath Chattopadhyaya: (a) Will the Honourable Member for Railways be pleased to state if railway employees, who are not in officers cadre, have any means of getting redress of grievances which had not been redressed by the General Manager or the Agent of State Railways on applications by the aggrieved?

(b) Will the Honourable Member be pleased to state if such employees who have grievances against their Heads of Departments, having failed to get any redress from the Departmental Head, had got their grievances redressed by the General Managers on application, and in how many cases such applications have been rejected by the General Manager—beyond whom there lies no appeal—during the years 1938, 1939, 1940 and 1941?

(c) In cases where the grievances of ministerial subordinates have been against the General Manager, will the Honourable Member be pleased to state if there is any higher appellate authority?

(d) Is it a fact that a departmental head or a General Manager of a Railway can discharge, dismiss and dispense with the services of any ministerial subordinate, without showing any reason, by paying one month's pay or giving a month's notice?

The Honourable Sir Andrew Clow: (a) Non-gazetted staff on Railways have a right of appeal to the Railway Board in disciplinary cases where the penalty has been inflicted by the General Manager himself.

(b) I have no doubt that General Managers have taken action to redress genuine grievances of staff on Railways; as regards the second part, I have no information nor can I undertake the researches necessary to obtain it.

(c) I would refer the Honourable Member to my reply to part (a).

(d) Yes, if the circumstances warrant such action.

#### RESTRICTION AS REGARDS ELECTION TO MANAGING COMMITTEE OF CO-OPERATIVE CREDIT SOCIETY ON NORTH WESTERN RAILWAY.

58. \*Mr. Lalchand Navalrai: (a) Will the Honourable Member for Railways be pleased to state whether it is a fact that under Rule 625 of

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†Answer to this question laid on the table, the questioner being absent.

the State Railway Establishment Code of 1938, no previous sanction of the head of a department was required if a railway servant accepted an honorary office in a registered co-operative society?

(b) Is it a fact that the General Manager, North Western Railway, Lahore, under his circular letter No. 153-E/O, dated the 26th April, 1941, has desired that an employee wishing to stand for election as a member of the committee of management of the North Western Railway Employees Co-operative Credit Society, Lahore, should do so through and with the permission of the head of the department in which he is serving, who will forward such an application to the Secretary of the Society only when, in his opinion, sanction may be given to the employee concerned to stand for such a post? If so, why?

(c) Is there any such restriction on Government servants in other Departments in respect of elections to their departmental co-operative credit societies? If not, why has such a restriction been placed on the railway employees only?

(d) Does the Honourable Member propose to ask the North Western Railway administration to give such general sanction without requiring the obtaining of sanction by each individual employee? If not, why not?

**The Honourable Sir Andrew Olow:** (a) Yes, but this rule has since been superseded.

(b) Yes, in accordance with Rule 14 of the Railway Servants Conduct Rules contained in Appendix XI to the State Railway Establishment Code (revised).

(c) The Government Servants Conduct Rules applicable to other departments contain a rule similar to Rule 14 of the Railway Servants Conduct Rules, the latter part does not arise.

(d) No, it is not considered advisable to fetter the discretion of the local authorities in this matter.

**Mr. Lalchand Navalrai:** May I know why this rule was superseded, and by whom?

**The Honourable Sir Andrew Olow:** I am afraid I would require notice of that.

**Mr. Lalchand Navalrai:** It is the General Manager who has issued the circular, and, with respect to that circular, has he consulted the Board or the Honourable Member, or has he done it on his own?

**The Honourable Sir Andrew Olow:** I certainly was not consulted. The circular merely carries out the intention of the rule.

**Mr. Lalchand Navalrai:** I am asking, with whose permission he issued a circular of this kind?

**The Honourable Sir Andrew Olow:** I presume that the General Manager issued it. He is perfectly within his duties in doing so.

**Mr. Lalchand Navalrai:** What were the reasons for superseding the rule?



**The Honourable Sir Andrew Olow:** The reason is that we cannot allow this, in a sense, to be a matter of right. The duties connected with the co-operative society may on occasion make a real inroad into an employee's time.

**Mr. Lalchand Navalrai:** With regard to (d), instead of each one being put to inconvenience in applying separately, why should not general sanction be given by the Manager?

**The Honourable Sir Andrew Olow:** This kind of sanction depends on the other duties of an employee. This kind of work may make quite a big inroad into his time, particularly if it involves travelling from one place to another. It is only the administration who can judge whether he can undertake this work without detriment to his official work.

#### SUPERSESSION OF QUALIFIED MUSLIM ASSISTANT WAY INSPECTORS.

**59. \*Mr. H. M. Abdullah:** Will the Honourable Member for Communications please state :

- (a) if for several years prior to January 1940, rules for the promotion of Assistant Way Inspectors to the posts of Permanent Way Inspectors provided that only those who had duly qualified from the Walton Training School would be so promoted;
- (b) whether several Muslims had qualified themselves and were fairly senior for such promotion;
- (c) whether the rules were revised in January, 1940, so as to remove the distinction between qualified and unqualified Assistant Way Inspectors for purposes of such promotion; and
- (d) what the number is of qualified Muslims who have been superseded by non-Muslims as a result of the revision of this rule?

**The Honourable Sir Andrew Olow:** (a) The reply is in the negative. Others who did not have this qualification but fulfilled certain other specified conditions were also eligible for promotion.

(b) There were, on 4th January, 1940, five Muslims who had passed the qualifying examination of the Walton Training School, but only three of them were declared suitable for promotion by the Selection Board. These three were, in seniority, in the lower half of the list of 30.

(c) No, but an alteration was made in one of the conditions under which certain men who had not qualified in the Walton Training School lost two years seniority for promotion on that account.

(d) One; but he has subsequently been promoted.

#### SUPERSESSION OF MUSLIM CLERKS IN COMMERCIAL BRANCH, HEADQUARTERS OFFICE, NORTH WESTERN RAILWAY.

**60. \*Mr. H. M. Abdullah:** Will the Honourable Member for Communications please state :

- (a) whether a Hindu clerk of the Miscellaneous Section of the Commercial Branch of the Headquarters Office, North Western Railway, was reduced by one step for six months and transferred to the Central Registry as a punishment for bad work;

- (b) whether a Muslim clerk with more than 22 years unblemished record of service was transferred in his place to the Miscellaneous Section without his consent and against his wishes, because he was expecting promotion in the Central Registry in the next higher grade;
- (c) whether it is a fact that shortly afterwards the Hindu clerk sent to the Central Registry as a punishment was allowed to officiate in the next higher grade in that Branch while the appeal of the original incumbent of that post for re-transfer to the Central Registry and promotion to the post which he would have normally obtained, was rejected on the plea that he should now look forward to promotion in the Miscellaneous Section where he had been transferred;
- (d) whether it is a fact that on the occurrence of a vacancy in the Miscellaneous Section the claim of this Muslim and other Muslims were over-looked and a junior Hindu was promoted instead; and
- (e) whether it is a fact that these senior Muslims appealed against their supersession by this junior Hindu clerk but that their appeals were rejected; and whether the Honourable Member is prepared to take steps to stop the supersession of Muslims in this manner?

**The Honourable Sir Andrew Olow:** Inquiries are being made and a reply will be laid on the table of the House in due course.

#### ADDITIONAL LINE STAFF ON STATE RAILWAYS.

**61. \*Mr. H. M. Abdullah:** (a) Will the Honourable Member for Communications please state how many additional posts in class II have been recently sanctioned in different categories of line staff on the various State Railways so as to provide a wider channel of promotion in these categories?

(b) What is the communal distribution of these posts on the various Railways, i.e., what is the number of Muslims and members of other communities who have received promotion as a result of the creation of these posts?

**The Honourable Sir Andrew Olow:** (a) On the North Western Railway, 503 grade I clerical posts were converted into grade II posts last year.

(b) I have no information but I would observe that promotions are not made on communal considerations.

#### SUPERSESSION OF A QUALIFIED MUSLIM ASSISTANT WAY INSPECTOR OF KARACHI DIVISION.

**62. \*Mr. H. M. Abdullah:** Will the Honourable Member for Communications please state:

- (a) whether it is a fact that a senior qualified Muslim Assistant Way Inspector of the Karachi Division, who stood first in the examination for the course of Permanent Way Inspector at the Walton Training School, has been superseded by un-qualified junior Hindus as a result of the revision of rules in January, 1940, on the North Western Railway;

- (b) whether it is a fact that this person submitted several appeals against his supersession and that one of his appeals to the Divisional Superintendent, Karachi, was withheld by his Hindu Assistant Engineer;
- (c) whether it is a fact that this person was originally placed on the approved list but was subsequently taken off this list for no apparent reason;
- (d) whether it is a fact that several Hindus junior to this person, unqualified from the Walton Training School and on the unapproved list were promoted as Permanent Way Inspector in supersession of this person's claim; and
- (e) whether the Honourable Member is prepared to make enquiries in this case and take necessary action to stop such favouritism of non-Muslim and supersession of Muslims for the future?

**The Honourable Sir Andrew Olow:** I have no particulars of this case but gather that it is one of the cases to which the Honourable Member alludes in his question No. 59. The information supplied in that case should suffice to make the general position clear.

### UNSTARRED QUESTIONS AND ANSWERS.

#### DIRECTLY RECRUITED GUARDS ON NORTH WESTERN RAILWAY.

**23. Mr. Lalchand Navalrai:** (a) Will the Honourable Member for Railways be pleased to state the number of persons directly recruited on the North Western Railway as Guards, Grade III or Class I, Grade II (Revised Scales), in 1939, 1940 and 1941?

(b) How many Grade II Guards were promoted to Grade III during those three years?

(c) Is it a fact that the ratio for direct recruitment in intermediate grades of railway service is fixed at 20 per cent.? Has this ratio been observed in the case of Guards, Grade III on the North Western Railway? If not, why not?

**The Honourable Sir Andrew Olow:** (a) and (b). The following table gives the required information:

Year.	Direct recruitment.	Promotion.
1939	1	Nil.
1940	7	25
1941	10	33

of the ten recruited in 1941 one failed to qualify and was discharged.

(c) Yes; since March, 1940. Since that date there were ten cases of direct recruitment and 42 of promotion.

#### RELIEVING STAFF OF CERTAIN CATEGORIES ON NORTH WESTERN RAILWAY.

**24. Mr. Lalchand Navalrai:** (a) Will the Honourable Member for Railways be pleased to state the sanctioned percentage of relieving staff for the following categories on the North Western Railway:

- (i) Station Masters, grades I, II and III;

- (ii) Assistant Station Masters, grades Ordinary, I and II;
- (iii) Ticket Collectors and Train Clerks;
- (iv) Booking, Goods and Parcel Clerks; and
- (v) Guards, grades II, III and IV?

(b) What were the actual percentage of the relieving staff on the North Western Railway, separately for each division and category referred to in part (a) above, on 1st September, 1940 and 1st September, 1941?

(c) If the percentage was less than the sanctioned percentage, what steps were taken to fill the vacancies? Is it a fact that there is a general shortage of relieving staff with the consequence that leave is either stopped or the grant substantially curtailed? If so, why?

**The Honourable Sir Andrew Clow:** (a), (b) and (c). Information is being obtained from the North Western Railway and a reply will be laid on the table of the House in due course.

#### NOMINATION OF THE PANEL OF CHAIRMEN.

**Mr. President** (The Honourable Sir Abdur Rahim): I have to inform the House that under sub-rule (1) of rule 3 of the Indian Legislative Rules, I nominate Syed Ghulam Bhik Nairang, Lieut.-Colonel Sir Henry Gidney, Sir Henry Richardson and Sir Cowasji Jehangir on the Panel of Chairmen for the current Session.

#### COMMITTEE ON PETITIONS.

**Mr. President** (The Honourable Sir Abdur Rahim): I have to announce that under sub-order (1) of Standing Order 80 of the Legislative Assembly Standing Orders the following Honourable Members will form the Committee on Petitions, namely:

- (1) Syed Ghulam Bhik Nairang,
- (2) Mr. Jamnadas M. Mehta,
- (3) Sir Abdul Halim Ghuznavi, and
- (4) Mr. N. M. Joshi.

According to the provision of the same Standing Order the Deputy President will be the Chairman of the Committee.

#### ELECTION OF A MEMBER TO THE COMMITTEE ON PUBLIC ACCOUNTS.

**Mr. President** (The Honourable Sir Abdur Rahim): I have to inform the Assembly that up to 12 Noon on Wednesday, the 18th February, 1942, the time fixed for receiving nominations for the election of a Member to the Committee on Public Accounts only one nomination was received. As there is only one vacancy I declare Kunwar Hajee Imaiel Ali Khan to be duly elected.

**RESOLUTION RE ADMINISTRATION OF THE INCOME-TAX  
DEPARTMENT—contd.**

**Mr. President** (The Honourable Sir Abdur Rahim): The House will now resume discussion of the following Resolution moved by Sir Abdul Halim Ghuznavi on the 12th February, 1942:

"That this Assembly is of the opinion that the administration of the Income-tax Department has caused and is causing great discontent among the Indian assesses all over India and recommends to the Governor General in Council that, in order to redress their grievances, action on the following lines be immediately taken, namely:

1. that Indian assesses and European assesses be in every way treated in exactly the same manner;
2. that the Appellate Assistant Commissioners and the Appellate Tribunal be placed under the control of the Law Department of the Government of India or of the Federal Court instead of the Finance Department;
3. that the Central Department in Calcutta and Bombay be forthwith abolished;
4. that the Income-tax Act and the Excess Profits Tax Act be in their application interpreted according to the recognized judicial rule of interpretation, i.e., a fiscal law should be interpreted in favour of the subject;
5. that explanations given by the assessee and statements of fact made by him be treated with due regard;
6. that the Income-tax Officers be not expected to realise tax according to pre-determined 'budget';
7. that no arbitrary action be taken about the registration of firms or about the separation or jointness of families;
8. that accounts audited by qualified auditors be treated with the utmost respect and assesses be not harassed by calling for Books of Account, etc., and such explanations only as may be necessary for the assessment of income may be asked."

**Mr. Husenbhai Laljee.**

**Mr. Husenbhai Abdullabhai Laljee** (Bombay Central Division: Muhammadan Rural): Last time I pointed out . . .

**Mr. President** (The Honourable Sir Abdur Rahim): The Honourable Member has four minutes left.

**Mr. Husenbhai Abdullabhai Laljee:** Last time I pointed out that the chief objection I had with regard to the matter was the discriminating treatment not between the Europeans and Indians only but between the big people and the ordinary class of people, between the people in the towns and cities and people in the district. I want the Department to treat everybody alike. I know very well that the big influential people can exert their voice and we have seen in the proceedings that have been circulated how even our Indian great men can very well tackle the Department, probably a little more than somebody else.

Then the other question to which I should refer is with regard to the Central Department in Calcutta and Bombay. With regard to that also, I have told the House, so far as I know, this was a matter which was fully discussed between the parties concerned and the Government Benches. The position then between the Government and the other

[Mr. Husenbhai Abdullabhai Laljee.]

parties was that a compromise was arrived at and certain definite understandings were come to and I do hope and believe that the Government do wish to carry out the undertakings given by the then Finance Member. When I have said this, I must also say this that I do not agree, unless I hear something extraordinary from the Honourable the Finance Member or from other gentlemen here, as to why it has become after so much time now essential that this Central Department both in Calcutta and Bombay be forthwith abolished. I know there is a great complication that has arisen by more than one supreme authority being in one place owing to this appointment but we can very well request the Finance Department to divide the work in a manner not to cause complication or overlapping or undue interference.

We have got first the Income-tax Officer and he has got Inspectors and he has got Examiners. Then, Sir, I should certainly like that the Inspecting Assistant Commissioner should certainly go through the files that the Income-tax Officers pass, but it is not fair at all that the Inspecting Commissioner should pass orders before the Income-tax Officer has decided the matter, usually he can advise them generally or when some special case is brought by them to him, they are also responsible officers. This would be then to say the least not interfering with the work, otherwise this will make the Income-tax Officer entirely dependent upon the orders of the Assistant Inspecting Commissioner.

Sir, in the interview that Mr. Sheehy had with the Indian Merchants Chambers and others at Calcutta I was sorry to find while reading it that there were insinuations made by both the sides as to the ability and capability of the Income-tax Officers. Whatever may be, even if the officers are not capable, surely the Inspecting Commissioner can change them; but there is no justification for him to give them guidance when the cases are actually being gone into. Then, there is an appellate jurisdiction provided, and if the assessee can go to this appellate jurisdiction, I submit the Inspecting Commissioner can also submit the cases for appellate jurisdiction if his own subordinate or the Income-tax Officer has done something wrong or when something has gone wrong.

**Mr. President** (The Honourable Sir Abdur Rahim): The Honourable Member's time is up.

**Mr. Husenbhai Abdullabhai Laljee:** The only other thing that I would point out is this. There are three authorities, the Commissioner of Income-tax, the Central Department and the Inspecting Inspectors and the ordinary officers. Therefore, I would submit that the Central Department ought to confine itself to the technical matters and to such other matters which, if the Commissioner were to make a reference to the Central Board as is usual, the Central Board could send them to him as its agent on the spot to look into. The Central Department ought not to interfere in the ordinary work, he must strictly confine to special matters and to a few big cases.

Then, Sir, I come to my last but not least point. I do not want that it should become a practice that only if there is an audited account, the Income-tax Department should not go into it. This principle is wrong for the simple reason that the poor and the ordinary class of people cannot have auditors, better really they are honest and there will be no equality

of treatment. Once it is established then it will be only the great people who will take advantage, who can get big auditors to go into their accounts and others will be forced the other way about, it will be very unfair to smaller people, most unfair and all sorts of enquiries will be made of them.

**Mr. President** (The Honourable Sir Abdur Rahim): The Honourable Member must conclude his speech now.

**Dr. B. D. Dalal** (Nominated Non-Official): Sir, I propose, with your permission, to refer to a few salient features of the eight-point Resolution moved by my Honourable friend, Sir Abdul Halim Ghuznavi. The obscurities of the Income-tax law have been the despair of the tax-payer, and the subject of constant judicial remonstrance. The obscurities of the Income-tax law open the door to a two-fold evil. On the one hand, they encourage evasion, while, on the other, they lead to administrative oppression, because only too often the tax-payer finds himself unable to bear the immense costs of legal proceedings. Sir, if that be discontent, I am in perfect agreement with the Honourable the Mover.

Now, Sir, I take this opportunity to bring to the notice of the Honourable the Finance Member a grievance that has been felt very much by the public, namely, vexatious delay that occurs in dealing with income-tax refund claims. I think the Income-tax Department should be responsible for seeing that the income-tax refund claims are disposed of promptly. A definite period should be laid down within which refund claims should be settled. In cases where refund is delayed beyond three months, the assessee should be allowed a certain percentage of interest. That, Sir, would act as a certain check upon dilatory proceedings.

