

24th March 1942

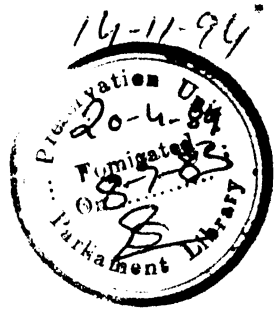
THE LEGISLATIVE ASSEMBLY DEBATES

Official Report

Volume II, 1942

(11th March to 2nd April, 1942)

FIFTEENTH SESSION OF THE FIFTH LEGISLATIVE ASSEMBLY, 1942



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LEGISLATIVE ASSEMBLY.

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LEGISLATIVE ASSEMBLY

Tuesday, 24th March, 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.

MEMBER SWORN.

The Honourable Mr. Satyendra Nath Roy, C.S.I., C.I.E. (Member for Railways and Communications).

STARRED QUESTIONS AND ANSWERS.

(a) ORAL ANSWERS.

RECRUITMENT OF SINDHIS FOR SUBORDINATE SERVICE POSTS ON NORTH WESTERN RAILWAY IN SIND.

241. *Mr. Lalchand Navalrai: (a) Will the Honourable Member for Railways be pleased to state whether it is a fact that the Government of Sind recently made a representation to the Railway Board that recruitment of Sindhis for the subordinate service posts, even in the area served by the North Western Railway in the Province of Sind, was negligible and asked that preference be given to Sindhis for such appointments?

(b) Is it a fact that there is a difficulty of language communication between the public and the railway staff in Sind area as most of the Punjabee employees do not speak the language of Sind?

(c) Do Government propose to issue instructions that a large number of Sindhis be employed in the Karachi Division of the North Western Railway or lay down a suitable test in Sindhi language for employees belonging to other provinces? If not, why not?

The Honourable Mr. S. N. Roy: (a) Yes.

(b) I have received no such complaint.

(c) No impediments have been placed in the way of Sindhis obtaining employment on the North Western Railway and Government, therefore, propose to issue no further instructions. As regards prescribing a language test in Sindhi, there is at present no intention of doing so; I am, however, forwarding this question and my reply to the General Manager, North Western Railway, for his information.

Mr. Lalchand Navalrai: May I know what reply has been made to the Sind Government with regard to the entry of Sindhis?

The Honourable Mr. S. N. Roy: I must have notice of the question. I do not know whether an answer has been sent.

Mr. Lalchand Navalrai: May I know why the Honourable Member says that this language is not a difficulty there? Has the Honourable Member made any inquiries, or is it merely the Honourable Member's imagination?

The Honourable Mr. S. N. Roy: I merely said that I have had no such complaints.

Mr. Lalchand Navalrai: Will the Honourable Member make an inquiry at least from the General Manager whether there is this difficulty with regard to mufassil people who want to buy tickets and want other things done?

The Honourable Mr. S. N. Roy: I have stated that I am forwarding this question and the reply to the General Manager of the North Western Railway, and doubtless he will state his views, if he has any to communicate.

Mr. Lalchand Navalrai: With regard to part (a), whatever the reply from the Government of Sind is, will the Honourable Member send it to the General Manager to consider it for himself?

The Honourable Mr. S. N. Roy: I will consider that.

DEMAND FOR EXTRA CLERICAL STAFF IN DIVISIONAL OFFICES ON NORTH WESTERN RAILWAY.

242. *Mr. Lalchand Navalrai: (a) Will the Honourable Member for Railways be pleased to state if it is a fact that there is shortage of clerical staff in various Divisional Offices on the North Western Railway? If so, what is the demand placed by each Divisional authority for extra clerical staff?

(b) Has there been any increase in the clerical staff of the Divisional, Extra Divisional and Headquarters Offices of the North Western Railway since September 1939? If so, will the Honourable Member please lay a statement on the table of the House showing separately the increases in each office?

(c) Is it a fact that clerks in several offices have been asked to attend office till 6 P.M. instead of 4-30 P.M.? If so, why, and are they compensated for long hours of work?

(d) Are Government aware of any cases of office clerks keeping late hours in offices? If so, what action has been taken to give relief to them or stop their sitting late hours in offices?

The Honourable Mr. S. N. Roy: (a) The answer to the first part is in the negative; the second part does not arise. I would, however, state for

the Honourable Member's information that Divisional Superintendents do occasionally ask for more staff and these are sanctioned if there is sufficient justification. At present requests from the Divisional Superintendents, Karachi and Multan, are under the consideration of the General Manager.

(b) Yes, the statement which I lay on the table of the House gives the required information. There has been an increase of 261 posts in all the offices together.

(c) The reply to the first part is in the negative; the second part does not arise.

(d) Yes, I understand occasionally some clerks have to put in late hours. As regards the second part, I would refer the Honourable Member to the statement laid on the table.

Statement showing increase in the Clerical Staff made from time to time in the Divisional, Extra Divisional and Headquarters Offices since September, 1939.

Office.	Total Number of posts.
1. Divisional Office, Quetta	36
2. Divisional Office, Lahore	7
3. Divisional Office, Karachi	5
4. Divisional Office, Ferozepore	3
5. Divisional Office, Delhi	6
6. Divisional Office, Rawalpindi	6
7. Divisional Office, Multan	4
8. Superintendent, Mechanical Workshops	11
9. Superintendent, Walton Training School	3
10. District Controller of Stores, Moghalpura	2
11. Deputy Chief Engineer, Bridges	7
12. Accounts Branch	88
13. Assistant Works Manager, Signals	1
14. Headquarters Office	82
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NOTE.—The above information has been given as far as it is readily available.

Mr. Lalchand Navalrai: With regard to clause (c), may I know whether the usual time is up to 4-30 and that it is being exceeded, and, if so, how much?

The Honourable Mr. S. N. Roy: I have stated that I understand that occasionally some clerks have to put in late hours. The staff has been increased, and if, in the exigencies of the present situation they have to work a little later than usual, I do not think that can be a ground for complaint.

Dr. P. N. Banerjee: Do they get any overtime allowances?

The Honourable Mr. S. N. Roy: I do not think so.

PROMOTED SECTION CONTROLLERS GRADE A, HOWRAH DIVISION, EAST INDIAN RAILWAY.

†243. ***Shaikh Rafiuddin Ahmad Siddiquee**: (a) Will the Honourable Member for Railways be pleased to state the names of the staff who have been promoted to the posts of Section Controllers, Grade 'A' (400) on the Howrah Division, East Indian Railway, in the year 1940, and their position on the combined seniority list of grades from which staff are eligible for promotion to the posts of Section Controllers, Grade 'A' ?

(b) Is it a fact that there was no Selection Board for the examination of the staff who are eligible for promotion to the posts of Section Controllers?

(c) Is it a fact that a member of the staff drawing Rs. 150 as a Section Controller, Grade 'B', has been promoted to the post of Section Controller in the grade of Rs. 400?

The Honourable Mr. S. N. Roy: I regret I cannot undertake to furnish the names of the individuals referred to in part (a). For the rest of the question I would refer the Honourable Member to the information laid on the table of the House on 27th October, 1941, in reply to Khan Bahadur Fazl-i-Haq Piracha's unstarring question No. 74 asked on 28th February, 1941.

ACCELERATED PROMOTIONS OF ONLY NON-MUSLIMS IN HOWRAH DIVISION, EAST INDIAN RAILWAY.

†244. ***Shaikh Rafiuddin Ahmad Siddiquee**: Is the Honourable Member for Railways aware that on the Howrah Division, East Indian Railway, non-Muslims are given accelerated promotions without any regard to seniority and adverse opinions of the officers against them?

The Honourable Mr. S. N. Roy: No, and I am not prepared to accept that the facts are as stated by the Honourable Member.

ACCELERATED PROMOTIONS OF ONLY NON-MUSLIMS IN HOWRAH DIVISION, EAST INDIAN RAILWAY.

†245. ***Shaikh Rafiuddin Ahmad Siddiquee**: Is the Honourable Member for Railways aware that on the Howrah Division, East Indian Railway there is not a single instance to show where any Muslim with high academic qualification and high efficiency, departmental experience and recommendations or orders in personal file for a promotion to higher grade has been recipient of accelerated promotion?

The Honourable Mr. S. N. Roy: No.

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

PERSONNEL INSPECTORS ON EAST INDIAN RAILWAY.

†246. *Shaikh Rafiuddin Ahmad Siddique: (a) Will the Honourable Member for Railways be pleased to state the number of the staff selected for the posts of Personnel Inspectors on the East Indian Railway during the year 1940?

(b) Is it a fact that no Muslim has been selected for the posts?

(c) Is it a fact that non-Muslims drawing less pay than Muslims have been selected for these posts?

The Honourable Mr. S. N. Roy: (a), (b) and (c). I would refer the Honourable Member to the reply given to Khan Bahadur Shaikh Fazl-i-Haq Piracha's unstarred question No. 75 on 28th February, 1941.

PROMOTION OF CLERKS GRADE I TO GRADE II ON NORTH WESTERN RAILWAY.

247. *Maulana Zafar Ali Khan: Will the Honourable Member for Communications please state whether he would consider issuing instructions to the North Western Railway administration for the promotion to grade II, against supernumerary posts, of such clerks in grade I in Divisional Offices as have completed fifteen years' service?

The Honourable Mr. S. N. Roy: No, for the question has been considered and I am satisfied that there is no justification for such action.

Dr. Sir Ziauddin Ahmad: May I ask whether he has considered that the extension of service of persons in grade I really debars persons in grade II from promotion?

The Honourable Mr. S. N. Roy: Yes; the whole question has been most meticulously examined by the Railway Board and subsequently by my predecessor, Sir Andrew Clow, and it was found, as I have stated, that in regard to a very large category there was no block in promotion.

Maulana Zafar Ali Khan: Theirs is a hard lot. Cannot the Government reconsider their case?

The Honourable Mr. S. N. Roy: I have just stated that the question has received very very careful consideration.

EUROPEANS IN THE MUNITION PRODUCTION OFFICE AT CALCUTTA.