Sir, I agree that Indian assesseees and European assesseees should be treated exactly in the same manner, but I enter a most emphatic protest when it is alleged that the Income-tax authorities connive at the tax avoidance resorted to by European assesseees. May I be allowed to make this point clear? If a tax-payer can by lawful means reduce his income, the courts will not inquire whether the transaction has any genuine business validity. It is common knowledge that an ever-growing number resort to evasive methods. Many of these methods have not yet been reached by legislation. The policy of the Income-tax Act has been to deal with the most important tax-dodging devices, but as fast as one hole is stopped, another appears. So, as the outline of a practical policy, I would suggest that a special body should be set up composed of highly paid whole-time legal and accountancy experts, whose sole function would be to seek out and investigate all cases of suspected tax avoidance and expose methods of evasion; and to submit recommendations from time to time to the Central Board of Revenue for legislation to thwart evasive operations.

Sir, the Indian Income-tax (Amendment) Act of 1939 separated the executive and judicial functions of Assistant Commissioners of Income-tax and provided for the appointment of Appellate Assistant Commissioners of Income-tax. In England, the Commissioner of Income-tax is under the Board of Inland Revenue. In India, the Commissioner of Income-tax is under the Central Board of Revenue. That is as it should be. So, Sir, it stands to reason that Appellate Assistant Commissioners must be under the Central Board of Revenue. The Appellate Assistant Commissioners have worked very satisfactorily. They are men of the highest probity with judicial training and a knowledge of law.

**Pandit Lakshmi Kanta Maitra** (Presidency Division: Non-Muhammadan Rural): Are you talking of the Indian officers?

**Dr. R. D. Dalal:** Yes. They are not only Bachelors of Commerce with G.D.A. qualification but they are also Bachelors of Law. Moreover, they have specialised in this work for years. The great majority of income-tax appeals are settled in the Department itself by Appellate Assistant Commissioners, and there are very few appeals from their decisions. There is no reason to suppose that Appellate Assistant Commissioners do not dispose of income-tax appeals impartially. The consensus of public opinion has been against ousting the jurisdiction of the High Courts for dealing with income-tax appeals on both points of fact and questions of law. Therefore, I am strongly of opinion that Appellate Tribunals should be abolished. An Appellate Tribunal is a poor substitute for the High Court, and a poor solace to an aggrieved assessee. In order to ensure absolute fairness and an impartial administration of justice to an assessee, the highest court of justice should be available to him, the judicial ability and independence of which constitute the greatest possible guarantee for the principles of justice and equity in the interpretation of law; and intricate questions of law should be referred to the Federal Court or to the Privy Council.

Sir, I oppose the Resolution.

**The Honourable Sir Jeremy Baisman** (Finance Member): Sir, it is a melancholy task at a time like the present and against the background of contemporary events to have to deal with something like a concerted attack on the income-tax administration on which falls so vital and burdensome a duty in this time of national crisis. I cannot help being filled with envious thoughts when I recall stories of income-tax offices in more fortunate places being besieged by impatient taxpayers clamouring to make their contribution to the sinews of war. Instead, I seem to be faced with something like a revolt of the down-trodden super-tax payer or a mutiny of the maltreated millionaires. However, I suppose I must take the environment as I find it. But there is one point which I must make clear beyond a shadow of doubt. The organized protest from Calcutta which has culminated in this motion in this House was made at a time when the income-tax authorities had come to the conclusion that they had discovered a very serious case of evasion on a large scale and they were taking steps not merely to assess a large sum which had escaped tax but also to launch certain criminal proceedings.

Now, Sir, in the first telegrams of protest which were sent to me from Calcutta, the individual case to which I have referred was mentioned by name. I am sure the House will agree with me that it is quite intolerable for a Government at any time, and, particularly, at the present time, to be deferred by demonstrations from administering the law and I must make it clear that however powerful and wealthy the offender in this class of cases may be, I am not prepared to yield to organized pressure or to allow my officers to be brow-beaten. I have, however, been assured that the simultaneous occurrence of these events was largely a matter of coincidence and that I should not allow, I have been asked not to allow that fact to prejudice my mind in dealing with the redress of grievances which can be established. I am fully prepared to accede to that request, but I will only



say that the occasion for the organised demonstration and protest was singularly ill-chosen on the part of the community in question, since it was bound to give the impression that an attempt was being made to deter the Government from pursuing the processes of law in a case in which they had reason to believe that an individual had rendered himself liable to prosecution.

With those remarks, I will now exclude that aspect entirely from my consideration of the matters before us. The grievances detailed in this Resolution were, under my instructions, actually discussed with the Member of the Central Board of Revenue and his Officers at a joint meeting of the Indian Chamber of Commerce in Calcutta last December. So far, this debate has proceeded on the assumption that nothing has been done as a result of that meeting to redress those grievances. That this is an unfounded assumption, I will show in dealing with the various items in the Resolution. But I will say now that circular instructions have been issued on most of the points dealt with in the Resolution and that the Joint Chambers have, in a letter dated the 26th January, written to the Member of the Central Board of Revenue saying "the Chambers highly appreciate your action in issuing these timely circulars". I think the Honourable the Mover of this Resolution might, at least, have referred to the fact that certain action of a remedial nature has already been taken in regard to the eight points of his motion.

Coming now to the items in the Resolution, I entirely agree that there should be no racial discrimination in the treatment of the assessee's. I say that without any qualification. This issue was raised directly by the allotment of cases to the Central Charge at Calcutta. Well, Sir, I am quite convinced that the question of racial discrimination never entered the heads of the income-tax authorities at the time they made the allotment of these cases. I may say that on me, personally, in addition to the unsatisfactory impression which I received from the coincidence of the agitation with the case I have mentioned, the fact that racial discrimination was urged made me think that the agitation was a bogus one because I was quite certain that neither I nor any of my Officers had at any stage given the slightest reason for any subordinate to think that they should proceed on any such basis. What is more, the Officer chosen to administer this charge was an Indian, most of the staff were Indians, and I cannot see how they should have conceived the idea that they would please me or the Central Board of Revenue or anybody by proceeding on the basis of racial discrimination. Now, Sir, I am prepared to admit that the first cases they took up were cases of Indian assessee's . . . .

**Sir Abdul Halim Ghuznavi** (Dacca cum Mymensingh: Muhammadan Rural): 400 cases.

**The Honourable Sir Jeremy Raisman:** . . . . and not one European. It is a perfectly simple matter and it has since been rectified. It is a perfectly easy matter to meet a charge of that kind and in my opinion it proves the point beyond doubt, for if the Officer in question, if the authorities had any idea of proceeding on the basis of racial discrimination, they would not have been so foolish as to choose 400 Indian cases; if that had entered their minds they could simply have included a certain number of European cases and that as a matter of fact has been done.

[Sir Jeremy Raisman.]

Now, I will explain our policy as regards the Central Charges when dealing with the third item of the Resolution. I must emphasise here that it is entirely wrong to suggest that the transfer of any case to the central charge means that fraud is suspected in that case. My Honourable friend, Sir Cowasji Jehangir, says, that his case is dealt with by the Central Charge in Bombay. I am sure that he needs no assurance from me that we do not suspect fraud in his case. The second item in the Resolution deals with the appellate machinery. My Honourable friend, Pandit Lakshmi Kanta Maitra, went so far as to say that the appellate authorities were ineffective, that they were not designed to give the relief expected and that they were set up merely as a sort of make-believe. I can dispose of these allegations very shortly and effectively by quoting actual figures. In 1939-40, 25,615 appeals were filed of which 12,001 were successful, that is nearly 50 per cent. In 1940-41, 27,812 appeals were filed of which 13,157 were successful, again nearly 50 per cent. In addition, in 1939-40 the Commissioners under their own powers gave relief in nearly twelve hundred cases, and in 1940-41 in over fourteen hundred cases. I submit, Sir, that those facts alone dispose entirely of any suggestion that this appellate machinery is a mere facade, that it is not intended to carry out its functions and that it does not do so. I submit that the proportion of successful cases is as high as, if not higher than, the proportion in any kind of judicial process.

While I am dealing with this question of the relief given by the appellate authorities, I would like to refer to the results of income-tax cases referred to the various High Courts. If, as is alleged, the income-tax authorities from the Income-tax Officer upwards were high-handed and habitually twisted the law against the assessee, we should expect to find some evidence of this in the results of the cases decided by the High Courts. Here are the figures: In 1939-40 there were 153 references of which 42 were successful, and in 1940-41 there were 42 references of which only 7 were successful. I submit, there again, these figures speak for themselves. These are points of law, points of genuine doubt, which come before the highest tribunals, and the decisions of the High Courts, in my opinion, amply bear out our claim that our officers do work in a reasonable manner.

**Pandit Lakshmi Kanta Maitra:** The High Courts cannot discuss questions of fact; they can discuss only questions of law.

**The Honourable Sir Jeremy Raisman:** Yes, Sir, but one of the points of this motion is that the law should be interpreted in favour of the assessee. It is suggested that our interpretation of points of law is habitually wrong and unfavourable to the assessee; there is a suggestion of that kind, and my only point is to show that in the final result when these things come before the highest tribunal, we are wrong in no larger proportion of cases than one would expect any honest, genuine and sincere-minded administration to be wrong on questions on which, after all, human minds will come to different conclusions.

I am not prepared to concede the demand that Appellate Assistant Commissioners should be put under some other department of the Government of India. There are obvious complications about such a proposal

which I do not propose to go into now. But it is not really a practical proposition and, moreover, the figures which I have given above do not bear out the accusation that these officers are not giving appellants a fair deal. But in order to remove from the minds of the Appellate Assistant Commissioners any impression they might have that their prospects in the department depend on the extent to which they uphold assessments, the Central Board of Revenue have issued general instructions to them as follows:

- “(a) that they are not to seek the advice of the Board of Revenue on any point arising in cases before them;
- (b) that they should make their decisions to the best of their judgment;
- (c) that their promotion and prospects will not depend on whether their decisions go against the revenue or not.”

I do not think that this allegation could be disposed of any more categorically than it is by the issue of these instructions to the officers concerned:

As regards the point made by my Honourable friend, Sir Abdul Halim Ghuznavi, regarding the lower emoluments of certain Appellate Assistant Commissioners as compared with Inspecting Assistant Commissioners, I am having this examined with a view to putting it right, but that matter only affects a few officers.

As regards the Appellate Tribunal, this is a matter which I shall be happy to discuss with my Honourable Colleague. I think that the difficulties which may arise in transferring this Tribunal to his charge are not likely to be greater on my side than on his. That is all I will say on this point.

**Dr. R. D. Dalal:** Sir, may I ask a question? Have these Appellate Tribunals proved satisfactory during these last two years?

**The Honourable Sir Jeremy Raisman:** I do not know what the Honourable Member means by ‘satisfactory’; I have not got statistics before me.

**Dr. R. D. Dalal:** The public have no faith in the Appellate Tribunals, so far as I know.

**The Honourable Sir Jeremy Raisman:** That is a vague statement. I am prepared to discuss this whole matter of the Appellate Tribunal with my Honourable Colleague, the Law Member. I have heard these allegations made, and I believe myself that they constitute unjustified reflections on a body of capable and efficient officers, but I am prepared to discuss with the Honourable the Law Member whether anything can be done to improve matters and to convey a greater sense of confidence to the tax-paying public.

We now come to the third item, the abolition of the Central Charges which is, according to my Honourable friend, Mr. Bajoria, the main bone of contention. The attack in regard to this item has been based on the speech made by my predecessor, Sir James Grigg, on the 30th November, 1938, in the debate on the Income-tax Amendment Bill. I have no doubt at all, and I hope to satisfy the House on that point, that in that speech Sir James Grigg, clear-minded as he was, did actually confuse the work which was to be done in the office of the Central Board of Revenue with

[Sir Jeremy Raisman.]

the work which was to be done by the Central Commissioners. It was always intended, and it is in fact being done, that insurance cases and penalty cases should be dealt with in the Central Board of Revenue. These are cases where the only question is uniformity of treatment throughout India. The Board can and does deal with these without having to trouble the assessee to appear before them. But special investigation cases, whether they be fraud cases or not, are on an entirely different footing. They have to be investigated on the spot where the assessee is and where he keeps his accounts.

If Honourable Members will reflect for a moment they will realise how absurd it would be to establish three Commissioners of Income-tax at the headquarters of the Government of India investigating cases from all over the country. The scheme for these Central Charges of which we now have two, one at Bombay and one at Calcutta, was approved by Sir James Grigg in September, 1938, long before he made the speech referred to, at the end of November. Orders creating a special investigation branch at Bombay were issued in October, 1938, and the late Mr. Bird was put in charge of it. When the Income-tax Amendment Act came into force on the 1st April, 1939, Mr. Bird, again with the knowledge and approval of Sir James Grigg, was made one of the Central Commissioners whom the Central Government was given power to appoint under section 5(2) of the Income-tax Act as amended. Now, I am quite sure that Sir James Grigg did not think that he was, in agreeing with these proposals, resiling from anything he had said in the debate on the 30th November, 1938; and I am equally sure that until the point was raised recently in Calcutta nobody else thought that Government had violated their assurances as regards these Central Commissioners. In the *Hindustan Times* of the 12th January, 1939, there appeared some paragraphs dealing with the special investigation branch at Bombay in which the provisions of section 5(2) authorising the Central Government to appoint Central Commissioners were referred to. It was also stated that the head of the branch was to be Mr. Bird, and that he was to be given the status of Income-tax Commissioner. The only protest evoked by this announcement in the papers was not the protest now made that the establishment of a special investigation branch at Bombay was contrary to the assurances given by Sir James Grigg, but the protest against the appointment of Mr. Bird, a European Civilian, to take charge of it.

The Indian Merchants' Chamber of Bombay, for example, in a telegram to the Government of India, said:

"If such officer is to be appointed a Special Commissioner in Bombay or elsewhere in respect of the assurance given, because he belongs to the I.C.S. the object of the creation of these responsible posts will be frustrated. The Committee begs, therefore, to protest against the proposed appointment and to hope that such special Commissioners will be appointed from the cadre of trained and experienced Assistant Commissioners."

The paragraphs in the *Hindustan Times* to which I have referred also contained the following statement as to the work of the new Branch:

"This Branch is expected to deal with cases of an unusually difficult nature or large cases in which under-assessment from one cause or other is suspected."

No one protested either then or for the next three years that this was a violation of the assurance given by Sir James Grigg in the debate on the 30th November, 1938. It is quite clear I submit, Sir, that Sir

James Grigg himself within a short time, within almost a few days of making those speeches in this House, proceeded to make an appointment of this kind and whatever criticism may have been levelled against Sir James Grigg, I do not think it has ever been suggested that he was not in the fullest sense of those words an absolutely honest man. If Sir James Grigg said something it is absolutely certain that he meant to do it and that he did not forget what he meant to do. Sir Abdul Halim Ghuznavi concluded to his own satisfaction that only cases of fraud and suspected fraud are transferred to the Central Charges. That is not correct. The policy in regard to these charges is to transfer to them . . . .

**Sir Abdul Halim Ghuznavi:** I did not say that.

**The Honourable Sir Jeremy Raisman:** . . . . difficult, important and complicated cases including cases of fraud or suspected fraud. The object of the transfer is to have these cases dealt with more thoroughly than they could be dealt with in the ordinary charges where the Income-tax Officers have to make a large number of assessments in the year and cannot devote the necessary time required for the detailed examination of important cases. The intention is that when cases have been thoroughly investigated in the Central Charge and the assessments put on a proper basis, they will be transferred back to the ordinary charges and other important cases transferred to the Central Charge in their place. Thus, it is hoped to have all important cases thoroughly scrutinized.

Before leaving the question of the Central Charges I should like to remove any impression which Honourable Members may have got from the speech of Sir Cowasji Jehangir that the Central Charge in Bombay has not been a success. The facts are otherwise. It has greatly improved our revenue results and what is more important it has effected a higher standard of accuracy in the income-tax returns submitted to the Department. If nothing else had happened, the mere setting up of that Central Charge, without anything further being done, resulted in a very different type of returns.

**Sir Abdul Halim Ghuznavi:** That is a matter of pure coincidence.

**The Honourable Sir Jeremy Raisman:** That again is, as my Honourable friend says, a matter of pure coincidence.

Now, as regards item 4, I entirely agree that these Acts should be interpreted according to the recognized judicial rule of interpretation, and I think that the figures I gave as to how our decisions fared when they came before the High Courts, show that our attitude in regard to this is no other than it should be. I am not prepared to agree that the rule is that a taxing statute is always to be interpreted absolutely in favour of the subject. I should have thought—I am not a lawyer—but I should have thought that the rule was that the taxing statute is to be interpreted strictly according to what it says, and not in favour of one side or the other. It is only, as far as I am aware, where a question of genuine doubt arises, as to whether a statute has given power to the Revenue to levy certain assessment, that the Court will hold that the tax-payer will go free—if there is doubt as to whether the law has effectively brought him within the liability.

[Sir Jeremy Raisman.]

Now, Sir, as to item 5. I entirely agree that due regard should be given to the explanations and statements of assesseses.

I come now to item 6 in regard to which my Honourable friend, Pandit Maitra, said that the attempt to realize a pre-determined budget was the fountain-head of all the abuse and maladministration of the Department. Now, it seems to me to be obvious from the course of the discussion of this item that Honourable Members do not realize how any budget has to be framed. In framing the estimates we have to build them up by reference to all the local officers who are in a position to give some idea of the part for which they will be responsible. Every Income-tax Officer in the country is consulted at some stage regarding the estimated amount of tax which may be expected from his charge. But this is a very different thing from saying that Income-tax Officers are expected to collect these amounts illegally if they cannot collect them legally. The Commissioner's circular to which Honourable Members referred does not bear this interpretation. I may say, incidentally, that it was issued at a stage in the year when a good deal of the assessments had already been made. Now, it is common knowledge that a considerable number of Income-tax cases overflow the assessment year, that they are in effect in arrears. It is a perfectly simple and legitimate matter to say to an Income-tax Officer that he should take up at a certain stage in the year cases which will enable our revenue estimates to be more closely realized, and that is an ordinary executive process to which no objection can be taken and that was the object of the Commissioner's circular. But since that circular was issued, as a result of the meeting in Calcutta the Central Board of Revenue have issued circular instructions on this point from which I will quote:

*"Budget estimates :* It has been alleged that when a budget estimate for his charge is communicated to the Income-tax Officer he feels that he is bound to collect that amount somehow or other within the year and it is even suggested that he feels constrained to collect it illegally if he cannot collect it legally. While the Board do not believe that there is any foundation for the latter allegation, there appears to be some foundation for the complaint that the budget figure exercises too great an influence on the Income-tax Officer's disposal. This reacts on the progress of work in two opposite ways :

- (a) it makes the Income-tax Officer rush his work towards the end of the year ; or
- (b) it makes him slacken off if he has already reached his budget figure.

Except that he should give precedence to cases which are likely to yield more revenue, the Income-tax Officer should not be obsessed by the budget figure. He has a certain number of assessments to complete in a year and his merits will be judged by the way in which he completes those cases and not by the extent to which he has collected his budget estimate. He should, therefore, concentrate on completing his cases carefully and in good time. If he does this, the budget can take care of itself."

**Sir Henry Richardson** (Nominated Non-Official): What was the date of that?

**The Honourable Sir Jeremy Raisman:** This was issued in the middle of January; more than a month ago. It was issued before the Honourable Member made his speech.