†248. *Sardar Sant Singh: Will the Honourable the Supply Member please state:

(a) whether he is aware that there is a considerable number of able-bodied Europeans in all ranks in the Munition Production Office at Calcutta in positions which could easily be filled by Indians, including clerical and ministerial posts, who could be employed on Active Military duty;

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

- (b) whether the retention of these people is retarding the process of Indianisation;
- (c) whether he will place on the table of the House a statement showing the number and character of the posts in the offices at Calcutta of all grades, clerical and official, which are at present filled by Europeans;
- (d) whether the filling of any of these by Indians has been considered;
- (e) whether he has satisfied himself personally that the Indians are not available for these posts; and
- (f) whether he is aware of the public impression that the Europeans employed in the Supply Department are mainly those who have taken up civil duties to evade active military duties?

The Honourable Sir Homi Mody: (a) There is a considerable number of able bodied Europeans employed in the Munitions Production Office at Calcutta. The bulk of these are employed in technical posts which are not easily filled. The greatest difficulty is experienced not merely in finding Indians for these technical posts but in finding anybody at all.

(b) No.

(c) A statement is placed on the table of the House.

(d) Constant attention is given to the selection of Indians for any posts they are capable of filling, and which they are willing to take up.

(e) I have personally seen to it that wherever a suitable Indian has come forward he has secured an appointment.

(f) Whatever the public impression on this point, I am satisfied that the Europeans eligible for military duty are rendering very useful service where they are.

Statement.
EUROPEANS.

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1	D. G. M. P.	Sir Guthrie Russell, K.C.I.E.	55	
2	Deputy Secretary to the Govt. of India.	Mr. J. B. Langford, I.C.S.	35	
3	Asstt. Secretary to the Govt. of India.	Mr. E. C. Rundlett	55	
4	Dy. Directorate G'l A. P.	Mr. G. S. Butler, C.I.E.	57	
5	A. C. E. A.	Mr. E. J. Bookless, I.O.S.	40	
6	A. R. P. Officer and Advisor.	Lt.-Col. C. H. Christie	43	
7	D. O. F.	Major T. F. Borwick, C.I.E.	51	
8	Chief Administrative Officer.	Mr. G. H. Welford, O.B.E.	57	
9	D. D. O. F.	Mr. J. A. R. Tainsh	34	

Serial No.	Post.	Holder.	Age approx.	Essentiality.
1	2	3	4	5
10	A. D. O. F. (P)	Mr. C. E. Hill	49	
11	A. D. O. F. (P.)	Mr. F. C. Foreman	53	
12	C. E. A. to the D. O. F.	Mr. K. H. T. Gilbertson, O.B.E.	55	
13	A. C. E. A. to D. O. F.	Mr. A. D. McClancy, I.O.S.	28	
14	Do.	Mr. G. H. Whyte	50	
15	Do.	Mr. F. A. Bird	47	
16	Do.	Mr. A. W. Hall, I.O.S.	31	
17	Do.	Dr. C. W. Harler	49	
18	Officer Supervisor	Mr. H. J. Cook	51	
19	Asstt. Administrative Officer.	Mr. R. J. A. Wells, I.O.S.	39	
20	D. F. E.	Col. M. H. Cox, M.C., O.B.E.	49	
21	D. D. F. E.	Mr. A. M. Leiper	34	
22	Do.	Mr. G. S. Hill	44	
23	C. E. A. to D. F. E.	Mr. A. B. James	38	
24	A. C. E. A. to D. F. E.	Mr. H. Delysregson	45	
25	Do.	Mr. D. G. Dey	29	
26	Do.	Mr. J. E. Potts	30	
27	Officer Supervisor	Mr. D. P. McKenna	39	
28	Director of Factory Recruitment.	Mr. H. I. Matthews, I.O.S.	49	
29	Asstt. Director of Factory Recruitment.	Mr. G. L. Hawes (Hony.)	42	
30	Do.	Mr. P. A. Hughes	47	
31	C. E. F.	Col. F. B. Pigott	48	
32	S. O. R. E. II	Major W. R. Leake	53	
33	Do.	Major J. F. Bagnall	39	
34	Do.	Major W. W. Warner	40	
35	Do.	Major D. E. Harding	33	
36	S. O. R. E. III	Capt. Russell Potts	30	
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41	D. D. G. E. & C. A. P.	Mr. F. G. S. Martin, C.I.E.	51	
42	Director of Metals	Mr. R. A. MacGregor	56	
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1	2	3	4	5
48	Director, R. A. F. (Maintenance).	Mr. J. N. Compton	41	
49	Dy. Director, R. A. F. (Maintenance).	Mr. L. Hemmings	49	
50	D. C. A. P.	Mr. E. H. Blanchard	50	
51	Statistical Officer.	Mr. A. R. Binns	42	
52	A. D. C. A. P.	Mr. T. T. Lambe	38	
53	Do.	Mr. P. G. Bradford	50	
54	Do.	Mr. L. W. Radice	34	
55	Do.	Major R. G. L. Firman	36	
56	Do.	Mr. A. P. Taylor, Gill	31	
57	Do. Licence Import.	Mr. W. J. M. Adams	45	
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59	Do.	Mr. J. M. Robertson	32	
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74	Do. Struct.	Mr. S. W. White	56	
75	Asstt. Dr. Armoured F. Vehicle.	Major J. A. Marshall	28	
76	Asstt. Dr. Engg. Progress.	Mr. F. Harker	30	

Serial No.	Post.	Holder.	Age approx.	Essentiality.
1	2	3	4	5
77	Dy. Dr. Elec.	Mr. V. S. Riscoe	29	
78	Dr. of Shipbldg.	Engineer Capt. J. Beggs, R. I. N.	56	
79	Dy. Dr. of Shipbldg.	Engr. Lt. A. Paxton	39	
80	Do.	Engineer Lt. J. W. Stephenson.	34	
81	Astt. Dr. Shipbldg.	Engineer Lt. H. R. Cooper, R.I.N.	42	
82	Do.	Mr. B. Hardy	52	
83	Secy. Iron & Steel Control Board.	Mr. G. W. M. Whittle, I.C.S.	35	
84	D. D. G. Machine Tools and Machine Tool Controller.	Mr. G. A. R. Trimming	54	
85	Dr. of M. T. C.	Mr. C. W. Budd	46	
86	Dy. Dr. of M. T. C.	Mr. R. C. Knight	31	
87	Do.	Mr. J. Hodgkinson	32	
88	Licensing Officer	Mr. C. P. Herbert	54	
89	Dy. Steel Import Controller.	Mr. J. R. Walton	45	
90	Officer on Special Duty (Steel quota).	Col. P. D. MacFeat, R. E., M.C.	50	
91	Steel Co-ordination Officer.	Mr. W. E. Gelson	45	
92	Dy. Asstt. Dr. General, M. P. Co-ordination.	Major W. D. S. Laird	45	
93	C. C. P. (M.)	Mr. K. J. Nicolson, M.C.	49	A prominent business-man in Calcutta serving as C. C. P. (M.) with an honorarium.
94	Dy. C. C. P. (M.)	Mr. H. F. Davy	55	A permanent officer in the I. S. D. cadre. Due to proceed on leave from 26th March 1942 pending retirement.
95	C. P. (G.)	Lt.-Col. H. G. Fowler, I. A. O. C.	42	Regular officers of the Military ancillary services with experience of military stores. Belonged to the late Contracts Directorate—a military organisation.
96	D. C. (P.)	Major F. H. D. Teal, R.I.A.S.C.	43	
97	Do.	Mr. J. Munro	42	Permanent I. S. D. Officers.
98	Do.	Mr. E. Dixon	39	

Serial No.	Post.	Holder.	Age approx.	Essentiality.
1	2	3	4	5
99	D. C. (P.)	Major H. H. B. Gill, I.A.O.C.	40	Emergency Commissioned Officers recruited to the late Contracts Directorate—a military purchasing organisation previously under G. H. Q. for their business experience and knowledge of military stores. Until 1940 recruitment to the Directorate was confined to British European subjects. Subsequently 30 per cent. posts were thrown open to Indian Emergency Commissioned Officers. Recruitment of military officers has now ceased and is made from civilians only.
100	Do.	Captain P. C. Tutton, I.A.O.C.	49	
101	Do.	Captain R. B. Otter, I.A.O.C.	43	
102	A. C. (P.)	Capt. C. V. Thomas, I.A.O.C.	47	
103	Do.	Capt. J. S. Thompson, I.A.O.C.	45	
104	Do.	Capt. K. E. Davan	38	
105	Do.	2nd Lt. P. S. Colvin, I.A.O.C.	51	
106	D. A. C. (P.)	2nd Lt. D. King, I.A.O.C.	53	
107	Do.	2nd Lt. T. G. Sullivan, I.A.O.C.	53	
108	Do.	2nd Lt. H. Elmes, I. A. O.C.	48	
109	Do.	2nd Lt. D. McGregor Cheers, I.A.O.C.	36	
110	Do.	2nd Lt. A. R. Allen d'Yhres, I.A.O.C.	41	
111	Do.	2nd Lt. W. A. I. Jacques, I.A.O.C.	41	

PROMOTION OF CLERKS GRADE I TO GRADE II ON NORTH WESTERN RAILWAY.

249. *Mr. Lalchand Navarai: (a) Will the Honourable the Railway Member be pleased to say whether the number of Railway station clerks on the North Western Railway is 11,037? If not, what is the actual number?

(b) Is it a fact that when the question of raising the number of clerks, grade I, was being considered, the General Manager, North Western Railway, recommended that 1,100 additional posts should be created in grade II? If not, what was the number so recommended?

(c) Is it a fact that before retrenchment in 1930 the number of II grade posts was more and about 503 posts were reduced? If not, what was the original number and how many were abolished owing to economy cut?

(d) Is it a fact that the increase in grade No. II by 503 posts now made is because the same number was previously reduced? If not, how was that figure arrived at?

(e) In view of the fact that the increase of the above number in grade II has not benefited many clerks of grade I who have put in very long service, do Government now propose to give more consideration to this matter?

The Honourable Mr. S. N. Roy: (a) No; if the Honourable Member desires to know the number of persons in the group in respect of which the adjustment mentioned in part (e) was made, it is 5.151.

(b) I am unable to disclose the details of correspondence between the Railway Board and the offices subordinate to it.

(c) As far as can be ascertained, the answer is in the negative. As regards the second part there were 597 grade II posts on 31st March, 1930, and 525 on 31st March, 1941.

(d) The answer to the first part is in the negative, as regards the second part, the figure was adopted after considering all the relevant factors.

(e) Government have given the matter their fullest consideration and do not intend to revise the decisions which they have only recently taken.

Mr. Lalchand Navalrai: With regard to clause (e), may I ask whether the Honourable Member can say what were the general considerations upon which the division was made of these posts?

The Honourable Mr. S. N. Roy: All the relevant factors were taken into account, one of which was the block in promotion.

Lieut.-Colonel Sir Henry Gidney: In view of the answer given by the Honourable Member to part (b), will the Honourable Member inform the House whether there was a difference of opinion between the General Manager and the Railway Board; and if so, is it right on the part of the Government to seek shelter under the cloak of confidence?

The Honourable Mr. S. N. Roy: That, Sir, is a matter of opinion.

Lieut.-Colonel Sir Henry Gidney: I wish to ask the Honourable Member whether it is right for the Government to pretend that they know nothing at all about the matter and pretend to say that it is confidential?

Mr. President (The Honourable Sir Abdur Rahim): Order, order; the Honourable Member is not entitled to put such a question.

Mr. Lalchand Navalrai: Is the Honourable Member aware of the fact that the blockade not having been removed, and the posts having been increased, people with 20 and 25 years' service are not still promoted?

The Honourable Mr. S. N. Roy: I have no detailed knowledge of these cases, but as I have stated, this question was carefully considered and the number of posts was increased with reference to all the relevant factors, and I understand that one of the principal factors was the question of removing the block in promotion.

Mr. Lalchand Navalrai: What I want to know is this. As a result of that consideration and in pursuance of that consideration, certain things have been done. Will the Honourable Member now please examine the position again and see whether they are really removing the blockade?

The Honourable Mr. S. N. Roy: I will certainly have that point looked into.

PROMOTION OF SUB-DIVISIONAL CLERKS ON NORTH WESTERN RAILWAY.

250. *Mr. Lalchand Navalrai: (a) Will the Honourable Member for Railways be pleased to state if his attention has been drawn to the complaint made to the General Manager, North Western Railway, by the sub-Divisional clerks on the North Western Railway with respect to the seniority for promotion amongst the work clerks and time keepers? If so, what steps have been taken to give them proper relief?

(b) Is it a fact that it is proposed to give promotion to the above staff on common seniority? Is it not a fact that they have different scales of pay?

(c) Is it a fact that, in the recent promotions, signallers and Assistant Station Masters who have different scales of pay have not been promoted on common seniority?

The Honourable Mr. S. N. Roy: (a) I am informed that Assistant Sub-Divisional Clerks of the North Western Railway have sent a representation to the General Manager, which is being considered by that officer.

(b) Promotion to posts of Sub-Divisional Clerks grade II is at present based on the common seniority of Assistant Sub-Divisional Clerks, Works Clerks and Time Keepers. As regards the second part, the scales of pay of the three grades is the same except that some Time Keepers who were appointed as such before 27th August, 1928, retain a different scale as personal to themselves.

(c) I have called for information and a further reply will be laid on the table of the House in due course.

MR. R. N. CHRISTIEN OF THE MECHANICAL DIVISION, NORTH WESTERN RAILWAY, LAHORE.

251. *Bhai Parma Nand: (a) Will the Honourable the Railway Member be pleased to state if it is a fact that an officer, by name, Mr. R. N. Christien, is working in the mechanical division of the North Western Railway, Lahore?

(b) If so, how long has he been working there and in what capacities?

(c) What is the policy of the Railway administration to transfer such officers to another Division? Is it periodically done, and if so, after how many years?

(d) Is it a fact that this officer had to stand before the enquiry held by Mr. D'Souza, Director of Establishment, Railway Board, on account of certain irregularities? If so, what was the result of the enquiry?

(e) Is it a fact that in this Division during the time of this officer wholesale supersessions are being ordered in complete disregard of the rules and regulations?

The Honourable Mr. S. N. Roy: (a) Yes.

(b) Since 1st June, 1937. As Assistant Personnel Officer.

(c) There is no specific policy in respect of transfers of officers which are ordered as administrative convenience or necessity dictates.

(d) I believe that he assisted Mr. D'Souza by discussing with him a case which the latter was investigating. The results of the cases investigated by Mr. D'Souza will be found summarised at pages 16 to 19 of the summary of Proceedings of the meeting of the Central Advisory Council for Railways held on 1st April, 1941.

(e) No.

Mr. Lalchand Navalrai: With regard to the answer to part (c), may I know, when the subordinates are quite dissatisfied with that officer and there have been certain instances brought to light, whether it is the policy of Government to transfer that officer or not?

The Honourable Mr. S. N. Roy: Naturally, Sir, when any complaints of that kind are received, they are examined by the General Manager, and each case is treated on its merits.

Mr. Lalchand Navalrai: Will the Honourable Member ask the General Manager to inquire into this case? I only ask for an inquiry to be made by him?

The Honourable Mr. S. N. Roy: My reply, I do not think, has disclosed any case for an inquiry.

Mr. Lalchand Navalrai: The point is, the inquiry may or may not have been made. I am now asking whether the Honourable Member will be good enough to ask the General Manager to make an inquiry?

The Honourable Mr. S. N. Roy: I am not clear as to what the General Manager is to be asked to inquire into.

Mr. Lalchand Navalrai: I am asking

Mr. President (The Honourable Sir Abdur Rahim): The Honourable Member has already had his answer.

DETENTION OF SYAD HABIB SHAH OF LAHORE.

†252. *Sardar Sant Singh: (a) Will the Foreign Secretary please state whether in the case of Syad Habib Shah of Lahore it has recently been considered whether or not his detention under Rule 26 of the Defence of India Rules be continued?

(b) What orders have Government passed or contemplate passing on his case?

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

(c) In case Government decide to continue his detention, are Government prepared to reconsider his case regarding the grant of his family allowance?

(d) Is it a fact that Syad Habib Shah is keeping indifferent health in jail?

(e) What treatment is being meted out to him in jail during his illness?

Mr. O. K. Garoe: (a) and (b). The grounds for Saiyed Habib Shah's detention are to be reviewed in the immediate future by a special Committee.

(c) The question is hypothetical, but Government consider that the present family allowance sanctioned is suitable to the case.

(d) and (e). Saiyed Habib Shah's general health is good. He has, however, had some recent trouble from piles, for which he is receiving treatment in the Mayo Hospital, Lahore.

DEARNESS ALLOWANCE OF RAILWAY EMPLOYEES.

†253. ***Maulvi Syed Murtuza Sahib Bahadur:** (a) Will the Honourable Member for Railways be pleased to state whether it is a fact that dearness allowance has been sanctioned by Government to Railway servants drawing pay up to Rs. 30 per month?

(b) Is it a fact that the sanction referred to in part (a) above is further restricted to areas having a greater population?

(c) If the replies to parts (a) and (b) above be in the affirmative, will the Honourable Member please state whether prices of various necessities of life have also been fixed by the Provincial Governments on population basis? If not, what is the idea of sanctioning this dearness allowance on such considerations?

(d) Is it a fact that time has come when dearness allowance is needed equally by low paid and high paid employees of the Railways?

(e) Do Government propose to sanction the said allowance to all Government servants in the Railway Department with immediate effect? If not, why not?

The Honourable Mr. S. N. Roy: (a) A dearness allowance has been sanctioned for staff drawing Rs. 35 and less, while in certain areas the pay limit goes up to 60 and in others to 70.

(b) The 60 limit is applicable to towns having a population of one lakh or more and the 70 limit to Calcutta and Bombay.

(c) The maximum price limits fixed by Provincial Governments vary from area to area; the exact basis on which these are fixed is not known. As regards the second part, the method adopted by them was as laid after discussion with the All-India Railwaymen's Federation and recognizes that all areas cannot be treated alike.

(d) No.

(e) No; it is not considered necessary.

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

REFUND OF AMOUNT OF SALARY CUT TO RAILWAY EMPLOYEES.

†254. *Maulvi Syed Murtuza Sahib Bahadur: (a) Will the Honourable the Railway Member please state whether it is a fact that about ten years back, when there was a general depression in earnings on the railways, the employees were subjected to ten per cent. cut on pay and 12½ per cent. on permanent monthly travelling allowances?

(b) Do Government propose to help the employees now when they are hard hit on account of the abnormal rise in the prices of bare necessities of life? If not, why not?

(c) If Government do not propose to accord any sanction, will they consider the question of refunding the amount recovered during depression period? If not, why not?

The Honourable Mr. S. N. Roy: (a) Yes.

(b) The cut in pay was abolished when conditions improved and more recently a dearness allowance has been sanctioned in favour of staff for whom it was considered there was justification. The second part does not arise.

(c) Does not arise.

RELATIVE RESPONSIBILITIES OF GUARDS AND TRAVELLING TICKET EXAMINERS ON EAST INDIAN RAILWAY.

†255. *Maulvi Syed Murtuza Sahib Bahadur: With reference to the information supplied by Government and printed on page 833 of the Legislative Assembly Debates, Volume IV, in answer to starred question No. 475, parts (a) and (b), asked in this House on the 22nd February 1932, regarding allowances of Guards and Ticket Examiners on the East Indian Railway, will the Honourable Member for Railways be pleased to state:

(a) whether the post of a guard carries a higher responsibility than that of a Travelling Ticket Examiner; and

(b) whether on promotion from Travelling Ticket Examiner (100—5—120) to Guard (old scale 140—10—210 and co-ordinated 90—10—180) assumption of duties and responsibilities of greater importance is involved? If not, why not?

The Honourable Mr. S. N. Roy: (a) Yes.

(b) Yes; the second part does not arise.

EXAMINATIONS FOR TICKET CHECKING STAFF ON EAST INDIAN RAILWAY.