I may say, incidentally, that I should be far from content if the Income-tax Officers were to realize the budget estimates of the last year or two, because it is obvious that as incomes have been growing the

estimates which were based on the state of affairs existing roughly 18 months before the assessment were made are inadequate and, therefore, if there is any expectation, I expect at any rate that the gross results of all the assessments will be somewhat above the budget estimates. In any case, in regard to this matter, the position has been made quite clear to Income-tax Officers and I hope that this will satisfy Honourable Members.

Now, I come to item 7. Here also instructions have now been issued which I will quote:

"Complaints have been made that without any good reason income-tax officers have been worrying assesseees by reopening decided questions regarding registration of firms and separation of Hindu undivided families. In so far as such inquiries are mere fishing inquiries, they are indefensible. No decision on these matters should be reopened unless some new facts have come to the income-tax officer's notice indicating that the decision was wrong or unless it appears to him that the decision was based on a wrong interpretation of the law."

I think that that disposes satisfactorily of the allegation of arbitrary action about the registration of firms or about joint Hindu families.

I now come to the last item in the Resolution which deals with audited accounts, and I am grateful for the remarks just made by my Honourable friend, Mr. Husenbhai Laljee, in regard to that matter. As a general statement of what should be the normal practice, the recommendation is unexceptionable. I agree that audited accounts should be treated with great respect, that assesseees with audited accounts should not be harassed unnecessarily by having to produce their account books, etc., and that the Income-tax Officer should ask only for such explanations as may be necessary for assessing the income. This question was discussed with the Member of the Central Board of Revenue at the joint meeting in Calcutta and as a result the following instructions were issued:

"Subject to the qualification that the income-tax officer is free to call for books of accounts, vouchers etc. in any company case where he feels that such a course is advisable, books of account vouchers etc. should not be called for either in the case of public companies or in the case of private companies where the accounts have been audited by an auditor qualified to audit a public company's accounts and he has given a certificate similar to that given in the case of a public company."

That, I think, meets this particular grievance. But Sir Abdul Halim Ghuznavi seems to think that we should tie our hands by agreeing in all cases whatsoever to accept without question any certificate that may be given . . . .

**Sir Abdul Halim Ghuznavi:** I only repeated what Mr. Sheehy said in the Chamber; he agreed to what we suggested and said "you note it down". That is all I said.

**The Honourable Sir Jeremy Raisman:** If we were to agree to that, we should be delivering ourselves into the hands of an auditor and a client who had no scruples about evading . . . .

**Mr. Husenbhai Abdullahai Laljee:** What is the number of assesseees and how many people go so far as to appoint auditors? That is the point.

**The Honourable Sir Jeremy Raisman:** The point I am on is answering the complaint, the grievance that even where accounts have been audited by qualified auditors certain inquiries are made. Now, I entirely agree that normally books and so on need not be called for in such cases; but what I cannot agree is that we should say here and now that the moment a qualified auditor has audited the accounts and given his certificate, any question of calling for books is entirely ruled out; because, after all, you have to deal with the possibility, human nature being what it is, that an absolute guarantee of that kind would give an opportunity to certain types of evasion . . . .

**Mr. President** (The Honourable Sir Abdur Rahim): The Honourable Member has already spoken for more than half an hour.

**The Honourable Sir Jeremy Raisman:** I am just finishing, Sir. The House will, therefore, realise that while I accept this recommendation as a statement of what the normal working should be, I must reserve for the income-tax authorities the right to call for accounts and to make more detailed investigations than usual in cases where evasion is suspected.

My time is up and I have said enough, I think, to show that we are prepared to remedy and are actually remedying any legitimate grievances. But, I am afraid that this will not satisfy some people. Nothing short of the abolition of income-tax altogether will satisfy them. By its very nature, income-tax is an inquisitorial form of tax and the Income-tax Officers have to ask a great many questions, sometimes awkward questions. If the object of the supporters of this Resolution is to prevent us from asking such questions, then I regret I cannot agree. The 1939-40 figures show, for example, that if we had accepted the returns of assesses, we would have lost over 25 per cent. of our revenue. Moreover, our experience shows that amongst classes of people, many of them reputable businessmen, who object to inquiries into their affairs, evasion of tax is not unknown. We cannot, therefore, agree to a general waiving of the powers which the Act confers on us, though we are anxious to see that these powers are used so as to give assesses as little trouble and inconvenience as possible.

**Sir Abdul Halim Ghaznavi:** Sir, I am very grateful to my Honourable friend for having taken this Resolution very seriously and for having stated before us today that he will take steps in connection with whatever matters I have drawn his attention to.

I shall be very brief, but I cannot allow his statement to pass without making a reply to whatever he has said. Taking points, Nos. 1 and 8 together, as I did last time, what was our grievance? Our grievance was that the total wealth statements are necessary only from Indians. That is what I said. You call upon Indians only for the total wealth statement. But you do not call for the total wealth statement from Europeans. That charge has not been met.

The next point was about partnership. It was brought out that partnership cases, being complicated cases, were transferred to the Central Commissioner. I have pointed out that not only partnership firms but limited liability companies of Indians—the big liability companies of



Indians, which, according to the Central Board's opinion, were above suspicion, were also transferred to the Central Commissioner . . . .

**Mr. Huseebhai Abdullabhai Laljee:** How can they make that statement "above suspicion" for anybody?

**Sir Abdul Halim Ghuznavi:** Sir, we are not concerned with the constitution of the firm. The Income-tax Commissioner need not  
 12 Noon. be concerned with the constitution of the firms, whether they are partnership or limited liability firms or otherwise; they ought to be concerned with the accounts of the firm, their reliability and accuracy, and for these matters they ought to have an audit certificate. That is the point we have raised. You do not accept the audit certificates of Indian firms, whereas you accept the audit certificates of European firms. That is our grievance. Why do you differentiate? Now, Sir, the Honourable the Finance Member said that it was never in their mind, when transferring these cases to the Central Commissioner, who happens to be an Indian I. C. S. Officer, that any discrimination was being made. Goodness gracious! During the last two years, 400 cases were transferred to the Central Department, and during all this time not even one European case was transferred; and still we are asked to believe that there was nothing in the mind of the Indian I. C. S. Central Commissioner that there was any kind of discrimination. It was only, I think, a coincidence. Till the 9th of December, 1941, not a single European case was transferred to the Department of the Central Commissioner. It was only when, on the 9th December, 1941, as I said, the five Indian Chambers of Commerce brought this matter before Messrs. Sheehy, Ayres, Mullen and Dandekar, it struck them that a mistake had been made and a remedy should be found for it. One or two or at the most half a dozen cases have since been transferred to show that there is no discrimination. But what are these 400 cases? What did Sir James Grigg tell us on the floor of this House? I want to accept that statement as it was made here and that statement will be found in the official reports of the Legislative Assembly. He said that these Central Commissioners would be appointed to do three classes of cases, and while all these cases would not come under the category of the first two, these can be only cases of fraud, as coming under the third category.

My friend, the Honourable the Finance Member, said that all this agitation started from one particular case which is pending and which is a big assessment case . . . .

**Lieut.-Colonel Sir Henry Gidney (Nominated Non-Official):** What is that case?

**Sir Abdul Halim Ghuznavi:** I will not mention what that case is; it is an Income-tax case.

**Lieut.-Colonel Sir Henry Gidney:** We all know it.

**Sir Abdul Halim Ghuznavi:** I know you all know it. We have been pointing out these grievances for the last two years and that particular case is only one of recent occurrence. The facts of that case my friends

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will hear in great detail when I shall deal with this particular Department in the Finance Bill; my Honourable friend, the Finance Member, will then hear more about the Central Board's Commissioners. That is the proper time to discuss those matters, and not on this Resolution. It will take me half a day to bring to his notice all our grievances about this matter. The whole trouble started with the appointment of the Director of Inspection which was wholly illegal. It was due to his whip-hand over the whole Department that all this trouble started. Look at what this Mr. Sitla Prasad has done, and I give not my version of him, but the version of one of the friends of the Honourable Member . . . .

**Dr. Sir Ziauddin Ahmad** (United Provinces Southern Divisions: Muhammadan Rural): We had a great complaint against him in the United Provinces, and in spite of that he was appointed.

**Sir Abdul Halim Ghuznavi**: I shall deal with him in the Finance Bill, and not now.

**Sardar Sant Singh** (West Punjab: Sikh): What is the name of his bungalow in Cawnpore?

**An Honourable Member**: Are you referring to the 'Goose Bungalow'?

**Sardar Sant Singh**: The name of his bungalow is 'Bribery House'!

**Sir Abdul Halim Ghuznavi**: Now, let us see what this gentleman has done. That is the origin of all this trouble, and not the particular case, as my Honourable friend said. He was appointed a Director of Inspection, and he was apparently given full powers to control the Commissioners, the Assistant Commissioners and Income-tax Officers and interfere with individual cases. He started with a fishing inquiry all over India, Bombay, Calcutta and other places, and later on you will hear me about his activities when we are on the Finance Bill. Now, let us see what Mr. Mullen, the Commissioner of Bengal, himself has to say about this gentleman before the Chambers. These are his words, and not mine:

"The fact is that Mr. Shitla Prasad is, if I may call so, the 'Board's eyes'. He is in close touch with the Central Board and he may complain against any officer if he thinks that the officer is not doing his work properly."

In other words, Mr. Mullen says he is a terror to the officers. And a Member said: "Exactly, this is the point". Now, what does Mr. Shitla Prasad do? He makes remarks on the files . . . .

**Sir F. E. James** (Madras: European): You are making a Finance Bill speech now.

**Sir Abdul Halim Ghuznavi**: No, certainly not. These files go to the Appellate Assistant Commissioners with the notes on. These notes are not shown to the assessee. The Appellate Assistant Commissioner and the Income-tax Officers are guided by these notes. The Appellate Assistant Commissioner knows that Shitla Prasad is not only in power, but some people say that even the Central Board of Revenue is a tool in his hands. You assess a particular man so much, then what is the use of his

going up with an appeal? The notes of Shitla Prasad are there, and if the Appellate Assistant Commissioner does not act according to the notes, then his job is lost. That is exactly what Mr. Mullen said:

"The Appellate Assistant Commissioner knows that Shitla Prasad is not only in power, but some people say that even the Central Board of Revenue is a tool in his hands."

Then, Sir, I will come to what Mr. Mullen said, "You have put your point very clearly indeed. I shall put it to the Central Board of Revenue".

Now, Sir, my Honourable friend dealt with the estimated budget and said that as soon as it was brought to notice, . . . .

**Dr. Sir Ziauddin Ahmad:** May I know whether the Government have prosecuted him?

**Sir Abdul Halim Ghaznavi:** Not yet.

**Mr. Muhammad Nauman** (Patna and Chota Nagpur *cum* Orissa: Muhammadan): Are Government contemplating to prosecute this gentleman?

**Sir Abdul Halim Ghaznavi:** My friend has already read out the circular which I wanted to read, but let me tell him that Mr. Sheehy had not the information on that day, i.e., on the 9th of December, that the circular, I mentioned, did exist. If he knew that that circular was in existence on that day, or if he knew that we had a copy of that circular, I am sure he or the Central Board of Revenue would never have issued the circular which he has placed before this House. What is the point that we raised before Mr. Sheehy in our memorandum? Mr. Sheehy says:

"I begin with paragraph 3 of the memorandum, in which a reference is made to the Budget. The memorandum gives an impression that the amount of tax which is to be collected is fixed beforehand according to a Budget, and that we collect irrespective of whether the assessment is just or not. I may tell you that the Central Board of Revenue have not issued any such instruction and I am prepared to meet your wishes and issue a circular clarifying the matter. In fact, we never talk about the revenue amount that has to be collected and so far as I am aware no such practice is being followed."

I am sure that Mr. Sheehy had not the knowledge that we possessed a copy of the circular which I shall once more read now; otherwise that circular would not have been issued. That is not the explanation of the circular that I have referred to. This is the Commissioner of Bengal's confidential circular:

"The net revised estimates for 1941-42 . . . ."

**The Honourable Sir Jeremy Baisman:** Revised estimates.

**Sir Abdul Halim Ghaznavi:** Yes, revised estimates. Revised—it brings out the point more clearly—that you want more money. Revision compels him to collect more.

"The net revised estimates for 1941-42 for the Province as a whole as furnished by the I. A. Cs. amounted to Rs. 12,58,00,000."

He has not specified the amount. He wants more, and what does he say?

"As in my opinion, this figure was too low I have raised it. . ."

By a stroke of the pen and not going into any details of the assessments and so on, he says, "I want one crore more. Find that one crore more and give me Rs. 13,87,80,000". That is the circular. Then he gives the percentage under the different heads, Surcharge, Excess Profits Tax, and

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ordinary collections, in order to enable the collection of one crore more. Still, this House is told, "We never interfere with the Income-tax officers in assessing an assessee". They are not told as to the budget amount, but here a circular exists. He never says, "Collect this money". He says, "I want an excess figure beyond what the original estimate says".

**Mr. President** (The Honourable Sir Abdur Rahim): The Honourable Member's time is up.

**Sir Abdul Halim Ghuznavi**: I will only take one minute more. We were told that Sir James Grigg had long before arranged for these Central Commissioners. I believe I am not wrong when I say that when the Central Commissioner was appointed in Bombay, one of the assesseees refused to produce the books before him as he contended that the Central Commissioner's appointment was illegal. "You have no right. The Act does not provide for your appointment. You have no right to call upon me to produce my books and my accounts." What was the result? By a notification, by an Ordinance, that was rectified by the Governor General. I shall read that. That rectified the error that the appointment was illegal.

**Mr. P. J. Griffiths** (Assam: European): Don't you like errors to be rectified?

**Sir Abdul Halim Ghuznavi**: There was no legal appointment. He was not legally appointed.

**The Honourable Sir Jeremy Raisman**: I thought you were going to read the notification?

**Sir Abdul Halim Ghuznavi**: I shall read the notification.

**Mr. President** (The Honourable Sir Abdur Rahim): The Honourable Member need not read the whole of it if it is a lengthy document.

**Sir Abdul Halim Ghuznavi**: I should like to know if the Honourable Member denies that there was any such promulgation by the Governor General—either a notification or an Ordinance.

**The Honourable Sir Jeremy Raisman**: I have not denied anything. I simply do not know to what the Honourable Member is referring.

**Sir Abdul Halim Ghuznavi**: I think I have made it clear that the appointment of the Central Commissioners, in the manner you have done it, was illegal. They were meant to be in the Central Board of Revenue, according to Sir James Grigg, and not in the provinces.

**Mr. President** (The Honourable Sir Abdur Rahim): The Honourable Member's time is up.

(Sir Abdul Halim Ghuznavi resumed his seat.)

The question is:

"That this Assembly is of the opinion that the administration of the Income-tax Department has caused and is causing great discontent among the Indian assesseees all over India and recommends to the Governor General in Council that, in order

to redress their grievances, action on the following lines be immediately taken, namely :

1. that Indian assesseees and European assesseees be in every way treated in exactly the same manner;
2. that the Appellate Assistant Commissioners and the Appellate Tribunal be placed under the control of the Law Department of the Government of India or of the Federal Court instead of the Finance Department;
3. that the Central Department in Calcutta and Bombay be forthwith abolished;
4. that the Income-tax Act and the Excess Profits Tax Act be in their application interpreted according to the recognized judicial rule of interpretation, i.e., a fiscal law should be interpreted in favour of the subject;
5. that explanations given by the assessee and statements of fact made by him be treated with due regard;
6. that the Income-tax Officers be not expected to realise tax according to predetermined 'budget';
7. that no arbitrary notion be taken about the registration of firms or about the separation or jointness of families;
8. that accounts audited by qualified auditors be treated with the utmost respect and assesseees be not harassed by calling for Books of Account, etc., and such explanations only as may be necessary for the assessment of income may be asked."

The Assembly divided:

#### AYES 19.

Abdoola Haroon, Seth Haji Sir.  
 Abdullah, Mr. H. M.  
 Azhar Ali, Mr. Muhammad.  
 Banerjee, Dr. P. N.  
 Dam, Mr. Ananga Mohan.  
 Datta, Mr. Akhil Chandra.  
 Deshmukh, Mr. Govind V.  
 Essak Sait, Mr. H. A. Sathar H.  
 Ghiasuddin, Mr. M.  
 Ghuznavi, Sir Abdul Halim.

Lalchand Navalrai, Mr.  
 Maitra, Pandit Lakshmi Kanta.  
 Mehta, Mr. Jamnadas M.  
 Muhammad Ahmad Kasmi, Qazi.  
 Nauman, Mr. Muhammad.  
 Neogy, Mr. K. C.  
 Parma Nand, Bhai.  
 Sant Singh, Sardar.  
 Ziauddin Ahmad, Dr. Sir.

#### NOES 41.

Ahmad Nawaz Khan, Major Nawab Sir.  
 Aiyar, Mr. T. S. Sankara.  
 Aney, The Honourable Mr. M. S.  
 Bewoor, Sir Gurunath.  
 Bhandarkar, Mr. K. Y.  
 Caroe, Mr. O. K.  
 Clow, The Honourable Sir Andrew.  
 Dalal, Dr. R. D.  
 Dehejia, Mr. V. T.  
 Dumasia, Mr. N. M.  
 Gidney, Lieut.-Colonel Sir Henry.  
 Gopalaswami, Mr. R. A.  
 Griffiths, Mr. P. J.  
 Gwilt, Mr. E. L. C.  
 Ikramullah, Mr. Muhammad.  
 Imam, Mr. Saiyid Haider.  
 Ismaiel Ali Khan, Kunwar Hajee.  
 James, Sir F. E.  
 Joshi, Mr. N. M.  
 Kamaluddin Ahmed, Shams-ul-Ulema.  
 Khurshid, Mr. M.  
 Kushalpal Singh, Raja Bahadur.  
 Laljee, Mr. Huseenbhai Abdullahhai.

Lawson, Mr. C. P.  
 Manavedan, Raja T.  
 Maxwell, The Honourable Sir Reginald.  
 Miller, Mr. C. C.  
 Mody, The Honourable Sir H. P.  
 Munzzam Sahib Bahadur, Mr. Muhammad.  
 Mudaliar, The Honourable Diwan Bahadur Sir A. Ramaswami.  
 Pillay, Mr. T. S. S.  
 Prior, Mr. H. C.  
 Raismann, The Honourable Sir Jeremy.  
 Richardson, Sir Henry.  
 Sarker, The Honourable Mr. N. B.  
 Scott, Mr. J. Ramsay.  
 Shahban, Khan Bahadur Mian Ghulam Kadir Muhammad.  
 Spence, Sir George.  
 Stokes, Mr. H. G.  
 Sultan Ahmed, The Honourable Sir.  
 Thakur Singh, Captain.

The motion was negatived.

**RESOLUTION RE APPOINTMENT OF A COMMITTEE TO ENQUIRE INTO THE INCIDENTS DURING THE MARTYRDOM DAY CELEBRATIONS AT DELHI.**

**Mr. President** (The Honourable Sir Abdur Rahim): Next Resolution. Dr. P. N. Banerjee.

**Sardar Sant Singh** (West Punjab: Sikh): May I submit that I have got written authority from Dr. Banerjee to move this Resolution. He is not present here.

(At this stage, Sardar Sant Singh handed over the written authority.)