†256. *Maulvi Syed Murtuza Sahib Bahadur: Will the Honourable Member for Railways be pleased to enquire and state:

(a) whether it is a fact that every member of the ticket checking branch on the East Indian Railway is subjected to an oral and written examination after every third year and this examination is held in the office of the Divisional Superintendent;

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

- (b) whether it is a fact that since about a year they are required to go for training to the Railway School at Chandausi and also required to pass an examination;
- (c) whether it is a fact that even after the Chandausi training and test they are forced to appear at the examination held in the office of the Divisional Superintendent; if so, why; and
- (d) whether any other category of employees on the railway are subjected to such repeated tests (at Chandausi and in Divisional offices)?

The Honourable Mr. S. N. Roy: (a), (c) and (d). I have called for information and a reply will be laid on the table of the House in due course.

(b) Yes.

CONVEYANCE OF MAILS BETWEEN SYLHET AND SHILLONG.

257. *Mr. Ananga Mohan Dam: With reference to the answer to my starred question No. 194, asked on the 18th November, 1941, regarding expediting conveyance of Mails between Sylhet and Shillong, will the Honourable the Communications Member state what has been done to restore the arrangement for the conveyance of Mails by motor between Sylhet and Shillong?

The Honourable Mr. S. N. Roy: The mail motor service between Sylhet and Shillong has been restored from 1st March, 1942.

Mr. Ananga Mohan Dam: May I know what is the amount that is paid to the carrying company between Sylhet to Shillong?

The Honourable Mr. S. N. Roy: I am not quite sure: I think it is Rs. 250

Mr. Ananga Mohan Dam: What is the amount now paid to the commercial company for carrying mails from Gauhati to Shillong?

The Honourable Mr. S. N. Roy: I must have notice of that question.

Pandit Lakshmi Kanta Maitra: May I know, Sir, if a fresh contract has been entered into with any motor transport company for the transport of mails in this area, that is to say, for carrying mails between Sylhet and Shillong?

The Honourable Mr. S. N. Roy: Yes, I believe a contract has been entered into.

Pandit Lakshmi Kanta Maitra: May I take it from the Honourable Member then that the contractor will be paid the same amount?

The Honourable Mr. S. N. Roy: I have no information.

Pandit Lakshmi Kanta Maitra: For how long has this contract been entered into?

The Honourable Mr. S. N. Roy: Again, I am sorry I must ask for notice.

INSTRUCTIONS FOR PASSING OF TRAINS AT GHAZIABAD RAILWAY STATION.

†258. *Babu Kailash Behari Lal: (a) Will the Honourable Member for Railways please state if it is a fact that the North Western Railway Administration has issued instructions to the Train Passing Staff at Ghaziabad Railway Station to give preference to North Western Railway trains carrying passengers over the East Indian Railway trains carrying passengers?

(b) If the reply to part (a) above be in the affirmative, what are the reasons?

(c) Do Government propose to instruct the Railway Administration to eliminate this discrimination? If not, why not?

The Honourable Mr. S. N. Roy: (a) No.

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

ACCOMMODATION IN NEW DELHI FOR OFFICES OF SUPPLY DEPARTMENT FROM CALCUTTA.

†259. *Sardar Sant Singh: Will the Honourable the Supply Member please state whether, in the decision recently taken regarding the exodus to Simla, the need was considered to provide accommodation in New Delhi for the offices of the Supply Department at present at Calcutta? If so, will he kindly make a statement or issue a press *communiqué* on the subject? If not, why not?

The Honourable Sir Homi Mody: No accommodation has been provided in New Delhi for the offices of the Supply Department now located at Calcutta. It is not intended to transfer these offices from Calcutta.

UNSTARRED QUESTIONS AND ANSWERS

CASUALTIES AND FILLING UP OF VACANCIES IN THE STAFF OF THE POSTS AND TELEGRAPHS DEPARTMENT.

68. Maulvi Muhammad Abdul Ghani: Will the Honourable Member for Railways and Communications be pleased to lay on the table a statement showing:

(a) the total number of casualties and casualties amongst Muslims under the following classes of services in the Indian Posts and Telegraphs Department in 1941:

(i) Gazetted staff.

(ii) Engineering supervisors, General and Telephones, Electrical supervisors and Cable supervisors.

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

- (iii) Wireless supervisors and Wireless operators,
- (iv) Telegraphists and Telegraph masters,
- (v) clerical staff,
- (vi) line staff,
- (vii) departmental branch Post Masters, Overseers, Readers, Sorting and head postmen, postmen, village postmen and Mail-guards,
- (viii) miscellaneous superior staff,
- (ix) inferior staff (other than Runners and inferior servants paid from contingencies), and
- (x) Direction (non-gazetted);
- (b) the total number of vacancies filled by promotions and direct recruitments, separately, and the number of vacancies filled by Muslims in promotions and recruitments under the classes of services mentioned in part (a) above in 1941; and
- (c) the total existing strength together with strength and percentages of various communities under every class of service mentioned in part (a) above in 1941 and 1942?

The Honourable Mr. S. N. Roy: I regret that information in the form required by the Honourable Member is not available and cannot be collected without undue expenditure of time and labour.

STAFF UNDER THE SUPPLY DEPARTMENT.

69. Maulvi Muhammad Abdul Ghani: Will the Honourable Member for Supply please lay on the table a statement showing the total strength of every kind of service in various circles and headquarters stations under the Supply Department, and the number of Muslims under every head of service, as it stood on the 1st March, 1942?

The Honourable Sir Homi Mody: If the Honourable Member will kindly state more precisely the information he requires I will endeavour to give it, provided it does not involve too detailed an inquiry.

DECLARATION OF MOGHULPURA RAILWAY WORKSHOP AS A NOTIFIED FACTORY UNDER NATIONAL LABOUR SERVICE ORDINANCE.

70. Maulvi Syed Murtuza Sahib Bahadur: (a) Will the Honourable Member for Railways please state since when the Moghulpura Railway Loco Workshop has been declared a notified factory under the National Labour Service Ordinance of 1940?

(b) Will he please give the number (by communities) of the technical staff who have left the service of the Railway Workshop since it came under the Ordinance of 1940 and who were not allowed to go out?

(c) Is it a fact that Muslim journeymen of the said Workshop were not allowed to join war appointments in other Departments while non-Muslims have been allowed to do so?

The Honourable Mr. S. N. Roy: (a) From 20th November, 1940.

(b) Nine Muslims, three Sikhs, one Hindu and four Anglo-Indians left the Loco shops; eight Muslims, eleven Hindus, four Sikhs and fourteen Anglo-Indians were not permitted to go.

(c) The figures I have just given show that the answer is in the negative.

SODA WATER RATES OF MESSRS. SPENCER AND COMPANY, LIMITED.

71. Babu Kallash Behari Lal: Will the Honourable Member for Railways please state:

- (a) whether it is a fact that Messrs. G. F. Kellner and Company, Limited, Catering Contractors, East Indian Railway, sell a bottle of soda water at Re. 0/1/3;
- (b) whether it is a fact that Messrs. Spencer and Company, Limited, Catering Contractors, North Western Railway, sell a bottle of Soda water to the travelling public at annas two and to Railway Officials at anna one;
- (c) if the replies to parts (a) and (b) above be in the affirmative, the reasons for the difference in rates; and
- (d) if the replies to parts (a) and (b) above be in the negative, will he please state the correct facts?

The Honourable Mr. S. N. Roy: (a) Yes.

(b), (c) and (d). I understand the rates charged by Messrs. Spencer & Co., to the travelling public are as follows:

Soda—unchilled—0/1/6.

Soda—chilled—0/1/9.

They are slightly higher than Kellners' rates, as they purchase locally, whereas Messrs Kellners manufacture their own aerated waters. Government has no information regarding any reduced rates being quoted for railway officials.

COMPLAINTS AGAINST THE HINDU REFRESHMENT ROOM AT DELHI RAILWAY STATION.

72. Babu Kallash Behari Lal: Will the Honourable Member for Railways please state:

- (a) whether it is a fact that the complaint book prescribed for the Hindu Refreshment Room at Delhi Junction Railway Station is not accessible to the public;
- (b) whether it is a fact that the said complaint book does contain more than one complaint on this account;
- (c) whether it is a fact that there have been complaints against the Manager (Mr. Treendod) who is a non-Hindu and an ex-Railway servant about his behaviour towards the Hindus; and
- (d) If the replies to parts (a) to (c) above be in the affirmative, will he please state the action taken against the management and to ensure the travelling public the right of having access to the complaint book?

The Honourable Mr. S. N. Roy: (a), (b) and (c). Government have no such information.

(d) I am bringing the matter to the attention of the administration by forwarding them a copy of the question.

INCOMPLETE TARIFF LIST AT THE HINDU REFRESHMENT ROOM, DELHI RAILWAY STATION.

73. Babu Kallash Behari Lal: Will the Honourable Member for Railways please state:

- (a) whether it is a fact that the Hindu Refreshment Room, Delhi Junction Station, does regularly sell:—(i) Fruit salads (ii) Lemon rice (iii) Vegetable stuffed parathas (iv) Chicken *Dopeoza* (v) Mutton *Dopeoza* (vi) Kashmiri *Koftas* and (vii) *Kema* stuffed parathas;
- (b) whether it is a fact that though these articles are sold every day yet they are not traceable in the Tariff prescribed by the North Western Railway;
- (c) whether it is a fact that in the daily menu these articles are described as "specials"; and
- (d) whether it is a fact that the rates charged for these articles are at the arbitrary discretion of the Manager, who is a non-Hindu?

The Honourable Mr. S. N. Roy: (a), (b) and (c). Government is not kept informed of the details of daily sales by Refreshment Rooms. A copy of the question is being forwarded to the North Western Railway Administration who will doubtless take steps to have the articles mentioned included in the tariffs if there is substantial public demand for them.

(d) It is presumed that the rates are fixed under the general direction of the Firm.

RATE FOR FISH PLATE AT THE HINDU REFRESHMENT ROOM, DELHI RAILWAY STATION.

74. Babu Kallash Behari Lal: Will the Honourable Member for Railways please state:

- (a) whether it is a fact that on the 25th February, 1941, Government informed this House that the price charged by Ballabhdas Eshwardas, catering contractors for the Hindu Refreshment Room at Delhi Main Station on the North Western Railway, for a plate of fish and potato chips, "now appears in the rate list as 'one plate fried fish 4 *chataks*—4 annas' which appears reasonable";
- (b) whether it is a fact that under cash memo. No. 119276, dated the 9th March, 1942, the said contractor has charged for one plate fried fish annas six (0-6-0);
- (c) if the replies to parts (a) and (b) be in the affirmative, will he please state the reasons why and the date from which the prices have been enhanced and whether the local Civil District Authorities were consulted when the increase was made: if not, why not; and

- (d) whether Government now propose to reduce the price from annas six to annas four which was considered reasonable; if not, why not?

The Honourable Mr. S. N. Roy: (a) The reply confined itself to the charges for "one plate fried fish four chattaks four annas" making no mention of potato chips.

(b) Government has no information.

(c) The enhancement from four to six annas appears to be accounted for by the addition of "potato chips". The date on which the addition was made is not known and there was no case for consultation with the local civil district authorities.

(d) No.

STATEMENTS LAID ON THE TABLE.

Information promised in reply to starred question No. 126 asked by Mr. Ananga Mohan Dam on the 6th March, 1942.

OFFICERS RECRUITED IN THE SUPPLY DEPARTMENT.

Statement showing the rates of salary offered to each officer.

Salary offered.	Hindus.	Muslims.	Sikhs.	Parsis.	Indian Christians.	Europeans.	Anglo-Indians.
Rs. 3,000 p. m.	1	2	..	..	..	2	..
" 2,750 "	1	..	..	..	..	1	..
" 2,200 " . . . . .	..	..	..	..	..	1	..
" 2,130 " . . . . .	..	..	..	..	..	1	..
" 2,000 " . . . . .	..	..	..	..	..	1	..
" 1,900 + £30 p.m. . . . .	..	..	..	..	..	1	..
" 1,900 p.m.	1	..	..	..	..	1	..
" 1,850 " . . . . .	..	..	..	..	..	1	..
" 1,825 + £30 p. m. . . . .	..	..	..	..	..	1	..
" 1,705 p. m. . . . .	..	..	..	..	..	1	..
" 1,650 " . . . . .	..	1	..	..	..	1	..
" 1,600 " . . . . .	..	..	..	..	..	2	..
" 1,520 " . . . . .	..	..	..	..	..	4	..
" 1,505 " . . . . .	..	..	..	..	..	1	..
" 1,500 "	1	..	..	..	..	4	..
" 1,450 " . . . . .	..	..	..	..	..	1	..
" 1,425 " . . . . .	..	1	..	..	..	..	..
" 1,400 "	1	..	..	..	..	..	..
" 1,350 + £30 p. m. . . . .	..	..	..	..	..	1	..
" 1,350 p.m. . . . .	..	1	..	..	..	..	..
" 1,300 "	1	..	..	..	..	2	..
" 1,250 + £30 p. m. . . . .	..	..	..	..	..	2	..
" 1,250 p. m. . . . .	..	..	..	..	..	2	..
" 1,200 p. m. + \$ 8 per day Subsistence allowance	1	..	..	..	..	..	..
" 1,200 p. m.	2	..	..	..	..	2	..
" 1,050 + £30 p. m. . . . .	..	..	..	..	..	1	..
" 1,050 p. m. . . . .	..	..	..	..	..	1	..

Statement showing the rates of salary offered to each officer—contd.

Salary offered.	Hindus.	Muslims.	Sikhs.	Parseis.	Indian Christians.	Europeans.	Anglo-Indians.
Ra. 1,045 p. m. . . . .	..	..	..	..	..	1	..
" 1,000 "	3	1	..	..	..	2	..
" 950 "	1	..	..	..	..	1	..
" 900 + £25 p. m. . . . .	..	..	..	..	..	1	..
" 900 p. m. . . . .	..	1	..	..	..	2	..
" 850 + £30 p. m. . . . .	..	..	..	..	..	1	..
" 850 + £25 p. m. . . . .	..	..	..	..	..	1	..
" 850 p. m.	1	..	..	..	..	1	..
" 800 + £25 p. m. . . . .	..	..	..	..	..	2	..
" 800 p. m.	3	1	..	..	..	..	..
" 770 "	1	..	..	..	..	..	..
" 750 "	3	..	1	..	..	1	..
" 725 " . . . . .	..	..	..	..	..	1	..
" 700 + £25 p. m. . . . .	..	..	..	..	..	3	..
" 700 p. m.	1	..	..	..	..	..	..
" 666-11.0 p. m. . . . .	..	..	..	..	..	..	1
" 650 + £25 p.m. . . . .	..	..	..	..	..	1	..
" 650 p. m.	1	..	..	..	..	..	..
" 630 " . . . . .	..	..	..	..	..	1	..
" 625 "	1	..	..	..	..	..	..
" 600 + £25 p. m. . . . .	..	..	..	..	..	21	..
" 600 p. m.	6	1	..	..	1	1	..
" 550 "	2	..	..	..	..	..	..
" 500 "	10	5	..	..	..	..	1
" 490 "	1	..	..	..	..	..	..
" 480 " . . . . .	..	1	..	..	..	..	..
" 450 "	2	..	..	..	..	1	..
" 440 "	1	..	..	..	..	..	..
" 434-6.0 p. m.	1	..	..	..	..	..	..
" 405 p. m.	2	..	..	..	..	..	..
" 400 "	2	..	..	..	..	..	1
" 350 "	34	12	..	5	..	1	1
" 250 "	1	..	..	..	..	..	..
£1,150 per annum plus \$100 p. m. as Personal allowance and \$ 8 per day Subsistence allowance	..	..	..	..	..	1	..
	86	27	1	5	1	77	4

— 201

Information promised in reply to starred question No. 150 asked by Mr. Muhammad Nauman on the 6th March, 1942.

OUT-OF-TURN PROMOTIONS IN ACCOUNTS DEPARTMENT, EAST INDIAN RAILWAY

(a) The practice in the past has been to promote occasionally men with superior abilities and qualifications out-of-turn.

(b) There were 77 promotions of which 3 were out-of-turn. None of those promoted out-of-turn was a Muslim.

(c) The General Manager has issued orders to stop the practice referred to in part (a).

Information promised in reply to unstarred question No. 44, asked by Mr. Muhammad Nauman on the 6th March, 1942

STORE APPRENTICES AND IMPROVERS ON EAST INDIAN RAILWAY.

Seven; one was a Muslim.

THE MOTOR VEHICLES (AMENDMENT) BILL.

PRESENTATION OF THE REPORT OF THE SELECT COMMITTEE.

The Honourable Mr. S. N. Roy (Member for Railways and Communications): Sir, I present the Report of the Select Committee on the Bill further to amend the Motor Vehicles Act, 1939.

THE INDIAN LIMITATION (AMENDMENT) BILL.

Rao Sahib N. Sivaraj (Nominated Non-Official): Sir, I move:

"That the Bill further to amend the Indian Limitation Act, 1908, as passed by the Council of State, be taken into consideration."

Sir, the Statement of Objects and Reasons is self-explanatory, and I don't propose to take much time of the House in making a speech upon this motion. As the Statement of Objects and Reasons says, Sir, the object of the Bill is to remove a difficulty which has been caused by a decision of the Privy Council in *Rama Shah vs. Lalchand*, reported in A. I. R. 940, at page 63. The Judicial Committee of the Privy Council put a very strict interpretation upon the words "as such" in section 20 of the Limitation Act which makes it necessary for the creditor to prove that in all cases whether a person has made a payment towards a debt or a legacy, and in order to save it from limitation that the payment was made towards interest this Bill has been brought forward. The difficulty is that in many cases the payments are made towards the debt or legacy due, and the mode of appropriation is left to the creditor himself or it is generally regulated in accordance with the course of business between the parties. This strict interpretation has caused some difficulty, because in many cases it was found difficult to exactly prove that the payment was made towards interest. It is to remove that difficulty that this Bill has been brought forward, and I believe that the Bill was introduced in consultation with the Government. Sir, I move.

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

"That the Bill further to amend the Indian Limitation Act, 1908, as passed by the Council of State, be taken into consideration."

Mr. Lalchand Navalrai (Sind: Non-Muhammadan Rural): Sir, I support this Bill. As a practising lawyer, I know the difficulty that arises with regard to the meaning that is put on section 20 of the Limitation Act. Section 20 of the Limitation Act gives further extension to recover the debt if payment is made within three years from the date of the beginning of the loan. At present there is really some confusion. This technicality which is at present in section 20 is that the payment has to be

[Mr. Lalchand Navatral.]

made in order to get extension of limitation by expressly saying that it is going to be paid towards the debt or legacy or towards the interest. If any omission is made in that, he does not get the concession of the debt being paid within three years from the date of the payment having been made. The difficulty has arisen on account of the decision of the Privy Council which restricts that it should be paid with a clear understanding in writing by or under the signature of the debtor that it is being paid towards interest. People are not accustomed to this technicality, and especially when persons from the mofussil have to make payments, if they find afterwards that they have not been advised to sign it towards a particular purpose—then the person loses the benefit. The present amendment is good; it will remove the confusion and the difficulty. I have nothing more to say.