**Mr. President** (The Honourable Sir Abdur Rahim): Sardar Sant Singh.

**Sardar Sant Singh**: Sir, I move:

"That this Assembly recommends to the Governor General in Council to appoint a Committee consisting of Members of this House with a majority of Non-Official Members in it to make a public enquiry into the incidents connected with the unprovoked assault by the police on the religious congregation of the Sikhs at Delhi, on the occasion of the . . ."

(Here I would correct "birthday" into "martyrdom day", because it was not birthday.)

"... martyrdom day celebrations of Guru Teg Bahadur in November, 1941, in the course of which a cowardly attack was made on ladies and children present in the congregation and tear gas was used, with instructions to report on the responsibility of the officers guilty of those acts."

In moving this Resolution I want to plead at the bar of this House about the very unpleasant incidents that have taken place in Delhi. After giving the details of the incident and acquainting Honourable Members of what happened there, I would like Honourable Members to note that I do not regard this Resolution to be an ordinary Resolution depending upon the ballot or vote of this House. What I will submit is that a very serious view of the situation should be taken by the Honourable Members.

The facts of this incident are that on 23rd November, 1941, fell the martyrdom day of our Ninth Guru, Guru Teg Bahadur. Most of the Honourable Members are aware that in Chandni Chowk we have got a Gurdwara where Guru Teg Bahadur was martyred at the instance of the then Mughal Government. Annually, this day is celebrated in the Gurdwara and the grounds opposite the Gurdwara are known as the Gandhi grounds. For several years there has been a competition, a tug-of-war going on between the Police authorities and the Sikh community in charge of the management of the Gurdwara as regards the licence being taken for permission to take out a procession on that day. On account of this war and the difficult situation with which the authorities are faced in this country, the Shiromani Gurdwara Prabandhak Committee of Amritsar has issued instructions to all the local bodies in all places in the Punjab asking them not to do anything which brings them in clash with the established administration of any province. I hope Honourable Members will appreciate this point of view of the Sikh community, and with this background I will proceed to describe the events.

The local Gurdwara Prabandhak Committee, whose President is a most respected and also a very respectable gentleman, Sardar Bahadur Sardar

Ranjit Singh, applied for the licence on the 17th November, 1941, that is to say, about a week earlier when the celebration day was to come up. The licence was to be issued in the name of Sardar Bahadur Ranjit Singh, the President of the Gurdwara Committee. The authorities issued the licence with conditions mentioned therein. I really fail to understand and I have failed to understand in the past too why such conditions should be entered in a licence which is intended for taking out a religious procession and where no politics are to be discussed. The conditions were unacceptable to the Sikhs and when the licence came to be considered in the executive committee of the Gurdwara it was decided that those conditions should not be accepted. As it was an unnecessary provocation given to the Sikh community in spite of their intention to respect the law of the land, the Gurdwara Committee naturally felt provoked and passed a resolution that they would defy the conditions in the licence. That was on the 20th November, 1941. The conditions were to the effect that the procession was to be taken out in a particular route and was to be finished at a particular time. It was not to pass before the mosques and so on and so forth. But I am not concerned with the conditions. I will presently show that this was merely a pretence of show which the Bureaucracy in this country employs by setting one community against the other. There was absolutely no objection taken by the Muslim community and I fail to understand why the name of the Muslim community should have been mentioned in the licence. I will presently read the communiqué that was issued by the Government to this effect. However, the point is this. As the resolution of the Gurdwara Committee will find a prominent place in the reply of the Honourable the Home Member on this Resolution, I want to state it before the House that on the 20th November, 1941, the Sikhs decided to defy these conditions. There is no doubt about it. Later on, the situation developed. The authorities stood on their prestige and the Sikh community stood on its own prestige. So, on the night between the 22nd and the 23rd November, 1941, a communiqué was issued by the Government, and that communiqué is very interesting. In this Press Communiqué, the District Magistrate states:

"Whereas a licence was granted by the Senior Superintendent of Police under section 30 of the Police Act V of 1861 at the request of the Gurdwara Prabandhak Committee, Sisganj, to form a procession on November 23, 1941, in commemoration of the martyrdom of the 9th Sikh Guru, Guru Tegh Bahadur:

And whereas the said committee, by a resolution passed on November 20, 1941, declared its intention to ignore the conditions of the licence;

And whereas this intention, if performed, would be likely to occasion a disturbance of the public tranquillity;

And whereas immediate prevention is desirable:

Now, therefore, I, H. J. Evans, District Magistrate of Delhi, do hereby, under section 144 of the Criminal Procedure Code, prohibit the taking out of the said procession, as also the assemblage of more than ten persons in a public place, within the limits of the Delhi Municipality."

Now, the important portion of this communiqué which I want to emphasise is the taking out of such a procession. One can understand that and also the assemblage of more than ten persons in a public place within the limits of the Delhi Municipality. The communiqué further said:

"This order shall not apply to marriage or funeral processions, or gatherings in a recognised place of worship."

[Sardar Sant Singh.]

That may be noted.

"It is further ordered that within the limits of the Delhi Municipality no person shall carry any firearm, lathi, or sharp-edged weapon in any public thoroughfare."

Now, this order passed under section 144 is intended, and the Honourable the Home Member will excuse me if I go further and say deliberately intended to provoke the Sikh community to defy this order. The deliberate provocation lies in two things. They knew perfectly well that the religious gathering takes place on the Gandhi grounds and, therefore, they prohibited the use of the public place within the Delhi Municipality. In the second place, the authorities knew—and if they did not know it, it is a sad commentary upon their knowledge—that the Sikhs generally and particularly on this occasion carry the Kirpan with them, which is their religious symbol. This order prohibited the carrying of a sharp-edged weapon. What does it mean? What was intended thereby? The intention was clear. They knew that the Sikhs shall come and clash with the Government authorities whether they wished it or not. The Sikhs may try to avoid the clash from whatever motive it may be, but the authorities in Delhi, without any imagination and without any vision, were determined to come into clash with the Sikh community. This order acted as adding insult to the injury to the Sikh community. I wonder whether the sister communities, the Hindus and the Muslims, will stand this interference in the observation of their religious festivals. I understand that if this treatment is meted out to the Sikhs today, it will come in its due course to the Muslims and the Hindus tomorrow. It did come to the Hindus at Bhagalpur, and the Muslims too may not remain safe from the operation of such a damnable, abhorrent treatment which the British bureaucracy could mete out to the Sikh community.

This order under section 144 was a deliberate insult to the Sikh community, it was a provocation given to the Sikh community to come into clash with the British authorities in Delhi. This is happening in the capital town of Delhi. We expect that the authorities who hold charge as District Magistrates or Superintendent of Police should be of a character who possess vision and imagination of a different sort from what we found exhibited in Delhi. Later on I will describe to you what happened. The result was that after the issue of this order under section 144, the Sikhs decided to negotiate with the authorities on some reasonable terms so that the celebration might not be prevented. A deputation of men of approved loyalty—the Honourable Sardar Bahadur Sardar Sobha Singh, a Member of the Council of State, Sardar Bahadur Sardar Ranjit Singh, Sardar Bahadur Sardar Buta Singh, Rai Bahadur Basaka Singh, all title holders on the approved list of the Government, men of approved loyalty were sent to negotiate with the authorities. Before anything came out of those negotiations, we find a man, a Superintendent of Police, whose name should have been sufficient to be sent to a better front against the Germans, whose name is Mr. Kilburn—a combination of 'kill' and 'burn'—we find this gentleman going with a timid and mild Magistrate and making a cordon round the congregation where the religious worship is going on, lectures were being delivered, sermons were being delivered, bhajans and hymns were being sung. Round this congregation the Superintendent of Police throws a cordon of mounted police. The procession was to be taken at 2 P.M. The time passed without any procession being taken. It was to



be taken on the 22nd December. The time passed, but yet no procession was taken. If I do not agree to give up the procession, I have to agree to the conditions laid down in the licence. The Sikh community gave up the procession, because they could not agree to the terms of the licence. However according to the report in the *Hindustan Times*, some Intelligence Department member of the Government of India sent a report saying the Sikhs are still thinking of taking out a procession.

**An Honourable Member:** Did the Honourable Member say 'intelligent' member?

**Sardar Sant Singh:** It was a member of the Intelligence Department. If they were intelligent members, they would not have blundered in the way they have been doing for a long time. That member reported that the Sikhs were contemplating to take out a procession. Now everybody who is acquainted with the Sikh methods of doing things know that to take out the Holy Granth, they prepare a *phalki* and it takes at least a couple of hours to make it ready. This subordinate's report is taken as the gospel truth and immediately a cordon is put round the congregation. Instead of waiting for those gentlemen who had gone on a deputation to the District Magistrate, the mounted police immediately begins to use tear gas and they go near the place where the Granth Sahib is placed and where ladies and children were seated. These ladies belong to the highest families in this town.

**Mr. N. M. Joshi** (Nominated Non-Official): Why do you say 'highest families'? Do you mean to say that ladies of poor families could be treated in any way? Why do you make difference between 'high' and 'low' families?

**Sardar Sant Singh:** I am just saying it to emphasise my point. You, as a leader representing labour, may not like it. I just want to emphasise my point by saying that ladies of the highest respectability and their children were assembled near the Granth Sahib and they were trampled under the hoof of the mounted police. I have no quarrel with my Honourable friend when he said the other day that only one child died. I know two children died. But this is a minor aspect of the case. Even if one child died who is the murderer? Has he been brought to book so far? No. One child admittedly died. Tear gas of about 300 rounds were fired. If Honourable Members want to see the specimen of tear gas, I will place them in the lobby. I have got them with me just to show what it is. Because the Honourable the President has prohibited its being exhibited inside the Chamber. I will show it in the lobby. These tear gas containers were let loose and even the Holy Granth did not escape. Its cover was charred. If in the capital of Delhi a small community like the Sikhs cannot celebrate these religious festivals without let or hinderance, I can only say we have come to poor times. We have come to times when the whole administration requires to be revolutionarily overhauled. These gentlemen who are sitting on the Treasury Benches will have to vacate their place and give place to better men.

**An Honourable Member:** What do you mean by 'revolutionarily overhauled'?

**Sardar Sant Singh:** You can refer to a dictionary. It has come to this, that a religious congregation cannot be held in the capital of India. I wonder what example you are setting to mufassil towns.

Now, I proceed with the description. Later on, when the controversy was raised on this point about the conditions of licence, it was contended that the conditions of the licence were the usual conditions, that they were not extraordinary for that year. That was the contention. We find this gentleman, Mr. Kilburn, writing to the *Hindustan Times* a letter in which he stated as follows. I do not read the whole letter:

"It is stated that the Diwan was held in Queen's Gardens to consider the situation created by the imposition of certain new conditions on the procession to be taken out in celebration of the martyrdom of Guru Tegh Bahadur. This shows a misapprehension as in point of fact the licence which I issued on receipt of a request from the Gurdwara Prabandhak Committee, Delhi, was identical in all respects with the licence accepted by the Committee in 1940 with the sole exception that the date of the procession and the name of the person to whom the licence was granted were different."

It immediately elicited a reply from the Secretary of the Gurdwara Prabandhak Committee. He said:

"A licence with almost similar conditions was offered in 1939 and was not accepted and a procession was taken out as usual. In 1940 an unconditional licence was shown. Even if some conditions were imposed in some licence issued to some dummy the public are not aware of it, and the procession was taken out as usual, and absolutely nothing untoward happened."

This shows another important thing, that the bureaucracy is in the habit of issuing a licence in the name of a dummy when the responsible persons in the Committee do not accept the conditions of the licence. And, even so, they did take out the licence. I am not dealing with that aspect of the case because that is alien to my point. What I say is that a licence with conditions was issued in 1939. It was rejected and no enforcement was made. Then, in 1940, a licence was issued and was not accepted; a procession was taken out in spite of the conditions of the licence and the authorities said that the breach of the peace and tranquillity of Delhi was narrowly averted. That is in the communique.

**Qazi Muhammad Ahmad Kasmi** (Meerut Division: Muhammadan Rural): Averted by Sikhs or by Government?

**Sardar Sant Singh:** I do not know; they do not say. If in the past history of the celebration of this particular day breach of the peace never occurred, may I ask what data Government had to presume that this year the peace would be disturbed? Then, in the communique there is a tone which is hardly in tune with the present times but rather in tune with the old policy of divide and rule. They say:

"The circumstances in which the order has been issued are as follows. It has been customary for the Sikhs to take out a procession annually in Delhi in commemoration of Guru Tegh Bahadur who was put to death in the reign of the Emperor Aurangzeb, the procession starting from the Sisganj Gurdwara at Chandni Chowk and terminating at the Rakabgunj Gurdwara at New Delhi. For some years

past the behaviour of certain elements in the procession which has to pass a number of mosques"—

Here you see how the thin end of the wedge, the communal difference, is introduced,—

"... has been a cause of concern to the authorities, and in 1938 and again in 1939 an outbreak of communal rioting was narrowly averted. It may be mentioned that after the celebration of 1939 some of the most unruly members of the procession were prosecuted and convicted under the Police Act, 1861."

What was this conviction? So far as I know,—and I am subject to correction if I am wrong,—this was not a prosecution for breach of the peace or for committing any offence under the Indian Penal Code, but only for breaking the conditions of the licence itself which has no connection with breach of the peace. If under section 30 of the Police Act you ask me to take out a licence and I refuse to take it out and you prosecute me under the Police Act, that has nothing to do with breach of the peace or committing an offence. So these prosecutions under the Police Act had no connection with any breach of the peace. Further on, the same policy of setting one community against another is continued. The communique goes on to say:

"To avoid a repetition of these incidents the authorities in 1940 examined the form of the licence issued for the procession and included in it instructions regarding the timings, framing these in such a way that while there should be no interference with the normal speed of the procession, the times of its passage past the various mosques and other critical points on the route should be known in advance."

As soon as this communique was issued, the Sikhs very wisely issued a big poster assuring the Muslim community that they did not intend to injure the feelings of the Muslim or any other community. Considering that there has been no breach of the peace in the past, considering that immediately this insidious propaganda was made by Government in this communique of setting the Muslims against the Sikhs, the Sikhs counteracted this by saying that they did not intend to hurt the feelings of the Muslims and would not sing hymns or play music before the mosques, the point becomes very clear.

**Mr. President** (The Honourable Sir Abdur Rahim): The Honourable Member's time is up.

**Sardar Sant Singh:** Very well, Sir. I had a good many things to say, but I will say one or two things about this Mr. Kilburn. He is a man of a violent disposition which will be proved by this fact that once while he was posted in Montgomery District where he was Superintendent of Police he went to a rest house to stop there for the night, and when he found the doors closed he was so upset that he hit the window with his fist, and next day appeared with his fist all dressed and bandaged! This is the kind of man we have in the capital city of Delhi. Why is he not sent to Sumatra and Java where he can show his powers? Delhi is not the place for such a man; and Government must take a strong view of this matter. I will deal with this in my reply when I have heard the Government version. It is easy for the Honourable Member to make out a reply on behalf of Government. In the courts of law both sides to a case can make out a plausible case; but this is a religious affair, a thing of a spiritual nature which is higher than a temporal matter. And I will appeal to him that consistently with his own name of "Makes-well" as opposed to "Kill-burn", he will see that justice is done to the Sikh community and their injured feelings are soothed. Sir, I move.

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

"That this Assembly recommends to the Governor General in Council to appoint a Committee consisting of members of this House with a majority of non-official members in it to make a public enquiry into the incidents connected with the unprovoked assault by the police on the religious congregation of the Sikhs at Delhi, on the occasion of the martyrdom day celebrations of Guru Tegh Bahadur in November, 1941, in the course of which a cowardly attack was made on ladies and children present in the congregation and tear gas was used, with instructions to report on the responsibility of the officers guilty of those acts"

**Mr. Lalchand Navarai** (Sind: Non-Muhammadan Rural): Sir, on this Resolution I do not want to create any heat into the House . . . .

**Mr. N. M. Joshi**: Heat is needed today! It is so cold!

**Mr. Lalchand Navarai**: You have already had enough heat, I believe.

I P. M. I would only submit, Sir, that what is asked by this Resolution is a matter on which no one should differ. In the Resolution it is stated that an incident took place, which my friend, Sardar Sant Singh, called 'an unpleasant incident'. But if the facts put forward in the Resolution and as stated by the Honourable the Mover are true, then I will certainly say that it was not only 'unpleasant' but it was unfortunate and tragic. After all the incident has a reference to a religious occasion and if anything happens in which the Government or the Police are to be blamed, then it becomes a very serious thing. Especially in these days of war when it is a very critical moment and there is panic all round, if the religious feelings are disturbed in any way the consequences will be such as can be easily understood. In that case, Sir, I submit that if the incident has happened where there was no occasion for the Police to interfere, then certainly the Government or the Police are to blame.

Now, Sir, as facts have been given and the Resolution says "that the incidents were connected with unprovoked assault by the police on the religious congregation of the Sikhs at Delhi on the occasion of the martyrdom celebrations of Guru Tegh Bahadur in November, 1941, in the course of which a cowardly attack was made. . . ." and so on, one can understand that the occasion was such that if anything untowards happened the feelings of the Sikhs and many of the Hindus would be injured. The Resolution says it was unprovoked and apparently, as it is, without any cause.

Now, we have heard the Honourable Sardar Sant Singh who gave us the history of how it happened. In that history we see at least one thing which is very clear, namely, that the Government prohibited the procession, whereas my Honourable friend said, they had not to take out any procession. Now, that is exactly one of the factors to be considered in this incident. If they had not to take out a procession, then what the Police are alleged to have done is absolutely illegal. The second point is, that processions are usually taken out on such occasions and on former occasions whenever they took out processions nothing untoward happened. It is, however, said in the communique, read out by Sardar Sant Singh, that the disturbance was averted. One can understand now that then the disturbance was averted, but it was never said so in those days, nor was it said that the procession should not be taken out as there would be a disturbance. On the other hand they were actually allowed and it is

only now after two years that it is said that the disturbance would have taken place, but it was averted. Then the point is if on this occasion there were such circumstances that it was impossible to avert any disturbance, things would have been different. (Interruption.) I am not going to say whether these facts are true or not. I say simply that an enquiry should be made into the facts. My point is that if there were tangible grounds for the disturbance then it is for the Government to make out that case and if it is stated on this side that procession was not going to be taken out and there would have been no disturbance but the Police took upon themselves to create this disturbance, then they have to prove that.

To put it in a nutshell, what is called for is this. Certain allegations are made on behalf of the Sikhs and, on the contrary, I have read in the press some notes giving the version that disturbance would have taken place, that orders were completely defied and that we could not have done anything to avert the disturbance if it had taken place. If these are the allegations, they ought to be proved. It is after all a religious matter in which in these days there should be harmony instead of the Police or anybody injuring the feelings of any community and doing something which might disturb the peace of the country. Now, it is being admitted on both sides, I should think, that this incident did take place and in that incident there were assaults on both sides.

**Qari Muhammad Ahmad Kasmi:** Assault by one side on the other..

**Mr. Lalchand Navalrai:** I will say it this way. One of the allegation is that brick-bats were thrown on the Police Superintendent . . . .