Sir Muhammad Yamin Khan (Agra Division: Muhammadan Rural): I think this is a most unnecessary Bill which has been introduced in the Legislature. It is partial and tries to save the man from whose clutches many people have been tried to be saved. It is the debtor who must be saved from the clutches of a cunning moneylender or the man who takes advantage by making the debtor sign deeds on every kind of pretext. I know very many instances where there is no payment made and still signatures are obtained. By this crooked method the moneylender has been taking advantage of the debtor. Great evil is done to this country by private money lending business. It is quite different when a man has to go to a bank or people who do business properly, but we find that in many instances this is not so, especially in the case of private money lending concerns. We should not come to the rescue of the cunning moneylenders on account of the decision of the Privy Council, and to the disadvantage of the debtor who has probably in many cases paid much more than what the ordinary law of India would have allowed. It is a well-known fact that among the Hindus there is a rule which is called the rule of *damdapat*. According to that, no creditor could ever charge more than double the amount of the principal. The Muhammadan Law does not allow any claim for interest, and this has been the prevailing law for centuries and centuries in India, until in 1855 a law was passed hurriedly in the Governor General's Council which gave the right of accumulating interest to any amount. The result was that many people were ruined on account of this change in the law. This law is in accordance with neither the Hindu law nor the Muhammadan law which affect the bulk of the population which inhabits this country. The law was forced upon the people. To help that law any further by any kind of provision will be adding an injustice to the settled ideas of the people of this country. Supposing a man has executed a pronote for Rs. 20,000, and if there is a nominal endorsement of two annas or five rupees, it is obviously done, without any payment having been made, in order to get the limitation increased. This kind of dishonest dealing is very injurious. The man must be forced to go to the Court, he must sue for the amount due and obtain a decree. But the rate of interest may be so high that it may not be allowed to be accumulated by the court. The court may not pass a decree at the same rate of interest as is put down in the pronote. Therefore, it is in the interests of both the moneylender and the debtor that the case should be adjudicated as soon as possible and

no further time should be given for the enhancement of the limitation. I think, on principle, this is a bad law, and I do not think that this House should stand for giving any kind of benefit to those who want to benefit by the ignorance of the people who have fallen into their hands. The limitation of three years for promotes and twelve years for mortgage deeds is quite sufficient and they have been found to be very good law. If you allow this Bill, it will only defeat the very object of the law. If a man has lent he must come forward to get the help of the court if the debtor has not paid within the time. This provision will act very hardly on the debtor to his detriment and we should try to save these people as much as we can under the existing circumstances. In the United Provinces, the Encumbered Estates Act, the Agricultural Relief Act and many other such Acts have been found necessary because the debt was multiplying and increasing and the creditor was not willing to go into the court until he found that the whole of the estate of the debtor could be got hold of. We should not help any law which is going to defeat the provisions of the law which have been made by this House and the Legislatures in the different provinces from time to time in the recent past, and this Bill aims at defeating that law. Therefore, I am opposed to this Bill.

The Honourable Sir Sultan Ahmed (Law Member): Sir, I should like to say a few words. When the Bill was introduced in the Council of State we took exception to a few matters there but in the Select Committee, fortunately, all those matters were remedied. The difficulties that have arisen have not arisen because of the rights of the lender or the obligations of the debtor, but purely on account of the language of the section itself and I have had personal experience of the difficulties that have arisen because of the faulty language of the section in the Indian Limitation Act. In fact, the case referred to as the Patna case which is different from the Allahabad cases, was argued by me and I know the difficulties which the section has created and, therefore, I can personally support the amended Bill as it has emerged from the Select Committee and passed by the Council of State; but apart from my personal experience I do feel that it is time that the difficulties that had been felt both by the lender and the debtor should be resolved and I do not see any serious objection as suggested by my Honourable friend, Sir Muhammad Yamin Khan. I, therefore, support this Bill on behalf of Government.

Mr. Akhil Chandra Datta (Chittagong and Rajshahi Divisions: Non-Muhammadan Rural): Sir, I beg to support this amending Bill. My Honourable friend, Sir Muhammad Yamin Khan, is absolutely wrong in thinking that it is a provision made entirely for the benefit of the money-lenders.

The Honourable Mr. M. S. Aney (Leader of the House): Cunning!

Mr. Akhil Chandra Datta: Cunning or uncunning, my friend is wrong in thinking that this provision benefits the moneylenders. The provision for the extension of the time of limitation is intended to benefit both the debtor and the creditor. Suppose three years expire. At that point of time, a situation arises when it will be neither to the interest of the debtor, nor to the benefit of the creditor that a suit should be instituted

[Mr. Akhil Chandra Datta.]

immediately for the recovery of the money. You may conceive many circumstances in which it will be wise for the money lender to postpone the litigation, and it is also good for the debtor. Another mistake committed by my Honourable friend, Sir Muhammad Yamin Khan, is this. He seems to think that this is a new principle introduced. The principle of the extension of the period of limitation is a very old principle. The difficulty that is now sought to be removed is the difficulty which has been emphasised by the Honourable the Law Member from his own experience as a legal practitioner, and I absolutely endorse his statement that that difficulty was always felt by the Courts. Therefore, it is not a new principle that is sought to be introduced. It is not intended to benefit any particular class of people, but only to remove a certain difficulty which has arisen from the wording of the section. I support this Bill.

Rao Sahib N. Sivaraj: After the speech made by the Honourable the Law Member, I have very little to say by way of answer to my Honourable friend, Sir Muhammad Yamin Khan. I feel that debtors ought not to be unreasonably harassed by any provision of law, by particularly helping the moneylenders, but at the same time I believe that every debtor ought to be trained to pay back his debt. What Sir Muhammad Yamin Khan really tries to drive at in his speech is to remove section 20 altogether. That seems to be his object and even supposing, according to him, that this Bill is not passed in the House, he is not going to save the poor debtor from the clutches of the moneylender. Section 20 will continue to remain as it is, with the added difficulty of the phrase "as such" being retained in the section and causing the same old difficulty as was noticed by the Privy Council itself. It is to remove this difficulty that this Bill has been brought forward. I think I had better read to the House the judgment of the Privy Council:

"The words 'as such' had long been given a settled meaning importing the intention of the debtor that his payment should go towards interest as distinct from principal. Though the amendment raised in a pointed manner the question whether the words 'as such' should be retained, it is clear that the Legislature decided to retain them; and it is not reasonable as a matter of construction of a statute to suggest that they can be ignored; or that their meaning has changed; or that they can be given their meaning but only as regards payments made before 1st January, 1928. The words 'as such' have lost nothing of their previous meaning which involves that the intention of the debtor must be shown to have been that the payment should go towards interest."

The Bill is very limited in its scope, and all that it is intended by this Bill is to delete the words 'as such' which have given rise to difficulties.

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

"That the Bill further to amend the Indian Limitation Act, 1908, as passed by the Council of State, be taken into consideration."

The motion was adopted.

Clause 2 was added to the Bill.

Clause 1 was added to the Bill.

The Title and the Preamble were added to the Bill.

Rao Sahib N. Sivaraj: Sir, I move:

"That the Bill, as passed by the Council of State, be passed."

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

"That the Bill, as passed by the Council of State, be passed."

The motion was adopted.

THE INDIAN COMPANIES (AMENDMENT) BILL.

Mr. H. G. Stokes (Bombay: European): Sir, I move:

"That the Bill further to amend the Indian Companies Act, 1913, as passed by the Council of State, be taken into consideration."

Sir, this Bill seeks to remove an anomaly which has arisen in the Indian Companies Act. In that Act, section 153 lays down the procedure to be followed in such important matters as the dissolution of a company and its winding up and section 54 lays down the procedure to be followed for the modification of the provisions of a company's Memorandum of Association in so far as they relate to the reorganisation of the capital. In both cases, there is a majority prescribed in the Act but the majority differs greatly in the two cases. In the case of section 153, there is a much less stringent majority than is laid down in section 54, where it is provided that 75 per cent. of each class of shareholders affected must vote in favour of any reorganisation before it can go through. It has been found in practice that such a very stringent majority is most difficult to obtain and often, indeed, it is quite impossible. In fact, as the Honourable Mr. Parker, when proposing this measure in another place, pointed out, a small section of the shareholders who do nothing will make any reorganisation quite impossible. It is proposed now by this Bill to set this anomaly right and to delete section 54 from the Indian Companies Act and transfer its functions to section 153, which has been suitably amended.

I may mention, as Honourable Members will see from a reference to the Statement of Objects and Reasons, that a similar position was found to exist in the case of the English Companies Act of 1908 which has since been repealed. A Committee known as the Greene Committee went into the matter and recommended substantially the same alterations as this Bill which I have now moved seeks to do.

In conclusion, I may say that this Bill has the support of the Federation of the Indian Chambers of Commerce and also of the Associated Chambers of Commerce. Sir, I move.

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

"That the Bill further to amend the Indian Companies Act, 1913, as passed by the Council of State, be taken into consideration."

The motion was adopted.

Clause 2 was added to the Bill.

Clause 3 was added to the Bill.

Clause 1 was added to the Bill.

The Title and the Preamble were added to the Bill.

Mr. H. G. Stokes: Sir, I move:

"That the Bill, as passed by the Council of State, be passed."

Mr. President (The Honourable Sir Abdur Rahim): The question is: "That the Bill, as passed by the Council of State, be passed."

The motion was adopted.

THE MUSLIM PERSONAL LAW (*SHARIAT*) APPLICATION (AMENDMENT) BILL.

Qazi Muhammad Ahmad Kazmi (Meerut Division: Muhammadan Rural): Sir, I move:

"That the Bill to amend the Muslim Personal Law (*Shariat*) Application Act, 1937, as reported by the Select Committee, be taken into consideration."

Sir, on this Bill we had a full discussion at the time when it was sent for circulation to elicit public opinion. The main object of the Bill is to correct some of the mistakes that had occurred in the Act at the time when it was enacted. There were two sections which were intended to be independent of each other, but unfortunately in section 3 the words "this Act" were entered into, whereas it was interpreted by some Courts that the words "this Act" could not convey the meaning they were intended to convey until the conditions laid down in section 3 were adhered to. The opinions that have been received are all in favour of the Bill. The Select Committee has seen all those opinions and has made the necessary correction. I hope the House will consent to the passing of this Bill.

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

"That the Bill to amend the Muslim Personal Law (*Shariat*) Application Act, 1937, as reported by the Select Committee, be taken into consideration."

The Honourable Sir Sultan Ahmed (Law Member): Sir, the Bill, as it has emerged from the Select Committee, is an absolutely non-controversial Bill, and the Government are prepared to support it.

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

"That the Bill to amend the Muslim Personal Law (*Shariat*) Application Act, 1937, as reported by the Select Committee, be taken into consideration."

The motion was adopted.

Clauses 2 and 3 were added to the Bill.

Clause 1 was added to the Bill.

The Title and the Preamble were added to the Bill.

Qazi Muhammad Ahmad Kazmi: Sir, I move:

"That the Bill, as amended by the Select Committee, be passed."

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

"That the Bill, as amended by the Select Committee, be passed."

The motion was adopted.

THE FEDERAL COURT (SUPPLEMENTAL POWERS) BILL.

Dr. P. M. Banerjee (Calcutta Suburbs: Non-Muhammadian Urban) :
Sir, I move :

"That the Bill to confer Supplemental Powers on the Federal Court, as reported by the Select Committee, be taken into consideration."

This Bill is a simple measure. As originally introduced, it contained two provisions, but now it contains only one provision. This provision gives the power to the Federal Court to delegate its duties to the Registrar of that Court or any other official of that Court; the Federal Court may also empower the Registrar or any other official to administer oaths. As a matter of fact, the Federal Court has already made rules for this purpose, but it is doubtful whether the Federal Court possesses the power to make those rules. In order to set all doubts at rest, it seems desirable on the part of the Central Legislature to confer the supplemental powers on the Federal Court, and this Bill seeks to serve that purpose.

The Select Committee have made a few verbal alterations in the Bill. The report of the Select Committee is unanimous and the measure is a non-contentious and non-controversial one. As regards the other provision of the original Bill, the Honourable the Law Member assured us in this House that the Government would bring forward a Bill which would be placed before the House without delay. In view of this assurance, I did not press for the inclusion of that provision in the Bill, and the Select Committee deleted that provision. I hope that the Honourable the Law Member will now bring forward his Bill before the end of the current Session and have it referred to the Select Committee. Sir, no other words are needed to commend this Bill to the House. This is a simple and a very important measure. Sir, I move :

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

"That the Bill to confer Supplemental Powers on the Federal Court, as reported by the Select Committee, be taken into consideration."

The Honourable Sir Sultan Ahmed (Law Member) : Sir, this again is a non-controversial Bill, as it has emerged from the Select Committee and Government support it. As regards the assurance that I gave with respect to the amendment so far as Order I Rule 10 of the First schedule of the Civil Procedure Code is concerned, I may inform the Honourable Member and the House that we have taken necessary action to consult the Provincial Governments and the High Courts and the replies have not yet been received. I cannot, therefore, promise that we will be in a position to introduce that Bill during this Session

Mr. President (The Honourable Sir Abdur Rahim): The question is: "That the Bill to confer Supplemental Powers on the Federal Court, as reported by the Select Committee, be taken into consideration."

The motion was adopted.

Clause 2 was added to the Bill.

Clause 1 was added to the Bill.

The Title and the Preamble were added to the Bill.

Dr. P. N. Banerjee: Sir, I move:

"That the Bill, as reported by the Select Committee, be passed."

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

"That the Bill, as reported by the Select Committee, be passed."

The motion was adopted.

THE CODE OF CRIMINAL PROCEDURE (AMENDMENT) BILL.

Mr. Lalchand Navarai (Sind: Non-Muhammadan Rural): Sir, I move:

"That the Bill further to amend the Code of Criminal Procedure, 1898 (Amendment of section 4), as reported by the Select Committee, be taken into consideration."

Sir, this was a Bill originally brought with the intention, that the time has arrived, when the practice of allowing untrained, unqualified practitioners,—unqualified in the sense that they are not permitted by any law to appear before courts,—should cease. With that object this Bill was introduced. Discretion at present exists in courts of law to allow any person to appear, with their permission, and plead in cases. The object of this Bill is to delete such provision from the Code of Criminal Procedure. The idea of the Bill was shown clearly in the Statement of Objects and Reasons. I will not take the House through those details now. This Bill was then circulated and the opinions elicited have almost all been in favour of the principle of the Bill. At the last meeting of the Assembly this Bill was taken up and opinions were considered. It was then referred to the Select Committee. The question before the Select Committee was whether the whole power, i.e., the whole discretion which is at present vested in courts should be removed or whether it should be restricted in a certain manner. The Select Committee found that certain exceptions should be made and that the whole power should not be taken away from the courts. This was based on some of the opinions received which contended that some exceptions were necessary in view of the practice that certain persons are being allowed at present to appear before courts, which would do no harm. Those exceptions were considered by the Select Committee. The unanimous opinion of the Select Committee is contained in the report as it has emerged from the Select Committee. Those exceptions I am now placing before the House. The Court is not allowed to permit any persons except in those cases which are mentioned in the Bill. This is a great improvement on the original section. It is hoped that the Higher Courts and the Government will see that Magistrates do not go beyond the exceptions laid down there. The exception is that the Court shall not give such permission except to an officer deputed by Government to act in such proceedings on behalf of an officer of Government accused of an offence.

Mr. President (The Honourable Sir Abdur Rahim): What is the good of reading all these. They are already in the Bill.

Mr. Lalchand Navarai: The second exception is with respect to a person deputed by an organised society or association to act in such proceedings on behalf of a person accused of an offence and the third exception is with regard to an accused who is unable to secure a qualified vakil. . . .

Mr. President (The Honourable Sir Abdur Rahim): They are all quite plain. The Honourable Member need not go into all these.

Mr. Lalchand Navarai: It refers to one who has no resources. The Bill is not a contentious measure and I submit that the report of the Select Committee be taken into consideration.

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

"That the Bill further to amend the Code of Criminal Procedure, 1898 (Amendment of section 4), as reported by the Select Committee, be taken into consideration."

The Honourable Sir Sultan Ahmed (Law Member): Sir, the Government support the Bill as it has emerged from the Select Committee. The objections which I had raised when this Bill originally came up for discussion at an earlier stage have all been removed now by the Select Committee by providing in clause 2 of the Bill the exceptions which I had mentioned at that time. Sir, I therefore support the motion.

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

"That the Bill further to amend the Code of Criminal Procedure, 1898 (Amendment of section 4), as reported by the Select Committee, be taken into consideration."

The motion was adopted.

Clause 2 was added to the Bill.

Clause 1 was added to the Bill.

The Title and the Preamble were added to the Bill.

Mr. Lalchand Navarai: Sir, I move:

"That the Bill, as reported by the Select Committee, be passed."

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

"That the Bill, as reported by the Select Committee, be passed."

The motion was adopted.

THE RECIPROCITY BILL.

Mr. Govind V. Deshmukh: (Nagpur Division: Non-Muhammadan): Sir, I move:

"That the Bill to make provisions in regard to entry, residence, the acquisition, holding or disposal of property, franchise, the holding of public office, or the carrying on of any occupation, trade, business or profession in British India by persons domiciled in the British possessions on a basis of reciprocity, be referred to a Select Committee consisting of the Honourable the Law Member, the Honourable Mr. M. S. Aney, Sir F. E. James, Mr. J. Ramsay Scott, Sir Syed Raza Ali, Syed Ghulam Bhik Nairang, Sardar Sant Singh, Mr. Akhil Chandra Datta, Mr. Huseinbhai Abdullahbhai Laljee, Mr. N. M. Joshi, Mr. Naoroji M. Dumasia, Qazi Muhammad Ahmad Kazmi, Mr. K. C. Neogy, Mr. Lalchand Navarai, Khan Bahadur Sir Abdul Hamid and the Mover and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five."

[Mr. Govind V. Deshmukh.]

Sir, I see notice of an amendment by Honourable Mr. Aney. I should like to know the reasons for desiring an adjournment and after 12 noon, hearing the Honourable Member I may be disposed to agree with his views.

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

"That the Bill to make provisions in regard to entry, residence, the acquisition, holding or disposal of property, franchise, the holding of public office, or the carrying on of any occupation, trade, business or profession in British India by persons domiciled in the British possessions on a basis of reciprocity, be referred to a Select Committee consisting of the Honourable the Law Member, the Honourable Mr. M. S. Aney, Sir F. E. James, Mr. J. Ramsay Scott, Sir Syed Raza Ali, Syed Ghulam Bhik Nairang, Sardar Sant Singh, Mr. Akhil Chandra Datta, Mr. Huseinbhai Abdullabhai Laljee, Mr. N. M. Joshi, Mr. Naoroji M. Dumasia, Qazi Muhammad Ahmad Kazmi, Mr. K. C. Neogy, Mr. Lalchand Navalrai, Khan Bahadur Sir Abdul Hamid and the Mover and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five."

The Honourable Mr. M. S. Aney (Member for Indians Overseas): Sir, I move:

"That the debate on the motion be adjourned till the next Session of the Assembly."

The motion before the House is for referring the Bill to a Select Committee; and, naturally, if the debate goes on, it will be on the necessity of having the principle of reciprocity accepted by the House. So far as the principle of reciprocity is concerned, the Government of India have, in a way, already conceded it in the Indian Immigration Act of 1924. The present Bill, undoubtedly, goes beyond the scope of the principle recognised and accepted in that Act. On principle Government see no objection to the Bill, and it is more or less consideration of expediency which actuates Government in coming out with this motion. At the present time the Government of India have been in correspondence with certain Colonial Governments and other Governments not to proceed with discriminatory measures which are before them; and I am glad to inform the House that some of them have agreed to that suggestion. The South African Government have already decided not to proceed with discriminatory legislation and I learn that General Smuts has made a statement to the effect that they will not proceed with Ordinances which discriminate against Indians during the war. When we ourselves are asking the Colonial and other Governments, which are covered by the words "British Possessions" in this Bill, not to proceed with discriminatory measures, it is necessary for us to maintain an atmosphere in which they can coolly consider our suggestions to that effect. Any discussion of the present measure is bound to bring out prominently the various discriminatory measures which have been hitherto adopted by these countries and a discussion of that nature is bound to be of a somewhat undesirable nature. I, therefore, think, that in the conditions in which we are now situated, when we feel that the British people and the various colonies and India and other countries should form themselves into a combined block to face a common danger and combat a great evil, attempts should be made to maintain an atmosphere of cordiality, harmony and co-operation among these various elements. In view of this broader necessity of the day we thought that without giving in on the principle we shall not be losing much if the consideration of my

Honourable friend's motion be postponed till the next Session. I am assured by my Honourable friend that if my reasons appeal to him he will have no objection to accept the amendment. I hope my reasons are sufficiently convincing to him and the House. Sir, I move.