**Sardar Sant Singh:** From the crowd outside.

**Mr. Lalchand Navalrai:** It may be from the crowd outside, but that has got to be proved. What I am submitting is this. The Resolution wants an impartial enquiry to be made, and I cannot understand, under these circumstances, why no enquiry should be made. It will otherwise remain in the minds of the Sikhs as well as . . . . .

**Mr. N. M. Joshi:** Who has said no enquiry should be made?

**Mr. Lalchand Navalrai:** I say that because I am not sure whether they are going to say yes.

**Mr. N. M. Joshi:** But you must allow them to speak first.

**Mr. Lalchand Navalrai:** I am prepared to sit just now in order to allow the Government to speak . . . . .

**Mr. President (The Honourable Sir Abdur Rahim):** Will the Honourable Member please go on?

**Mr. Lalchand Navalrai:** If on that day, when the procession was going to be stopped, there were certain people who were negotiating with the Government, and, as was given out today those gentlemen had not yet

[Mr. Lalchand Navahrai.]

returned when this incident took place, the police should have, at any rate, waited before coming forward and doing what they did. I have never understood why it is always that the police say that they were attacked with brickbats or stones before they do anything illegal themselves. It has become their usual allegation that people throw brickbats first and then this and so forth and so forth. The further question arises whether the police were justified in going so far as to use tear gas. The police may say that as soon as they went there they got brickbats. But even if that were so, could they not have avoided the use of lathis and tear smoke. It is not shown that any weapon of a serious nature was used first by the crowd. These are all questions that have to be decided. I, therefore, submit, that this Resolution which requires that a committee of this House, with a majority of non-official Members, should be appointed to inquire into this incident, should be accepted. Government should not come in the way of the inquiry. On the contrary it will remove a burden from their shoulders. The public, the Hindus also, are concerned in these celebrations of Guru Teg Bahadur, because the Hindus also respect and obey the dictates of the Gurus. It is necessary that an inquiry should be made in order to prove to the public and the followers of the Gurus that the police were not to blame. I have nothing more to say.

**Dr. Sir Ziauddin Ahmad** (United Provinces Southern Divisions: Muhammadan Rural): May I request the Government to intervene at the earlier stages so that we may know what the facts are, and the discussion can be carried on with full knowledge of facts?

**The Honourable Sir Reginald Maxwell** (Home Member): It is too late to begin to speak now.

**Mr. President** (The Honourable Sir Abdur Rahim): Perhaps the Honourable Member would like to begin after Lunch.

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

The Assembly re-assembled after Lunch at Half Past Two of the Clock, Mr. Deputy President (Mr. Akhil Chandra Datta) in the Chair.

**The Honourable Sir Reginald Maxwell**: Sir, I propose to give the House an unvarnished account of what actually happened and leave the matter to their judgment. It has been customary, as the House knows, for the Sikhs to take out a procession annually in Delhi in commemoration of Guru Teg Bahadur. The procession started from the Sisganj Gurdwara in Chandni Chowk and terminated at the Rakabganj Gurdwara in New Delhi. For several years past the behaviour of certain elements in the procession which has to pass a number of mosques has been a cause of concern to the authorities, and in 1938, and again in 1939 an outbreak of communal rioting was narrowly averted. The trouble had been going on for more years than that. In 1936 the Sikh pleaders agreed not to pass the mosques until a suitable time, but when it came to the procession the Sikhs failed to honour this verbal agreement, and reached the bazar in question at an earlier hour, and there was a great likelihood of trouble since the Muslims objected. Again, in 1937, some of the turbulent members of the Sikh community did not abide by the promise given by their leaders and created trouble by their prolonged stay and band playing before mosques *en route*.

Again, trouble between them and the Muslims was narrowly averted. In 1938, similar provocation was given to the Muslims, but I would emphasise that there was deliberate stopping in front of mosques in order to utter provocative cries, and, therefore, the local Gurdwara Prabandhak Committee were warned that a clause would in future be inserted in the licence requiring the cessation of music and of shouting by members of the procession in the vicinity of the mosques along the route. In 1939 a clause was so inserted in the licence requiring the cessation of music and shouting at the mosques, but despite this the conduct of the processionists was more objectionable than ever, and a riot was only averted by the forbearance and restraint of the Muslims in the mosques and the judicious handling of a very difficult situation by the Magistracy and the police. In consequence of the progressive truculence of the Akali elements in previous years and the deterioration in general feeling in the year 1940, it was decided for the first time in that year to enforce timings in the three sections of the route on which mosques are situated to ensure that the procession should not pass any mosque during the hours of prayer. In 1941 it was decided to adhere to the same licence as in the previous year including the timings. This was no new intervention, as the Honourable the Mover of the Resolution represented. It was a thing that had been done previously and it was done only after every possible chance in previous years had been given to the Sikhs to conduct their procession in a non-provocative manner. These instructions which were included in the licence for the procession were framed in such a way that, while there could be no interference with the normal speed of the procession, the times of its passage past the various mosques and other critical points on the route should be known in advance. The licence with these minor additions was accepted by the organizers in 1940, and that procession passed off satisfactorily, although not without anxious moments; but in this year the usual application was made by the Committee which controls the Sisganj Gurdwara on November 17th, and a licence was duly granted by the Senior Superintendent of Police. The delivery of this licence which was in identical terms with that of the previous year, and was sent through a special messenger to the Honorary Secretary of the Gurdwara Committee on November 20th, was refused without the cover being opened. On the same evening the Gurdwara Prabandhak Committee adopted a Resolution condemning what were described as the strict restrictions put upon the customary procession . . .

**Sardar Sant Singh:** May I ask the Honourable Member whether an advance copy of the licence was sent to the Gurdwara Committee before the 20th November?

**The Honourable Sir Reginald Maxwell:** The matter, I think, was discussed with them beforehand; they were quite aware of what was coming, otherwise why did they refuse?

**Sardar Sant Singh:** They sent an advance copy?

**The Honourable Sir Reginald Maxwell:** The meeting further resolved that unless the so-called restrictions were withdrawn, the procession should be taken out without a licence. Various attempts were then made

[Sir Reginald Maxwell.]

by the authorities to explain to the community that the licence contained no unusual or burdensome restrictions, but the organizers of the procession declined to modify their attitude, and since it would clearly have been dangerous to allow a procession of this kind to proceed without having some licencees responsible for the behaviour of the participants, the District Magistrate was obliged to prohibit it altogether by an order under section 144 of the Criminal Procedure Code, which also prohibited the assemblage of ten or more persons within the limits of the Delhi municipality and the carrying of weapons. This order was promulgated on the midnight of the 22nd November, and early on the morning of the 23rd November, the Senior Superintendent of Police formally notified the Secretary of the Gurdwara Committee that the licence had been cancelled under the general conditions printed on the back of the prescribed form, and that any procession taken out in face of the order would be unlawful and treated as such. Meanwhile elaborate police arrangements were drawn up to deal with the new situation in close consultation with the District Magistrate and the military authorities, and the military dispositions were also correspondingly altered. I would emphasise here first that the authorities had no wish to ban the procession. Their object was solely to ensure that the procession should not lead to communal disturbance; and, secondly, that the timings were so worked out as to allow the procession to proceed at a reasonable and equable pace and the restrictions thus imposed were in no way burdensome.

At an early hour of the morning the Guru Granth Sahib was carried from Sisganj Gurdwara to a pandal erected in the Queens Garden, and a diwan was held there which continued for several hours. In addition to religious speeches, there were speeches exciting the audience to ignore the prohibition to take out a procession and to do so at any sacrifice. Throughout the morning the congregation within the pandal was growing and a crowd estimated at 2,000 had also collected in the area surrounding the pandal. As this second crowd contravened the order of the District Magistrate under section 144 of the Criminal Procedure Code prohibiting the assemblage of more than ten persons, the police made continuous efforts throughout the morning by moving about in small parties to disperse the crowds by verbal persuasion. Since it was clear from the tone of the speeches in the diwan that there was a grave probability that an attempt would be made to take out a procession in defiance of the District Magistrate's order and that this would necessitate its dispersal a warning was broadcast at about 11 A.M. by means of a loud-speaker mounted on a lorry, at intervals of 50 yards throughout the Chandni Chowk from the Clock Tower to Dariha Kalan, that if any attempt were made to take out a procession it would be dispersed and the police would be likely to employ tear smoke in its dispersal. Householders were warned that they should remain indoors during the dispersal and close the doors and windows of their homes. As there were a number of motor cars belonging to private persons in the area affected, a further warning was put out at about 12 o'clock that these persons should remove their cars as the police could accept no responsibility for their safety in the event of their being compelled to use force. No heed was paid to the efforts of the police to disperse the crowd outside the pandal and at about 1 P.M. the District Magistrate, the Acting Area Commander, the Senior Superintendent of Police and other officers proceeded to the scene, where it was decided that the crowd outside the pandal must be



dispersed in order to lessen the size of the procession which the speakers were violently announcing would be formed in defiance of the prohibition order. This seemed the more necessary as the diwan appeared to be on the point of terminating. After consultation it was decided that the entire crowd outside the pandal should be induced to leave the area, if possible, by verbal persuasion, and if not, by the minimum employment of force. A magistrate accordingly directed the crowd to disperse, but his warning was ignored. A line of police was then formed and drawn up between the pandal and the crowd outside to force the latter towards the exit from the Queen's Gardens. This measure having failed, a small troop of mounted police was taken into the crowd to repeat the manœuvre, the horses being ridden at a walk and batons not being drawn. As soon as they got among the crowd, the mounted police were assailed by a shower of missiles ranging from dust to bricks, pieces of wood and shoes. The members of the crowd also attacked the mounted police with sticks and other weapons and seized the bridles of the horses. As the situation was beyond the power of the police on the spot to control, they were withdrawn outside the Queen's Gardens, the gates of which were closed behind them. The new situation occasioned by the violence displayed by the crowd was considered and it was decided to employ tear smoke as a means of dispersing the crowd with the minimum of casualties. Tear smoke was then fired at long range from two points, and the crowd dispersed.

Meanwhile, the Granth Sahib was allowed to pass through the police cordon and was given a safe exit to the Sisganj Gurdwara. The police then proceeded to clear the road along the east side of Queen's Gardens and the Fountain Square and were starting to clear Chandni Chowk from that point in both directions, when a procession emerged suddenly from the Sisganj Gurdwara. In view of the violent temper of the crowd it was felt that this must be dispersed immediately if a grave situation were to be avoided. A magistrate, therefore, conveyed a warning on a loud-speaker, which must have been clearly audible to the whole crowd, that if it did not disperse of its own accord it would be dispersed by force and that this would take the form of tear smoke.

Since this warning had no effect the police were ordered to employ tear smoke, which they did at long-range. This made the crowd disperse, and Chandni Chowk was then cleared by the police between the Clock Tower and Esplanade Road, police pickets . . . .

**Maulana Zafar Ali Khan** (East Central Punjab: Muhammadan): Was there any lathi charge?

**The Honourable Sir Reginald Maxwell:** No. Police pickets were posted to keep this area clear. . . .

**Sardar Sant Singh:** May I know if tear gas was used inside the Sisganj Gurdwara?

**The Honourable Sir Reginald Maxwell:** No. It was done at long range.

**Sardar Sant Singh:** And not inside the Gurdwara?

**The Honourable Sir Reginald Maxwell:** No.

**Sardar Sant Singh:** You are misinformed entirely.

**The Honourable Sir Reginald Maxwell:** At no time was it found necessary to employ troops in support of the police.

Two constables were admitted to hospital with head injuries, while two gazetted police officers and 19 other members of the police received minor injuries. Of the public, on the other hand, one child only was admitted to hospital with a serious head injury—the allegation that two children were injured, as I said the other day, is unfounded—and eight adults received minor injuries. There were no women among the persons who were admitted to hospital on account of injuries received. The two constables are not in danger, but the child, unfortunately, died on the evening of the 24th November.

An enquiry into the death was held by the Additional District Magistrate who has found that the child died as a result of the head injury received on that afternoon in the course of stampede that followed the fire of gas-shell by the police. These injuries, he said, may have been caused by gas shelling or knocking against some hard substance. After carefully examining all the evidence that there was, he could not find any evidence at all that the child had been hit by any gas shell fired by the police. No shell was picked up at the place or produced, and the child was at the time in the custody of her parents and, I think, being carried by one of them. At a time like that when a number of other persons received injuries of various kinds, it is always possible that a child may inadvertently receive some injury by being knocked against something, and the magistrate could not find any evidence whatever to show exactly how the injury was caused.

**Sardar Sant Singh:** Magistrates never find anything against the police. It is never done in any part of the Punjab. They always do it in favour of the police.

**The Honourable Sir Reginald Maxwell:** No further development occurred until late in the evening, when, at the instance of the more reasonable Sikhs a proposal was submitted to the authorities that permission should be accorded for one lorry carrying the Granth Sahib and ten attendants to be taken from the Sisganj Gurdwara along the normal route of the procession to the Rakabganj Gurdwara without any other followers. This proposal was accepted, and it was further agreed that even if men wanted by the police should be included in the attendants on the Granth Sahib, they would not be arrested that night, although it was clearly understood that no undertaking was given that they would not be arrested on a subsequent date. This arrangement was duly carried out, the lorry containing the Granth Sahib being provided by the police and leaving the Sisganj Gurdwara at about 11-30 P.M. escorted by two police lorries and followed by several of the moderate Sikh leaders and the Senior Superintendent of Police in private cars. A number of other Sikhs clung on outside the lorry so that it was probably carrying at least 30 persons during most of the route, but the authorities raised no objection to this small and virtually inevitable breach of the agreement, and the party reached the Rakabganj Gurdwara at about 0-30 hours on the 24th November, where the Granth Sahib was duly escorted into the Gurdwara with the usual ceremonies.

Meanwhile, owing to this satisfactory solution, the excitement had subsided, and the Diwan in the Queen's Gardens closed down, so that it was possible to let the troops stand down altogether and to withdraw a large portion of the police on duty in the city for a much needed rest, all ranks having been almost continuously on strenuous duty from 4 A.M. on the previous day. The complete collapse of Sikh truculence, which had at one time attained a dangerous pitch of fanaticism, and the satisfactory outcome, is to be ascribed very largely to the employment of tear smoke.

There are one or two points which I should like to emphasize in conclusion. The first is that at no time did the Police enter into the shamiana where the Granth Sahib was installed and the allegations which have appeared that the Police made an unprovoked attack on the peaceful Diwan are completely untrue. In actual fact, although the Diwan was held in a portion of the Queen's Gardens and not a recognised place of worship and was thus not exempted from the operation of section 144 of the Criminal Procedure Code, no attempt was made by the Police to prohibit or disperse it. All that was done was to disperse the large crowd of Sikhs who were waiting outside the Diwan with the obvious intention of joining the illegal procession as soon as it started. Secondly, it has been alleged that the Police first resorted to force. The facts are that the Police made sustained and patient endeavours to disperse the crowd by persuasion and it was only when the latter resorted to violence by pelting the police with stones, brickbats, tent pegs and other missiles that the Police were forced to defend themselves. Finally, I would point out that though the claim has been put forward that the attitude of the Sikhs was throughout peaceful and law-abiding and that they were the victims of official intolerance and repression, speakers at Sikh Diwans held subsequently claimed that they had succeeded in violating the District Magistrate's order under section 144 of the Criminal Procedure Code. Such claims do not evidence any very law-abiding attitude. It will be obvious, then, to the House that the type of situation with which the Police had to deal was one which is unfortunately not uncommon in this country. They performed no unusual action. They used the minimum of force necessary to preserve order and if action of that kind taken in a situation of that sort is to be made the subject of an inquiry on every occasion, it is the public who will in the long run suffer. I oppose the Resolution.

**Mr. Govind V. Deshmukh** (Nagpur Division: Non-Muhammadan): A very important question is involved when an inquiry is asked for in connection with the incidents referred to in the Resolution and it is this. There is a community which has got a sore grievance that there was unnecessary interference in the devotional observance of the martyrdom day of their ninth Guru. The uncontroverted facts which stand out are these. The Mover of the Resolution has said that there was a cordon of mounted police. That fact has not been denied. The other fact which has not been denied is this, that tear gas was used and the third fact is that certain persons were injured when the police used the tear gas and made a charge. Now, the points that arise for inquiry are these—whether there was any ground for the police to put a cordon as they did round this Gurdwara or the other place which has been mentioned in the Resolution? That is a point on which the public must be satisfied. The community that feels aggrieved must be satisfied. Was the crowd of such a hostile

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condition that there was no other alternative, but to put a cordon round it? Then another thing is this—whether the crowd grew so hostile towards the Police that they had to use tear gas and whether it was impossible for the Government or the person in charge to disperse the crowd without using tear gas. On the other hand, the case of the Mover is that first of all when the mounted Police came, they behaved in such a manner as to excite the crowd and here let me tell this. The policemen are expected as disciplined men, men who have undergone training, to stand better the excitement with which they are faced. They should not behave like ordinary men. They are expected to have a better standard of understanding of mass-psychology. Otherwise they are unfit to be in charge of maintaining public peace and order.

Then there is another point. The Mover has mentioned that a very respectable deputation of very respectable persons went to have negotiations with somebody—I forget the name. Was this fact not communicated to the persons in charge? Why did they not do it? That is another point that requires elucidation. In view of all these facts, I submit that the Government would be well advised to order an inquiry by allowing a committee of non-official Members. My friend, Mr. Joshi, interjected 'You are asking for a committee. Who says No'. There is the answer of the Honourable the Home Member who says 'No'. Going through this order as well as the justification which they have given for issuing this communique, one would find that Government themselves supply the grounds as to why this inquiry should be ordered. What does this order under section 144 say? Certain reasons are given as to why this order was issued. The order says that the observance of these celebrations was likely to lead to a disturbance of public tranquillity. Now in an inquiry they should be able to prove that there were circumstances which led them to apprehend that there would be a breach of the peace while going along these mosques and that they would interfere with the legitimate activities of other persons.

We have heard from the Honourable the Home Member that on former occasions there were chances of a breach of the peace and they were averted. These facts must be gone into so that the House may be satisfied and this particular community may be satisfied that the Police did not use more force than was necessary and that they only took the legitimate precautions to avert trouble. Now, in the communique the justification which they have given is that members of the crowd attacked the mounted police with stones and other weapons and seized the bridles of the horses. This is a very common defence. One knows very well what happens in criminal cases. The accused comes to the court and says that he did a thing in self-defence. When the mounted police says that they acted in self-defence, they have got to prove that they acted in self-defence.

Establish all the facts, namely, that the crowds attacked the mounted police with sticks and other weapons and seized the bridles of horses. If you can prove that there was a justification for you to apprehend that violence will be used to the mounted police, then certainly you have a case to say that your action was justified and in the course of the discharge of your duties certain persons may have received injuries. But unless an inquiry is ordered, neither side can be said to be justified in making these allegations. It is very necessary that the

Government in such cases should satisfy the public and the aggrieved party that they had substantial grounds to act in the way they did. They say further that the situation was beyond the powers of the police on the spot to control it. This also they have got to establish. In other words, they must establish that the apprehensions which would arise in the case of an ordinary man were not the apprehensions that would really cause the mounted police to use this force which they did use or to act in the way they did act, but something worse. They must establish something more than what would excite an ordinary man to behave as they did. Under these circumstances, I strongly support this Resolution.

**Dr. Sir Ziauddin Ahmad:** Sir, I hope my friend, Sardar Sant Singh, would agree with me that we in the Legislature here are to make laws and not to break them or encourage the breaking of them. This is, I think, a fundamental principle. At the same time, we should see that the agents of the Government do not misuse the law which we here frame.

**Sardar Sant Singh:** If the agents of the Government break the law, then what are you to say?

**Dr. Sir Ziauddin Ahmad:** We should see that they do not misuse the law. Sardar Sant Singh in the course of his speech referred to a manifesto which was issued by the Sikhs in order to allay the feelings of the Mussalmans. I would have supported him had he brought forward a motion that we should appoint a Committee consisting of only Sardar Sant Singh and myself to inquire into the matter. We do not want the intervention of the Government if we can settle the matter ourselves. I have suggested my name because I am his elector and he has come to this Assembly because of my vote. That being the position, I think the matter could have been very much settled by our mutual consent and mutual goodwill. But the facts which are now mentioned by the Home Member—I do not know whether Sardar Sant Singh would accept them—go to show that in the year 1936 the leaders did not carry out the undertakings which they gave to the Deputy Commissioner. In 1938, there was a danger of a riot which was narrowly avoided. Then, is it not a fact that in the year 1941, the Magistrate did not give the licence and did promulgate section 144? If section 144 is promulgated by the Deputy Commissioner and in spite of that any body of persons say that they are not going to observe the orders of the District Magistrate, then I think the House will agree with me that we, in the Legislature, cannot support a proposition of this kind. We can certainly discuss whether the order was wrong but once an order is given, we cannot discuss on the floor of this House whether any body of persons can disobey it altogether. If that were permissible, then what is the use of making any law here at all? To my mind, the issue is this. Whether the Deputy Commissioner promulgated section 144, whether the licence to take out this procession was given or whether it was not given and whether the conduct of people was such as to cause the breach of peace. Once these propositions are established, it is very difficult when we have to disperse the crowd to draw the line of demarcation beyond which the police ought not to go. Once they are put to stop this trouble, it is very difficult to say that they ought to do this and ought not to do that. Excesses, of course, we can always control. I think my friend would probably mention here whether the

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facts mentioned by the Honourable the Home Member are correct. If they are correct, I do not see the necessity of the Government making an inquiry. I think Sardar Sant Singh and myself are quite capable of making an inquiry ourselves and lay down a line of action so that there may be no breach of peace in the future between the Sikhs and the Mussalmans. We are in sympathy with the Sikh community and we do not want to quarrel with any person. I think if they can also extend the same feelings towards us, no trouble should or would happen in the future.

**Sardar Sant Singh:** Sir, India is still under a misapprehension that we are living in the year 1942. We are still living in the sixteenth century of the Bureaucratic rule. The long written reply that has been made by the Honourable the Home Member discloses that it is not only the police with that rotten mentality of which we have been complaining all these years which holds that view but the Honourable Member himself also holds the same view today. My friend, Dr. Sir Ziauddin Ahmad, has asked me if I accept the facts as related by the Honourable the Home Member. I say that I do not accept those facts. The main point on which information has been withheld from him is when he says that no tear gas bullets were fired inside the gurdwara. I have exhibited about 35 of them in the lobbies with a covering of Granth Sahib which were picked up in the Gurdwara itself. My friend has not probably been informed of them. He has read the account which the Delhi administration, the head of which is a dihard of the worst type, then issued. He has simply read that account and based his conclusions upon that. My point is this that an inquiry is needed because incorrect statements have been supplied to this House and it is an insult to the dignity of this House to have incorrect facts from the Government. I will ask him if he is prepared to go with me and to make an inquiry on the spot in regard to this very fact whether the tear gas bullets were fired inside the Gurdwara or were fired outside the Gurdwara?

**The Honourable Sir Reginald Maxwell:** On a point of explanation, Sir. I did not say that no shells could have been fired into the Gurdwara. What I said was that they were fired from a long range.

**Sardar Sant Singh:** Does he accept the fact that these long range shells were actually fired inside the Gurdwara or not? As many as 35 or 40 shells could not have been found inside the Gurdwara only by chance.

**The Honourable Sir Reginald Maxwell:** They were fired outside the Gurdwara.

**Sardar Sant Singh:** I do not accept this fact. I know, and I made enquiries after the statement was made by my Honourable friend, from those who were present on the spot and I am told that actual firing took place inside the Gurdwara. Here is the account on the point which I will read :

"When gas had filled the whole *pandal*, Guru Granth Sahib was taken to Gurdwara Saganj. Some people followed the Granth Sahib as is customary. As Granth Sahib had just gone into the Gurdwara, the Sikhs behind were indiscriminately lathi charged by the Police injuring several persons. The people ran into the Gurdwara and it was announced that gas would be used after five minutes. But five seconds

had not yet elapsed when scores of gas-shells had already been thrown into the Gurdwara filling the building with smoke. As it was a closed building and a great number of shells had been used almost all those within the Gurdwara became senseless. Among those was a prominent Sikh leader, namely, Sardar Harbans Singh of India Tyre Co."

If two authorities differ with each other on such a material point as firing inside the Gurdwara, is not a case made out for an enquiry? But my Honourable friend, Dr. Sir Dalal, says, 'no'. Unfortunately, as he is sitting on those Benches, he has lost all conscience. I pray God will soon restore to Dr. Dalal his conscience. May I ask my Honourable friend, Dr. Sir Ziauddin, if a similar firing had taken place in a mosque, what would be his feeling, especially at a time of prayers? If firing took place on a congregation who are peacefully praying, what would be his feeling? An enquiry should certainly be made of the happenings.

With the second line of argument of my Honourable friend I do not like. We say we are fighting for democracy today. I do not like my Honourable friend using the same argument often and often in this country, setting the Muslims against the Sikhs. I pointed out from reading the communique that it was an insidious attempt to set one community against another. After this communique was issued, the Sikhs got a poster pasted in the public which speaks for itself. After this appeal was issued by the Sikhs, particularly to the Muslim community, where was the apprehension of a breach of peace? May I point out to the Government that under section 30 of the Police Act, the Government are required to have evidence before them that there are certain Muslims who are objecting to the procession. Will the Honourable the Home Member please put down any evidence that the police had in their possession which made it necessary for the issue of a licence. Police Act, section 30 requires this.

My Honourable friend here says, we are not here to break the law. What about Government who break the law? Under section 30 of the Police Act, the Government can only issue a notice for taking out a licence if they have reasonable grounds to suppose that communal disturbance will take place by taking out the procession. Did the Government examine any Muslim gentleman, did they examine any Hindu or Christian gentleman, did they examine any Anglo-Indian or even any European who objected to this procession? What right have the Government got then to issue a notice for taking out a licence? They had no right. Who has broken the law? If the Government break the law, you cannot expect the other party to keep quiet. You should not say that the other party should not stand on their rights given by the law. As law makers and as respectors of law, I yield to none. I have fought during the last 20 years for the rule of law in this country. But I find that the rule of law is absent in this country. My complaint is that this enquiry is called for because laws have been broken in Delhi by the Delhi administration. I think this must satisfy my Honourable friend that law breaking begins with the bureaucracy and not with the people.

After all, what is the sort of law prevailing here in Delhi? My Honourable friend, Dr. Sir Ziauddin Ahmad, will be amused if I tell him that after all this trouble, after all this ban and after all this agitation was allowed to take place, the Honourable the Home Member himself has pointed out that an agreement was reached between the parties and a procession was

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allowed to be taken out after that. Is that the respect for law that we are keeping? The Honourable the Home Member said that 80 persons were allowed to take the Granth Sahib in procession to the Gurdwara Sisganj. What was then the fun of having banned it earlier? Was that the sort of respect you showed towards your own communiqué? Is this the respect you show to your own orders? Why do you make a joke of law? It is amusing, it is interesting to see you, supporters of law, becoming panicky. In all small matters the Government lose their balance of mind, balance of judgment. You allow a petty magistrate to go to Gandhi Park and control the procession, control the peaceful crowd sitting in congregational prayers. Is this the sort of power on which you boast yourself? I think it is sheer humbug to say that the Government are using their powers aright. You spoil the whole thing, you take away the respect for law which is left in the country. It is not you who ought to be satisfied that law is kept in this country, but it is we, the people who should be satisfied that they are governed aright by law. You do not satisfy the people. The people are dissatisfied with your rule, they are dissatisfied with your methods, they are dissatisfied with whatever you do. You say you are enforcing respect for law. I wish there was real rule of law in this country. My whole quarrel is that there is no rule of law in this country. Even with this Expanded Executive Council, you cannot awaken the interest of the people in the country. In spite of the present situation in the country, you say you oppose this Resolution. You do not want an enquiry to be made into the acts of the Delhi Administration. Why? I say you should be the very first to avail of the opportunity to clear yourself, you owe it to your public servants who have been guilty of breach of law that they should exonerate themselves before a court of enquiry. I know you do not care for us,—the Sikhs. You have got the votes. I know this Resolution will not be carried in this House so long as my Honourable friend, Dr. Sir Dalal, is there. I know that. But, we the Sikhs believe in something more spiritual than you. After all this is a temporal House. We, Sikhs believe in things permanent in which you do not believe. You have greatly injured the feelings of a religious congregation, you have injured the feelings of persons who were gathered there for the sake of worship. You have violated spiritual laws and not physical laws. Your insidious attempt to create disharmony between the Sikhs and the Muslims is abominable. I would not claim a Division on this Resolution. We believe in the power of our Guru and in all solemnity we know, we feel that that Guru will decide the fate between you and me. Sir, I have finished.

**Mr. Deputy President** (Mr. Akhil Chandra Datta) : The question is :

"That this Assembly recommends to the Governor General in Council to appoint a Committee consisting of members of this House with a majority of non-official members in it to make a public enquiry into the incidents connected with the unprovoked assault by the police on the religious congregation of the Sikhs at Delhi, on the occasion of the martyrdom day celebrations of Guru Tegh Bahadur in November, 1941, in the course of which a cowardly attack was made on ladies and children present in the congregation and tear gas was used, with instructions to report, on the responsibility of the officers guilty of those acts."

The motion was negatived.

[At this stage, Mr. President (The Honourable Sir Abdur Rahim) resumed the Chair.]



## RESOLUTION RE RELEASE OF POLITICAL PRISONERS AND DETENUS.

**Mr. Akhil Chandra Datta** (Chittagong and Rajshahi Divisions: Non-Muhammadan Rural): Sir, I move:

"That this Assembly recommends to the Governor General in Council that steps be taken for the immediate and unconditional release of all political prisoners and detenues".

Sir, there are two classes of political prisoners. One set is called the civil disobedience or satyagrahi prisoners. They are also called non-violent prisoners. So far as this group of prisoners is concerned, they have been released. I do not know if they have all been released but we have received an assurance from the Honourable the Home Member last week that all the persons who come within the scope of the Government *communiqué* of 3rd December have been released. I hope, Sir, they have all been released. Of course, the release of these satyagrahi prisoners never appealed to me to be any matter of very great consequence. These satyagrahi prisoners offered satyagraha and courted imprisonment themselves. They were not detained against their wish. It is probably for this reason that Mahatma Gandhi said that there was not much significance in the release of these satyagrahi prisoners and that it does not indicate any change of policy on the part of the Government. Anyway, we are grateful for this small mercy.

There now remains the other class of prisoners who are called security prisoners. They are also called detenues. They are being detained without trial. These prisoners can again be sub-divided into two groups, namely, communists and revolutionary socialists. We have been told that their number is now over 1,000. To be precise their number was 1,025 on 1st January last. So far as these prisoners are concerned, my case is that they should be released. This is what the Resolution recommends, or in the alternative, at all events, they should be brought to trial. Unfortunately, Sir, before I could avail of the opportunity today to move this Resolution, the Government have already pronounced their verdict on this matter on 14th February in answer to a question. The Honourable the Home Member was pleased to say on that occasion that "no further general release is contemplated either of convicted prisoners or persons detained without trial". Therefore, the Resolution I am now moving is practically something like an appeal against that verdict. It may be an appeal from one Philip to another but all the same it is an appeal. In that statement the Honourable Member was further pleased to say that both the Central and Provincial Governments are engaged or would shortly be engaged in a review of the cases of persons detained without trial, in the course of which these prisoners would have an opportunity of making such representations as they wish. With regard to this part of the statement also my submission is that instead of a review of this character they should be put on regular trial in a court of law. If the evidence can be produced before an advisory committee there can be no objection to placing it before a court of law.

As regards detention without trial it is no use repeating our arguments. The principle has been enunciated times without number that

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detention for any length of time without trial is fundamentally and inherently unjust and unjustifiable. We may well understand the arrest of a man by the executive and his temporary detention, but there is no reason why he should not be placed before a court of law. If you fight shy of a court that only exposes you to the charge that you have got no evidence on which you can satisfy the court that the man concerned should be detained. Last November the Honourable the Home Member put forward an elaborate defence to justify this detention without trial. It was a laboured defence. But he told us what the case of Government is. As regards the security prisoners the charge against them, briefly, is that in the middle of the year 1940 there was a crisis in the war and in those days the attitude of the Communists was very hostile to the war efforts. According to the Home Member, their activities were designed to paralyse the war efforts in this country, and that there was violent propaganda leading to mass disorder and mass violence; and in support of that allegation it was said that there was a textile strike in Bombay in 1940, there were industrial disputes in 1940-41, and so on. That is the gravamen of the charge against the Communists,—their hostile attitude towards war efforts. In reply I want to say this that there was no general strike at all. We have not been told of any general strike excepting some industrial strikes, nor was any case cited of a general disorder in 1940. My submission is that these industrial disputes and strikes do not prove any anti-war activities. And remembering that most of these strikes were successful and resulted in increased wages for labourers, you cannot say that they were not *bona-fide* industrial disputes between capital and labour.

We must remember in this connection all the activities of the Communists about which objection was taken and on which was based the order of detention. Were activities alleged to have taken place in 1940? He spoke of the underground organisation and underground efforts of 1940. He did not mention any underground organisation or any underground efforts subsequent to 1940. The question, according to the formula laid down by the Home Member, is whether there is at the present moment any disorder on such a large scale as may paralyse or obstruct the war efforts. Admittedly, Sir, the position has improved; that was the admission made in so many words by the Home Member on the 18th November last. If the position has improved, whatever might have been the position in 1940, that leads us to the question whether there is any necessity or justification for further detention of these people, apart from the question whether in the first instance their detention was justifiable or not. That being the precise charge against Communists the most pertinent question is, what is their present attitude? Their present attitude towards the war is well-known and well pronounced. At the last meeting of the All-India Congress Committee at Wardha, Mr. Muhammad Ali Khan on behalf of the Communist Party of India moved an amendment declaring most unequivocally that their attitude was one of unconditional support of the war efforts in spite of the imperialism of the British Government. It cannot be denied that they are now keen and enthusiastic in promoting war efforts. The question, therefore, arises whether, in the altered circumstances their further detention is at all justifiable. They might have been your enemies before but they are now

your friends. The course of the war has proved that the enemies of yesterday are the friends of today and the friends of tomorrow.

The Communists of India like the Communists of Russia might or might not have been your enemies but they have now offered their hand of friendship. They are now keen and enthusiastic supporters of the war efforts and they want to fight against Germany and Japan shoulder to shoulder with you. It is for you to grasp that hand of friendship. There is no sense in making enemies of your friends. Trust these people and embrace them as your friends now. You have tried a policy of distrust and suspicion for 150 years; it has worked irreparable havoc and brought you on the brink of collapse. If you had trusted India the history of the war would have been quite different. If you had trained and relied on the man-power of India you would have the biggest army in the world. If you had not obstructed the development of industries such as automobiles, aeroplanes, shipbuilding, etc., you would not have looked in vain now for equipment from thousands of miles away. You are now renting the heavens with a piteous cry for equipments. The burden of your cry now is "Give us tools and we will finish the job". How do you explain that a vast continent like India is now paralysed with fear of attack from a tiny small island in the remote Pacific 4,500 miles away? How could nine crores of Japanese challenge 40 crores of brave Indians? May we still hope that in this supreme hour of your trial and tribulation, political wisdom will dawn on you? Will you make the Indians feel that this war is a war of their own and for their own freedom and for democracy as much for India as for the remote countries of Europe? Remove the shackles of India and I am sure you will win this war. The Communists are patriots and want nothing but the freedom of India. Convert them into a brilliant army for the real war of freedom and democracy. Throw open the doors of prison and recruit them at the jail gate for defence of their country and for the freedom of their country.

In connection with the question of release of prisoners, naturally the case of Mr. Sarat Chandra Bose comes to my mind very prominently. Mr. Bose has not been put on trial. Not only that, it is not proposed to place his case for review before any Advisory Board or any committee. May I tell the House how Sir N. N. Sircar, the ex-Law Member, feels on this matter? Sir N. N. Sircar was the pillar of the Government for so many years,—at all event in this House. I remember how Government used to become helpless when he was on leave. Now, this is what Sir N. N. Sircar says:

"The detention of Mr. Sarat Bose is justified as being necessary in the interest of India and its good Government. I am presuming that the authority which is to be satisfied that detention is unavoidable has honestly come to that conclusion on materials before it."

But he says, "Can any human being claim immunity from error of judgment?"

**The Honourable Sir Reginald Maxwell** (Home Member): May I know, Sir, from what the Honourable Member is reading?

**Mr. Akhil Chandra Datta:** I am reading from a copy of a speech made by Sir Nripendranath Sircar on that very day, viz., the 14th of February.

[Mr. Akhil Chandra Datta.]

in Calcutta, in a meeting of the Indian Association. He has very kindly sent me a copy of his speech and I am reading from it.

**The Honourable Sir Reginald Maxwell:** Is it proper, Sir, that an Honourable Member should put his arguments in the words of somebody who is not a Member of the House?

**Mr. Akhil Chandra Datta:** These are my words. I am adopting them as my own words.

**Nawabzada Muhammad Liaquat Ali Khan** (Rohilkund and Kumaon Divisions: Muhammadan Rural): Then this statement is not on the authority of Sir N. N. Sircar.

**Mr. Akhil Chandra Datta:** I say that these words are my words.

**Qazi Muhammad Ahmad Kazmi** (Meerut Division: Muhammadan Rural): And Sir N. N. Sircar agrees with you.

**Mr. Akhil Chandra Datta:** "But can any human being claim immunity from error of judgment", he said. The question is you are not immune from error of judgment, and, therefore, it would be proper that he should be put on trial. At all events his case should be raised before an Advisory Board. Now, Sir, I will quote the words of that gentleman from another paragraph:

"In the example given, the act of governing has not been done by Indians, and Indians cannot force their opinion, not even to the limited extent of having the evidence against Mr. Bose examined by an impartial tribunal."

In this connection, Sir, there are many things which require elucidation. It is said that the members of the expanded Executive Council were not consulted. They know nothing of the order. I do not know whether that is true or false, but, at all events, it has not yet been contradicted either by the Honourable Mr. Aney or Mr. Sarker or Sir Ramaswami Mudaliar or Sir Sultan Ahmed . . . .

**Mr. N. M. Joshi** (Nominated Non-Official): You can ask them now.

**Mr. Akhil Chandra Datta:** I do not know if they are in a position to contradict this statement that they did not know anything about this order or detention of Mr. Bose.

**The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar** (Commerce Member): I should like only to point out that it would be extremely embarrassing if in reply to a question like that any Honourable Member should state what has happened or what has not happened. It would be as embarrassing as any positive or negative statement can be.

**Qazi Muhammad Ahmad Kazmi** (Meerut Division: Muhammadan Rural): It is a question of joint responsibility.

**Mr. President** (The Honourable Sir Abdur Rahim): If the Honourable Member knows himself that they were not consulted it is another matter.

**Mr. Akhil Chandra Datta**: If the members of the Executive Council were not consulted, all I can say is that it is a pity for India and the Expanded Council is a mere camouflage.

Now, Sir, I have this morning received a letter from Mrs. Sarat Chandra Bose, and I am very anxious to read this letter before this Honourable House. This letter is dated the 17th February, 1942.

**Mr. President** (The Honourable Sir Abdur Rahim): Is it a long letter?

**Mr. Akhil Chandra Datta**: I will not read the whole of it. I will only read important bits:

"Perhaps you have noticed in the newspapers that the Honourable Nawab Bahadur of Dacca and the Honourable Mr. Santosh Kumar Basu went to Trichinopoly and had an interview with my husband there. The Nawab Bahadur of Dacca returned to Calcutta on the 14th instant and was kind enough to call on me to inform me about the conditions of detention and the present state of the health of my husband there. The Honourable Mr. Basu returned to Calcutta on the day following and he also saw me on the day he returned.

The information which I gather from them is very depressing and alarming indeed and if the present state of affairs, which I must say are harshly cruel to my husband, continues further for even a very short time it will have a very telling permanent effect on the already impaired health of my husband and I am sure my husband will be forced to have recourse to a very drastic step, namely, hunger strike which he has already determined upon (*as I heard from the said Ministers*) but which he has deferred for the time being for a few days at the special request of the said Ministers and upon certain assurances given by them. The conditions of his detention and state of his health which I gather from the Ministers are as follows:

(i) he is being given an allowance of nine annas per day. . . ."

Nine annas per day for his diet. No comments are necessary.

" . . . to meet the cost of his food for the day. Out of the sum remitted by me to him which is held in deposit by the Jailor, he is allowed to spend not more than Rs. 10 per mensem to supplement his daily food allowance. This allowance supplemented as above is miserably insufficient to meet the requirements of the food to which he is accustomed to and has adopted according to medical advice. The result is apparent—he is not having sufficient nourishment even.

(ii) he is being kept in solitary confinement. . ."

And I would specially draw the attention of the Honourable the Home Member to this part of the letter.

" . . . and he is not allowed any company or to talk to anybody. . . ."

**The Honourable Sir Reginald Maxwell**: Except the Bengal Ministers.

**Mr. Akhil Chandra Datta**:

"The yard where he is confined is very small (*of few feet only*) and he cannot have any exercise in walking—the only exercise permissible to him according to medical opinion;

(iii) he is allowed to receive only four letters per week and to write two letters in a week;

(iv) he is not allowed to use his own stationery even;

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- (v) since his transfer to Trichinopoly, he has been experiencing the greatest inconvenience and difficulty in his food. First a man was assigned to cook his food, who knows nothing about cooking of English dishes and even ordinary vegetable dishes suitable to his taste and health. The food cooked by him was uneatable, and by reason thereof, although he himself does not know cooking, he was forced to do his own cooking for a long time which was very tiresome to him. On or about the 25th January last a man named Goffur was sent from the Calcutta Jail by the Bengal Government to Trichinopoly as a cook for him. This man also knew nothing of cooking beyond meat curry and biriyani and he himself admitted that he was no cook but had acted for sometime previously as a cook's assistant. At the top of that, this man also is suffering from blood dysentery for some days past and had become by reason of his illness, a source of additional worry to my husband. My husband has asked this man to be brought back so that he may be relieved of this additional worry;
- (vi) Trichinopoly is a hot place, having very little cold weather. It has become already hot. As a diabetic patient he cannot bear such hot weather;
- (vii) he has been suffering from diabetes for a number of years which he had kept under control by regular treatment, systematic dieting and walking exercise. Lately he was under Kaviraj treatment and was taking medicines and . . . . . which had done him appreciable benefit in health. He cannot get . . . . . there and the people there do not know it even. Sugar has again appeared in his urine. He is losing weight considerably and is very much depressed in mind and pulled down in health.

As a result of all that he had made up his mind to have recourse to hunger strike when all his representations to the different authorities have gone in vain and do not seem to be receiving the least attention."

It is a lengthy letter and I should not like to read the whole of it.

**Mr. President** (The Honourable Sir Abdur Rahim): The Honourable Member has two minutes more.

**Mr. Akhil Chandra Datta:** I shall finish in two minutes. My complaint is this; I have spoken particularly about the case of Mr. Bose because he is so well-known, but there must be any number of such cases. Although my Resolution says "unconditional release of all political prisoners and detenus", I am prepared to concede that if the Government feel that there is enough evidence against these people in their possession then in the name of the people of this country, I ask in all seriousness this small mercy of placing them before a court of law and prove the offence. But without giving him any opportunity of proving his innocence, without telling him what the charge against him is, and then to detain him indefinitely as has been done in regard to most of these security prisoners, is not proper; especially in these days when you want to create mass enthusiasm for war, do not make the position strained; do not make the position bitter between the people on the one hand and the Government on the other. If you are really anxious for genuine enthusiastic support in your war effort, it is only necessary to take them into your confidence; and in the interests of bare justice, either to release them or place them on trial. Sir, I move.

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

"That this Assembly recommends to the Governor General in Council that steps be taken for the immediate and unconditional release of all political prisoners and detenus."

**Mr. N. M. Joshi:** Sir, I am very glad that the Honourable the Deputy President has given the Assembly an opportunity of discussing this important subject this afternoon. When the Government of India released the satyagrahi prisoners they justified their action by stating that they felt that the release of the satyagrahi prisoners would not interfere with the satisfactory conduct of the war. The Government of India felt confident that the responsible opinion in India was determined to support the war. I am rather at a loss to know why, when the Government of India could feel that confidence and release the very numerous and most influential class of political prisoners, numbering about 6,000, they should not feel sufficient confidence to release a much smaller and much less influential class of political prisoners. This is inexplicable to me. Among those whom the Government of India did not release at that time are some people who were convicted and sentenced to long period, on account of having made speeches. The Government of India may say that these people were not released as they did not want to interfere with the administration of justice; but in that very communique which the Government of India issued on the 4th December, they released Pandit Jawahar Lal Nehru and Maulana Abul Kalam Azad; and I think they acted very rightly. But when the Government of India could feel that confidence that their war effort would not be impeded by releasing such influential men like Pandit Jawahar Lal Nehru or Maulana Abul Kalam Azad, I do not know why they should not feel that confidence in releasing humbler people. Is there one justice for Pandit Jawahar Lal Nehru and Maulana Abdul Kalam Azad and another justice for humbler people? I feel that this discrimination is not justified.

The Government of India have not discriminated only among this class of political prisoners. They have discriminated between the security prisoners and the satyagrahi prisoners. I do not know what justification there is for this discrimination. To me it appears that the Government of India as usual had partiality for the middle class politician to which class the satyagrahi prisoners belong, and the Government of India have always shown a prejudice against those people who take part in the labour movement and in the *kisan* movement. This discrimination made by the Government of India appears to me also very perverse. The Government of India have released people who have committed offences, though those offences were formal or symbolical, but they refuse to release people who may not have committed any offence, or at least who are not proved to have committed any offence. I, therefore, feel that this attitude of the Government of India is perverse.

The Honourable the Deputy President has dealt with the question of the detention of the detenues without trial, very thoroughly. He has pointed out how a policy of this kind is unjust and against the principles of sound law. I shall deal with the question from the point of view of expediency. As a result of the release of the satyagrahi prisoners I think the Working Committee of the Indian National Congress, and the All-India Congress Committee were able to reconsider their attitude towards the war, and even the Government of India will admit that that reconsideration has improved the situation. I may go further and say that as a result of the release of the political satyagrahis, Mahatma Gandhi has given up, or at least suspended, his satyagraha movement. I feel that today or after the political prisoners were released the situation in the country has improved. Sometime after the entry of Russia into the war, there is hardly any opposition to the war in this country. Therefore, I feel that considering the results

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of the partial action taken by the Government of India—we can say today that the Government of India made a mistake in not releasing all the political prisoners. If they had done that the political situation would have improved a good deal.

Then the Honourable the Deputy President mentioned that the communist party, to which a large number of the detenus belong, have reconsidered their attitude towards the war since the entry of Russia into the war. It is true that they took some time to formulate their policy, because most of the communist leaders have been in jail and they found it difficult to take a decision on behalf of the party. But it is a fact that they have changed their attitude towards the war. They are now in favour of full support to the war, although like the Liberal Party and Sir Tej Bahadur Sapru they also state that for the effective and enthusiastic participation in the war the Government of India must establish a national Government and do several other things. Therefore, today, there is no reason why the communists should be kept in jail and the Liberal Leaders and Sir Tej Bahadur Sapru should be left free. (Interruption). If the communists are to be kept in jail, there cannot be another law for the others. My point is, as Sir Tej Bahadur Sapru and members of the Liberal Party are free, the communists also should be free. Not only the communist party, but important *kisan* leaders also, at least some of them have changed their attitude. I have got here a statement issued by Swami Shahajanand, the most prominent of the *kisan* leaders in the country, and he, like the communists, has come to the conclusion that the *kisans* must support the war unconditionally. I, therefore, feel, that it is wrong for the Government of India to keep these people in jail any longer. They were wrong in not releasing them along with the satyagrahis, but they will be doubly wrong if they keep these people in jail any longer.

The Honourable the Home Member told us the other day that in pursuance of the policy which he announced in the Assembly during the discussion on my Resolution, the Government of India were taking steps to appoint some reviewing authority to review the cases of the detenus. Mr. Deputy President has dealt with the unsatisfactory character of this kind of enquiry. But what I feel is this. The Government of India did not consult any authority when they put these people in jail. They never placed any evidence before some authority to consider whether these people deserved to be put in jail or not. But the Government of India, now when the time for release comes, consult a reviewing authority! This is rather a strange and one-sided procedure.

**The Honourable Mr. M. S. Aney** (Leader of the House): What is the suggestion?

**Mr. N. M. Joshi:** The suggestion is that they should be released immediately without any enquiry. Moreover, in Great Britain there is a committee which considers the cases of security prisoners, but there the security prisoner gets an opportunity of placing his case before that committee at the very initial stage. The Government of India have kept these people in jail for two years, or at least for one year, and now when the time comes for their release, they think of appointing a reviewing authority! Moreover, the Government of India announced their decision regarding reviewing the cases three months ago. The reviewing authorities are being



appointed now after three months, and I have no doubt that these reviewing authorities will take some time to come to a decision. This leisurely and dilatory procedure will not do in these times which are moving very fast. Then, there are some complaints about the procedure. The Government of India do not allow legal assistance to the detenues in order that they may place their cases before the reviewing authority.

**The Honourable Sir Reginald Maxwell:** Do they get it in England?

**Mr. N. M. Joshi:** I am not quite sure of that. Not only that, but a security prisoner cannot claim that he should appear personally before the reviewing authority. It is true that the reviewing authority may ask the security prisoner to appear before it. This procedure, moreover, does not really suit those security prisoners who belong to parties. This procedure may suit individuals who as individuals have been put in jail, but people who have been arrested as members of a party—I know that communists have been arrested as being communists belonging to the party. If the communists have now to put in their statements before the reviewing authority, they have no opportunity of consulting each other and putting in statements which they and their party would approve. They are in jail, they cannot consult each other. The Honourable the Home Member will admit that there are difficulties in the way of mutual consultation. I, therefore, feel that this method is unsuitable. I also know that there are security prisoners who have conscientious objection to such a procedure. They say "The Government did not put us before a judicial authority for trial. It is Government's responsibility to prove that we are guilty. Now, the Government ask us to prove why we should be regarded as not guilty. This is putting the burden of proof on the wrong shoulder." Again, there are some security prisoners with a very high sense of honour and also appreciation of the dignity of human freedom. They feel that, although they have changed their views regarding the war, while they are in duress they do not like to state that they have changed their views, on account of the very fact that it is wrong that a man in prison should make that statement. Moreover, their attitude is likely to be misunderstood that people may think that these detenues have changed their views in order to secure release. I shall read only a sentence. . . .

**Mr. President** (The Honourable Sir Abdur Rahim): The Honourable Member's time is up.

**Mr. N. M. Joshi:** I shall not read anything. I, therefore, feel that this procedure of reviewing cases by some authority, is not suitable to those detenues who belong to parties. It does not suit people who take the view that it is wrong for them to make statements while they are in duress and they should take upon themselves the burden of proof. I also feel that this method of reviewing cases is inappropriate. This is not the time when we should proceed with the question of release of these prisoners in a dilatory and leisurely manner.

**Mr. President** (The Honourable Sir Abdur Rahim): The Honourable Member's time is up.

**Mr. N. M. Joshi:** I shall speak only two sentences more. We are living in a time when there is absolutely no opposition to the war. Not only that,

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but there are peoples within the jail who are anxious to support the war. Should not the Government of India give them the satisfaction of supporting in the prosecution of the war? I, therefore, feel that the Resolution which the Honourable the Deputy President has moved deserves the support of this House, and I also feel that in the times in which we are living the Government of India should accept it.

**Maulana Zafar Ali Khan** (East Central Punjab: Muhammadan): We

are under the shadow of a great tragedy and from Mr. Churchill  
4 P.M. down to the Commander-in-Chief they are declaring from the  
housetops that a great crisis has arisen in the East and everything should  
be done by those who are for the welfare of the British Empire to sink  
their differences and join hands with the Government and help it in the  
successful prosecution of the war. I should have thought that at such a  
juncture a wise Government would have done its level best to earn the  
sympathies of the people and not to alienate them. At a time when you  
are talking of the necessity for the co-operation of the people of India with  
the Government you ought to have thrown open the doors of the jails and  
not to have allowed a single political prisoner to remain within the jails  
but it seems to me that the Bureaucracy think that a well-filled jail is the  
emblem of sovereignty and so they must have political prisoners in the  
jails and the game is going on merrily. Sir, there are two great political  
parties in India, the National Congress and the Muslim League. Both  
have declared in so many words that they would very much like to co-  
operate with the British Government in the successful prosecution of the  
war if the Government only parted with power, took them into confidence  
and placed them in authority but the Government would not share  
authority with the Congress, with the result that these Benches are empty.  
The result is that the Muslim League is discontented and the other parties  
are discontented. The Liberals are raising their voice against the present  
policy of the Government but the Government would not hear. Has the  
National Congress ever said that they would like to invite Hitler and that  
they would like to invite General Tojo from Japan to take the place of the  
British? Has any one said so? Certainly not.

Why then, I should like to know, should the Government be blind to  
reality? Open your eyes and see what is happening in the world. The  
war is at your very doors. Malaya is gone. Singapore is gone. Half of  
Burma is gone. Hongkong is gone. Sumatra is going. Java may go and  
in the words of the Commander-in-Chief war may come to Madras. What  
prevents Japan from landing in Madras? Nothing. Japan can tomorrow  
invade India. At such a critical time you should not alienate the sym-  
pathies of the people of this country but instead of doing that you simply  
put the *kisans* and the communists in prison. What do the *kisans* and the  
communists say? They only say: 'We want our country to be free'. You  
are talking of freedom, you say you are fighting for democracy. Why  
don't you speak out what is in your mind? Be plain. I warn you that if  
you go on like this, alienating the sympathies of the people of India, there  
is a very bad day for you and with these words I would like the Home  
Member to look into the wording of the Resolution placed before the House  
by the Deputy President and give it sympathetic consideration and throw  
open the doors of the jails.

**Mr. Jamnadas M. Mehta** (Bombay Central Division: Non-Muhammadan Rural): Sir, I rise to support the Resolution moved by my Honourable friend the Deputy Speaker of this House. I would, however, confine this debate strictly to the merits of the case. I do not want to raise any controversy of a wider character. Nor do I wish to exploit this occasion for a political tirade against the Government. In war time, even in a free country, every citizen has to reconcile himself to some restriction of his liberty. I recognise that. I do not wish to say that if Government had got sufficient reasons against me they should not detain me. The object of this Resolution is this. Government in a moment of panic arrested and detained some people and imprisoned others. It is now more than two years since the war started and still they are detaining some of them, without going into the merits which led them to that detention. It is this which is causing immense discontent in the country. I do not agree with my friend Mr. Joshi that Government are partial to the middle classes. Not at all. I cannot share that view. They are just as unjust.

**The Honourable Sir Homi Mody** (Supply Member): Even more.

**Mr. Jamnadas M. Mehta:** They are only kind to gentlemen like the Supply Member but so far as the middle classes are concerned, they pick and choose. The more powerful the middle class, the more they bow to them but taken as a whole they have not favoured the middle classes.

**Mr. N. M. Joshi:** I am prepared to modify that statement.

**Mr. Jamnadas M. Mehta:** They could prevent the Hindu Mahasabha meeting at Bhagalpur, which was the most outrageous conduct on the part of the Governor of that province and for that reason he should have been deported from that province as being the greatest fifth columnist. That is my view. But they make peace with the Khaksars and the Congress. I am glad that they have made peace with both, because the results of these overtures have been on the whole successful. The Congress has not only abandoned Satyagraha but I find Mr. Rajagopalachari today raising his powerful voice and saying that we must defend our country; and Mr. Bhulabhai Desai is following him somewhat cautiously but following him all the same. That is my point. Therefore, the results of the policy of releasing a large number of these Satyagrahi prisoners, as they are called, have fully justified the action. I say that the results have justified the Government's attitude in releasing them. What is needed is only a little more extension of that attitude. I assure the Honourable the Home Member that the results will again justify themselves. There will be no attitude of obstruction to the war. I know some of the members of the Roy Group; they are solidly behind the war effort. They believe in giving cordial support to the war. They have been kept at arm's length even from the war effort but still they have made no grievance of the political conditions in India. They have demanded no national Government. They have asked to be allowed to participate most cordially and whole heartedly in the war effort. It is this kind of people who are still behind the prison bars. I do not know how many of them have been detained. But we know that some are still behind the prison walls. To my mind, they no more deserve to be behind the prison walls than the Honourable the Home Member himself. They are more keen on the war effort from the people's point of view; they believe that if the war comes to India's doors, it will

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mean the devastation of this country and the devastation of 40 crores of people. The tragedy will be visited with terrible consequences on the people of this country. It is from that point of view as well as from the International point of view that Mr. Roy's group is supporting the war effort with wholehearted sincerity. Is it wise that this class of political prisoners and detenus should remain for a single day behind the prison walls instead of being allowed to go all over the country to preach the message of 'Fight for India's defence'? They are burning to be allowed to do so; they do not need any inspiration from Government. They have not even the interests of their own party at heart. They have one and one consideration only and that is that India must defend itself, that this war must become the people's war by allowing people to be associated with it. With this object in view, they have hushed all political controversy in the meantime; they are not asking for national Government. I do not know what national Government will be if you give it to the Congress. I personally do not think that you should give it to them. I know what Mr. Rajagopalachariar did in Madras when he was the Prime Minister. He imprisoned people who would not speak Hindi. Such an intolerable gentleman should be given no power. But the Royists are not making any such condition. They are asking to be allowed to participate most actively and wholeheartedly in the war in the interests of India's defence and of International democracy. These people deserve to be at the head of the war effort and not in jails. That is the difficulty which I am feeling.

Coming to one or two more points which my Honourable friend, Mr. Datta, raised, I do feel that men like Sarat Chandra Bose should have been given an opportunity to explain themselves before they were taken under detention. I do say that as soon as you think of arresting a person you should give him an opportunity the very next day of explaining his position. You should examine his case the very next day and not keep him in prison for two years and six months and then appoint a Committee which will go on in its own way. That kind of procedure is most unfair. It is keeping away a large number of people from helping and it is doing no good to Government.

My last point is this. India should be enabled to give you even more support than it has given so far and I agree with Mr. Joshi that there is not a single responsible opinion in this country today which is against the war. But I go further. I hold that a mere neutral attitude is not enough. Everybody should be for the war. In order to bring about that mentality and to encourage that attitude, it is the part of statesmanship for Government that unless they can establish a definite charge against these people, mere holding of opinion should not be penalised. If they can prove that they have done some definite act against the war, I can understand them. But mere holding of opinions in pursuance of which they have done no overt or covert act should not be considered enough to send them to jail especially at a time like this. The communists themselves were against the war in the beginning. They are now wholeheartedly in favour of the war. In fact, the resolution which they passed was unconditional and you cannot desire for a better attitude from the communists at this time. The working classes today are in your favour, not against you. The Royists and the communists are in your favour. The middle classes are in your favour. Nobody is against you. Therefore, I suggest to Government to exercise

a little more statesmanship which they did in releasing the Satyagrahi prisoners. Government found out some justification by calling it a token disobedience. I must admire the resources of the English language. When you want to release people who definitely declared that they were against the war and who were about to make anti-war speeches and who made no secret of it, you call that a token disobedience.

**The Honourable Sir Reginald Maxwell:** Symbolic.

**Mr. Jamnadas M. Mehta:** Thanks. I congratulate the English language still more, but I do not congratulate you that you should take shelter behind this word 'symbolic'. It was real. The Congress people were the last men to admit that they were hypocrites, that they did not mean what they did. But here are people who have done no overt or covert action. You cannot prove it; and they have now gone further and declared their intention in the most unmistakable terms in support of the war. If a man had declared that he was against the war and to that end he would do some overt act, I won't plead for his freedom. But I do plead for the freedom of those citizens who are as keen on war effort as I am or anybody else might be. They are not the persons who should be behind the prison walls. Pacifism is not a crime. What should be a crime is the positive act of obstructing the war effort. That cannot be proved against any of these gentlemen, and therefore I would beg of the Government to accept my friend, Mr. Datta's Resolution.

**The Honourable Sir Reginald Maxwell:** Sir, when an Honourable Member moves a Resolution and asks the House to accept it as it stands, I am afraid I must hold him to its terms. This Resolution recommends the immediate and unconditional release of all political prisoners and detenues. It is not relevant to a Resolution in those terms to argue that this person or that person has changed his views or that this group or that group has declared itself to have a different attitude towards the war. The Resolution does not take into account any such things. By its terms, it means the release of all prisoners whether their attitude is satisfactory or not. He is asking the House to pass a Resolution demanding that every prisoner, however dangerous he may be still, and whether he has changed his views or not, should be released. It is, therefore, not relevant to discuss individual cases and I shall not go into those which have been mentioned.

Now, we have to try to elucidate this Resolution still further. The Resolution demands the release of all political prisoners. I have asked before now what a political prisoner is and I should like to know how widely the terms of this Resolution are to be understood. There is no definition of a political prisoner in the Indian Penal Code or in any other enactment that I am aware of. I can only suppose that what the Honourable the Mover had in mind was those who have committed offences which, according to him, have a political motive. There again we are in a difficulty. The law does not make motive the ingredient in an offence. Intention may be an ingredient, but not motive. Therefore, this Resolution is in danger of releasing a very large number of people for the possession of some motive which is not capable of determination or proof. I might ask such questions as this: would a person who had committed murder or dacoity in pursuance of a terrorist conspiracy be a political prisoner whose release would be due under this Resolution? Why not? Terrorists are

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supposed to commit their crimes from political motives. What about the possession of bombs and explosives? A person who is found in possession of bombs and explosives should be regarded as a political prisoner and released? Or, what about offences under the Arms Act? If a person is found in possession of unlicensed weapons kept for political reasons he is to be released under the terms of this Resolution. Or, again what about a person who commits an offence in connection with elections? Say, there is rioting during elections : elections are surely connected with political activity and if a person commits an offence, such as rioting, during the progress of an election, he becomes a political prisoner and he should at once be released under this Resolution.

**Mr. Akhil Chandra Datta:** Is that all the difficulty in releasing the prisoners?

**Qazi Muhammad Ahmad Kazmi:** The Resolution may be modified if you like.

**The Honourable Sir Reginald Maxwell:** What I want to know is, can any one who claims to be taking part in a political movement commit any offence he likes? That is what the Resolution appears to mean. Many offences are committed in the name of politics. Should I, for instance, myself be a political offender if I went out into Delhi and said all the things about the Honourable the Mover that are said about the Government? If I hold him up to hatred and contempt and he brought an action against me for libel, can I plead that I was a political offender, because I disagreed with his political views?

**Mr. Akhil Chandra Datta:** I shall never bring any action against the Honourable Member. I can give that undertaking.

**The Honourable Sir Reginald Maxwell:** However, if motive is to be the determining factor in this Resolution, how are we to know it? What evidence is to be produced? Can anybody search the heart of an offender and see what motive was really at the bottom of it? Ultimately it comes to this : that any person convicted can give himself a certificate and say : "I did this from political considerations or motives and, therefore, I am entitled to be released under the terms of this Resolution". Or, again, if motive is such an important factor in determining whether a person is a criminal or not, why do you limit this release of prisoners to persons who commit offences from political motives? Why not include religious motives? Many offences, I am sorry to say, are committed in the name of religion, in communal riots, for instance, and why is this Resolution discriminating in favour of persons who had political motives and does not also give its benefit to persons who commit offences from religious motives? Surely religion is a higher motive than politics. So, we get down to the real meaning of this Resolution, that is that those who commit offences against the State or offences calculated to impede the prosecution of the war, that those persons should be released. That is what is really in the mind of the Honourable the Mover as far as I can make out. This is the monstrous proposition which he asks this House to accept.

The assumption underlying this Resolution is that offences against the State, howevermuch they threaten the national safety, howevermuch they threaten the national existence, howevermuch misery and suffering they may cause to all his fellow countrymen, offences of that kind against the State should be regarded as less reprehensible than offences against individuals. Indeed, it is the logical implication of the Resolution that the law which makes certain things an offence against the State should be repealed altogether. There is no meaning in having a law making certain offences punishable if, on every occasion when it is used, the release of the persons convicted is to be demanded. If the sanctions of any legislation are to be withdrawn, there is no meaning in retaining it on the Statute-book.

Now, Sir, to go back to those persons who have committed offences against the State or offences calculated to impede the prosecution of the war, we had a debate at the last Session in which I explained to the House at considerable length the classes of prisoners who are involved. I explained to the House that apart from satyagrahi prisoners, there was only a limited number of such persons convicted or under detention and that they consisted only of persons whose actions were definitely prejudicial to the national safety. I gave instances to the House at that time, and I will not go over that ground again. We must take it that the persons who are still undergoing sentences or under detention fall within that category of persons whose activities are definitely prejudicial to the State. At that time, as a result of that Resolution, I promised that Government would further consider the matter and see what action could be taken as regards the reduction of the number of these prisoners. Shortly afterwards a *communiqué* was issued stating that the Government of India had reached the conclusion that those civil disobedience prisoners whose offences had been formal or symbolic in character could be set free. By executive instructions, they also explained to the Provinces, who are mainly concerned in the action to be taken, that it was intended not to limit the action to persons who had merely committed satyagraha, as it is called, or given notice of their intention to do so, but also to extend that action to persons who had accompanied the offer of satyagraha with a speech not materially adding to its substance. Therefore the widest possible construction was put on the decision of the Government and action has already been taken under it in all the Provinces. According to the latest figures which I possess, some 6,475 convicted prisoners have been released and 889 security prisoners, that is, persons detained under rule 26. So much action was taken as a result of the decision announced by the Government. The number of persons of that class now remaining in jail is very small. I think that some 400 odd persons remain serving sentences and there are about seven security prisoners; but it may be taken, as I explained at the last Session, that those were persons who had done something very much more than a formal act of satyagraha, persons for instance who had dissuaded others from recruitment and had committed various offences definitely affecting the war effort.

As regards detenues, persons detained under rule 26, the action which I foreshadowed in the last debate is in progress. The Provincial Governments have established machinery, and the Central Government are establishing machinery also, to review the cases of persons detained under their orders.

**Maulana Zafar Ali Khan:** Can the Honourable Member tell us whether these 400 odd people are dangerous?

**The Honourable Sir Reginald Maxwell:** All that I can say is that they have done something very much more than *satyagraha*; their offences are in no way symbolical.

Now, as regards those persons, whether they be Communists or others, whose cases will now come under review, it is only necessary to say that if there be any person whose attitude is such that he wishes earnestly to help in the war effort, I have no desire whatever to keep him in jail. Why should Government wish to keep such a person in jail? The object of the review is to find out whether there are any such persons. But at the same time the mere fact that a certain party as such had resolved that its attitude should change would not necessarily cover all the individuals formerly associated with that party. Any review must proceed on the individual basis; we must know what the attitude of each person is likely to be. Some people may accept such a change of attitude, and some may not; and in fact I am rather given to understand that at a Cawnpore meeting of the Trade Union Congress, in which I believe my Honourable friend, Mr. Joshi, was present, a Resolution was passed reaffirming the previous attitude.

**Mr. N. M. Joshi:** No Resolution was passed.

**The Honourable Sir Reginald Maxwell:** Speeches were made at any rate, and a Resolution affirming full support of the war was I think not passed.

**Mr. N. M. Joshi:** At the Cawnpore meeting no Resolution was passed. Every Resolution that was put before the meeting was defeated because we have a very sound rule that unless a particular Resolution has a three-fourths majority it does not pass.

**The Honourable Sir Reginald Maxwell:** At the time of the last debate I made it clear what the attitude of Government was towards offences affecting the safety of the country in war. I said:

"I must make it clear that political or any other motives cannot be regarded as an extenuation of offences deliberately calculated to impair the war resistance of the country or to undermine its war effort."

I said further:

"The gradual improvement in the situation and the growing sense of security may have dulled recollection of the dangers which we then had to face or the nearness of the war, as it then seemed, to India. We may yet have to face similar or even worse situations and it would be a grave failure in its duty if Government were to discuss this or any other question on the assumption that any interference with India's war effort, however slight, could be ignored."

Since I spoke those words, as the House knows well, the situation which I then foreshadowed has come to pass. We have gone back to a stage at which India herself is more gravely threatened by the war than she was even in the earlier stages. And I ask the House, is this the moment to think of the release of persons whose activities are contrary to the national safety or prejudicial to our success in the war? Some of the arguments used in support of this Resolution have astonished me. It is



said that these persons must be released in order not to alienate the people; and the Honourable the Mover went so far as to say that Communists and Fifth Columnists are patriots. It is to me an extraordinary assumption that the only way not to alienate the people is to release the very persons whose activities are known to be prejudicial to the national safety. What more pitiful exhibition of defeatism could there be? While there are demands made in public that Government should do more to protect the country from the dangers of war or from the forces of disorder that may arise under war conditions, we are asked by this Resolution to stultify every action which lies with Government to prevent individuals from working against the national safety! I would ask the House seriously to consider the matter from this point of view.

There is too much loose talk about the latitude which should be given to persons whose activities either threaten the actual measures of Government for the prosecution of the war or, what is worse, threaten the morale of the people. We all know how much importance attaches to the morale of a country which is threatened by the enemy, and that importance increases as the danger draws nearer. We know too that the enemy make it their business to exploit every element of weakness in the country, anything that may cause divisions among the people or estrange them from their Government, because it is profitable to him. We know also, we have plenty of information to show, that the enemy have already spread their tentacles as far as they can over this country with the object of undermining the morale of the people. Their object is to create an atmosphere of panic or defeatism in which the national resistance will be impaired and their task will be facilitated. When I speak of morale I mean everything that contributes to the will of the country to resist and to suffer, if necessary, in defence of its principles. I mean such things as confidence in victory, confidence of the people in themselves and their leaders, courage and endurance in danger and a resolve that nothing that the enemy can do will break the spirit of the people. China, Russia and Britain have already shown the world an example of what a country can do when the morale of its people is not broken by enemy attacks, and how the preservation of that morale has saved them from very much worse dangers. Now, I am sorry to say that in this country there is much too much in the way of defeatist politics. Political movements in this country tend to advocate disaffection almost as if it were an end in itself. Many political parties regard it as their duty to act as factories for the manufacture of defeatists and Fifth Columnists. It is a small step from that kind of attitude to active collaboration with the enemy and that is what the enemy depends on. I want to point out to the House in regard to these political activities on which we are asked to look with so much leniency that it cannot be good for the morale of any country to be constantly taught to hate and distrust the Government on which its safety depends. Disaffection leads to lack of confidence, lack of confidence leads to defeatism, defeatism leads to panic in an emergency. Now, I wish the House to consider what the effects of panic will be and how they would increase the danger of the people and their sufferings in an emergency. They will increase their danger and sufferings first by undermining the morale of the people and so setting loose the elements of disorder. Where such elements are set loose—and we know that there are many disorderly elements which are waiting to take advantage of any position arising out of the war—we get such phenomena as looting and widespread disorder in

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the country. In the second place, panic hampers the efforts of the Government to secure the maximum safety for all; instead of being able to concentrate on meeting the danger, Government have to devote their resources to steadying the people and to preventing internal disorder among them. Another effect is that panic stops vital services on which the health and the comfort of the people depends, and, therefore, makes the war conditions worse. And, again, panic causes people to evacuate from industrial cities, a thing which interrupts the flow of munitions and supplies to our soldiers, and thus puts them in peril and helps the enemy. I want the House to regard all those who promote such things, whether consciously or unconsciously, as helping the enemy, and, therefore, as a public danger. If the House realizes that, it will support Government in taking action against all those who may seek to promote panic, defeatism or disaffection or lack of confidence, instead of asking Government to release them. If Government, knowing that certain activities tended in those directions, looked the other way and allowed them to go on, the country would have just cause to reproach Government with failure in their duty. The public safety must come first and the idea that in order not to alienate these people, they should be allowed to have a free run for all their activities, is to me an astonishing proposition. Confidence in Government will strengthen their hands and enable them to do more in protecting the interests of the whole people and securing the maximum safety for all; but, on the other hand, any denial of support only makes the task of Government more difficult and, in doing so, betrays the national interest at a time like this . . . . .

**Sardar Sant Singh** (West Punjab : Sikh) : Why don't you make a National Government then? It will create confidence in the Government.

**The Honourable Sir Reginald Maxwell** : I am not going to be diverted on to political and constitutional discussions. The country has its Government . . . . .

**Mr. K. O. Neogy** (Dacca Division : Non-Muhammadan Rural) : That is a National Government!

**The Honourable Sir Reginald Maxwell** : This country has its Government and in an emergency such as now faces us the country has got to look to its Government to take the necessary measures for its safety.

**Sardar Sant Singh** : Why this Government? We take objection to this Government.

**Mr. President** (The Honourable Sir Abdur Rahim) : Order, order.

**The Honourable Sir Reginald Maxwell** : And those persons who promote disunity among the people or disaffection or defeatism for the sake of some immediate political end are no friends of India and the House should not regard them as such. There can be no question of releasing these people and giving them full liberty to pursue tactics which can only help the enemy by spreading panic throughout the country. And, therefore, I wish the House to declare itself firmly on the matter of principle

embodied in this Resolution, that all political prisoners and all detenues, whatever they may have done, whatever harm they may have been engaged in, should be immediately and unconditionally released at a moment when the country stands faced with a greater peril than she has ever had to face before. If the House looks at the matter like this. I think there can be only one answer to the Resolution which I, on behalf of the Government, entirely oppose.

**Nawabzada Muhammad Liaquat Ali Khan:** Sir, I have listened to the debate on this Resolution very attentively. A number of issues have been raised which are really not directly connected with the subject matter of the Resolution. When I was listening to the speech of the Honourable the Mover, the impression that I gathered from his more than half an hour's speech was that he was not unequivocally wedded to the wording of the Resolution. To me it seems that the Honourable the Mover of the Resolution, while drafting it, was too enthusiastic. I hope I am not putting a wrong interpretation on his speech if I say that all that he wanted was that these persons who have been detained without trial should be placed before a Court of Law. If that really was the object of the Honourable the Mover, then I may assure him that he has my whole-hearted support and sympathy. It is to my mind inherently wrong to detain a person, to put check and restriction on his liberty without even telling him what his offence is. I know of a case where the gentleman has been detained for nearly two years now and he does not even know why he is being detained—I am referring to the case of Professor Abdus Satar Khairi. I have received letters from him showing his complete ignorance of the facts on account of which he has been detained.

Now, in fairness to a person it is but right that he should be given every opportunity of putting his case before the Government, putting his case before a court of law before his liberty and freedom are curtailed. When Mr. Joshi during the course of his speech demanded that these gentlemen who were being detained without trial should be given an opportunity of consulting their legal advisers, so that they might be able to place their case before any tribunal that the Government might appoint, in a proper manner, the Honourable the Home Member interjected and said: "Is it done in England?" May I just point out to him that it is no use giving us the analogy of England. In England the government is of the people of England; the government depends on the will of the people of England. Here, in India, we have a government which depends, which exists upon brute force. It is not the government of the people of India . . . .

**Mr. Akhil Chandra Datta:** What force is that?

**Nawabzada Muhammad Liaquat Ali Khan:** Brute force.

**Mr. President** (The Honourable Sir Abdur Rahim): I do not think the Honourable Member will be able to conclude his speech today . . . .

**Nawabzada Muhammad Liaquat Ali Khan:** I will not take very long.

**Mr. President** (The Honourable Sir Abdur Rahim): Perhaps he had better continue on the next Resolution day.

[Mr. President.]

Before I adjourn the House I have to inform the House that I announced yesterday that the election of members for the Standing Committees on Emigration and on Pilgrimage to the Hejaz fixed for Friday the 20th February, 1942, would, notwithstanding the fact that the official meeting for that day had been cancelled, stand as already appointed. Having regard, however, to the inconvenience to which the Members will be put in coming to the Council House for recording their votes for these committees on a day on which there is no meeting of the Assembly I have reconsidered the matter and decided that the elections for the two committees, if necessary, should be held on Monday the 23rd February, instead of Friday the 20th of February. I hope this arrangement will suit the Members.

The Assembly then adjourned till Eleven of the Clock on Monday, the 23rd February, 1942.