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

"That the debate on the motion be adjourned till the next Session of the Assembly."

Mr. Govind V. Deshmukh: Sir, the reasons given by the Honourable Member do not all appeal to me; but I agree with him that we are not likely to lose much if the debate is postponed till the next Session of the House. I, therefore, have no objection to the adjournment and accept the motion.

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

"That the debate on the motion be adjourned till the next Session of the Assembly."

The motion was adopted.

THE DELHI MUSLIM WAKFS BILL.

Maulvi Muhammad Abdul Ghami (Tirhut Division: Muhammadan): Sir, I move:

"That this Assembly do recommend to the Council of State that the Bill to provide for the better administration of Muslim Wakfs in the Province of Delhi be referred to a Joint Committee of this Assembly and of the Council of State, and that the Joint Committee do consist of 16 members."

Sir, I would be failing in my duty if I do not thank the Honourable the Home Member who, since this Bill was circulated for opinion, has adopted a sympathetic attitude towards it. So much so that at his instructions a Special Officer was appointed to collect some data as regards the need for such legislation in the province of Delhi. This special officer did not succeed to the extent we hoped and has admitted his failure on page 4 of his report. He says that in the absence of any authentic and consolidated records some sanction of law is necessary which was wanting, and, therefore, he could not do as much as he could have done. Besides there was another obstacle in his way and that was shortness of time. He tried his level best and like a drowning man he struggled hard, but in my opinion he has come to no definite conclusion. I must equally thank the Muslim League Party specially its Leader and Deputy Leader and other office bearers who have taken a great interest in this measure. The Special Officer has tried to find out the number of Wakfs in Delhi, but by mere guess work he has given the number of Wakfs in Delhi as 600 of which he says 65 to be with an income of about Rs. 500. But in the Archæological report on Hindu and Muslim endowments, written as far back as 1916, I find that the number of mosques in Delhi was 442, the number of mausoleums in which high personalities like kings and nobles are buried is 447, dargahs 14, imambaras 6, and madrassas about a dozen,

Mr. President (The Honourable Sir Abdur Rahim): I do not know what the Honourable Member is talking about. This is only a Resolution and he should not go into the merits of the Bill.

Maulvi Muhammad Abdul Ghani: So I submit there is every necessity for this kind of legislation. Of my own accord I did not like to proceed with it. On the 18th March there was a big gathering of Muslims in Delhi,—above 30,000,—and they demanded such legislation. It was not by individual opinion that I wanted to thrust this kind of legislation to the people of Delhi. However, I should be brief because there is no necessity of placing all these things before the House. I will only point out one or two salient points bearing on the subject. Delhi people are very keen to have adequate representation on the Mujlis which is provided under clause 8, but they want that the words "residents of Delhi" should be specifically mentioned. I do not grudge that and I hope the Select Committee will go through it and see that that demand is acceded to. In the opinion of some people I have given ample power to the Local Government so much so that I have preferred to have a nominated president. . . .

Mr. President (The Honourable Sir Abdur Rahim): The Honourable Member is again going into the merits of the Bill.

Maulvi Muhammad Abdul Ghani: Well, Sir, I move the Resolution.

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

"That this Assembly do recommend to the Council of State that the Bill to provide for the better administration of Muslim Wakfs in the Province of Delhi be referred to a Joint Committee of this Assembly and of the Council of State, and that the Joint Committee do consist of 18 members."

The Honourable Sir Reginald Maxwell (Home Member): Sir, Government support the motion.

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

"That this Assembly do recommend to the Council of State that the Bill to provide for the better administration of Muslim Wakfs in the Province of Delhi be referred to a Joint Committee of this Assembly and of the Council of State, and that the Joint Committee do consist of 18 members."

The motion was adopted.

THE INDIAN SUCCESSION (AMENDMENT) BILL.

Dr. F. X. DeSouza (Nominated Non-Official): Sir, I move:

"That the Bill further to amend the Indian Succession Act, 1925, be taken into consideration."

In my Statement of Objects and Reasons I have stated fully the circumstances under which it was necessary for me to introduce this Bill in this Honourable House, but I find on further consideration and reference to the various District Associations throughout Southern India that there are many controversial points in this measure which necessitate further enquiry and further eliciting of opinion. Where the shoe pinches is not the necessity of obtaining probate but the necessity of having to pay probate

duty. The Bill will have to be redrafted accordingly. "Without, therefore, wasting the time of the House in discussing the merits or demerits of the Bill as it stands I accept the amendment proposed by the Honourable the Law Member that the Bill should be circulated for eliciting public opinion.

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

"That the Bill further to amend the Indian Succession Act, 1925, be taken into consideration."

The Honourable Sir Sultan Ahmed (Law Member): Sir, I move:

"That the Bill be circulated for the purpose of eliciting opinion thereon by the 1st July, 1942."

I do not want to give any further reason as the Honourable the Mover himself has felt the desirability of such a course.

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

"That the Bill be circulated for the purpose of eliciting opinion thereon by the 1st July, 1942."

The motion was adopted.

THE CODE OF CRIMINAL PROCEDURE (AMENDMENT) BILL.

Qazi Muhammad Ahmad Kazmi (Meerut Division: Muhammadan Rural): Sir, I move:

"That the Bill further to amend the Code of Criminal Procedure, 1862, for the abolition of Sessions trials with the aid of assessors be circulated for the purpose of eliciting opinion thereon by the 31st August, 1942."

Sir, the history of these assessors is rather a long one. I do not like to go into the whole history as the Government Benches do not want me to, but what I submit is, as I have stated in the Statement of Objects and Reasons, that they came into being in place of the old Kauzis and Muftis who used to be associated with the English District Judges in operating the law and giving the sentence. Almost the whole thing was done by them, they sat with the District Judges, they heard the evidence and, according to certain rules of interpretation, which were in accordance with the Muhammadan Law, gave their verdict as to the factum of the man having committed the offence as well as prescribed the sentence, and if the District Judge differed from them he had to make a report to the Qazi-ul-Qauzat in respect of it and he used to confirm or set aside the Fatwa of the Kauzi or Mufti. Up to 1862, that practice continued and, later on, English Law came into force gradually, and these gentlemen were gradually removed. In the Code of Criminal Procedure, 1862, we find that instead of Kauzi and Mufti the trial was held with the aid of two gentlemen who were called assessors. From 1862 onwards, two assessors continued to be associated with the District Judges, and, in 1923, we find that the number was increased from two to three or more. Probably the idea at that time was that two may not have a good opportunity of expressing good opinion, and, therefore, there may be three or four. Practice, however, shows that it is absolutely a useless farce, and I personally think that no gentleman who has ever practised at the Bar and dealt with cases can ever have a good word to say in respect of trials with the aid of assessors. What is the use of

[Qazi Muhammad Ahmad Kazmi.]

such people whose opinion is of absolutely no value? The Bill is intended only for circulation for eliciting opinion thereon, and it will not be necessary for me at this stage to go very deeply into the merits of the Bill itself, but I have got one or two reports on the Administration of Criminal Justice in the Province of Bihar and Orissa from which I would like to quote. In 1932, the Report says:

"The Sessions Judge of Manbhum-Sambalpur reports that little aid is generally received from the assessors available since they are not sufficiently educated and are lacking in a sense of responsibility. The Sessions Judge of Muzaffarpur reports that he did not find the assessors useful. The Sessions Judge of Darbhanga, the statistics of which present a contrast to those of most other districts, reports that the assessors are not always of assistance to the Court: there was, however, no sufficient reason to suspect the *bona-fides* of the opinions expressed by them—the majority of the assessors are not intelligent."

This is a thing which is to be found in almost every administration report on criminal justice throughout India. At some time it might have been a source of some income to the assessors; but, as a matter of fact, that little income is not so much to be considered by this House as the inconvenience to the assessors themselves; and if the Government try to get persons who are intelligent and who may have some opinions to express, then they will have to pay them a larger amount; but even that would not matter if really criminal justice can be carried on with the help of intelligent people; but my submission is that the judges do not think that any value can be attached to the opinions of assessors who sit with them. Judges who are trained in law and who know the relevancy or irrelevancy of matters do not attach the least value to the assessors' opinion. If the judge finds that he agrees with the assessors, he says I agree with so many assessors; if he disagrees, then he says. I disagree: this is the only use of assessors and this is a useless waste of public money and no useful purpose is served by them. So I propose that this Bill may be circulated for the purpose of eliciting public opinion.

The Honourable Sir Sultan Ahmed (Law Member): Sir, our attitude is one of neutrality at present; but I should have thought that these were not the days when a system which had been in existence for over eighty years should have been brought before the House for modification. But if the House likes to have the Bill circulated, the Government certainly will not stand in the way.

Mr. President (The Honourable Sir Abdur Rahim): Does the Honourable Member wish to say anything?

Qazi Muhammad Ahmad Kazmi: I do not think there is anybody who is opposed to the Bill; everybody is in favour of circulation.

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

"That the Bill further to amend the Code of Criminal Procedure, 1898, for the abolition of Sessions trials with the aid of assessors be circulated for the purpose of eliciting opinion thereon by the 31st August, 1942."

The motion was adopted.

THE MUSLIM PERSONAL LAW (*SHARIAT*) APPLICATION (SECOND AMENDMENT) BILL.

Qazi Muhammad Ahmad Kazmi (Meerut Division: Muhammadan Rural): Sir, I beg to move:

"That the Bill further to amend the Muslim Personal Law (*Shariat*) Application Act, 1937 (Second Amendment), be circulated for the purpose of eliciting opinion thereon by the 31st August, 1942."

I understand that in respect of this Bill the Government may leave it to the opinion of the Muslim Members, and I personally had a talk with most of them.

The Honourable Sir Sultan Ahmed (Law Member): Non-official Members.

Qazi Muhammad Ahmad Kazmi: This Bill is practically for one community. It was in 1935 that the Bill was introduced in this form which is commended to this House by this amendment; but at that time it was thought advisable that, instead of making the Muslim Personal Law obligatory on all persons without any condition, it would be necessary to split it up into two parts, one part necessarily and compulsorily applicable to every Muslim, while, in the case of wills and legacies, the thing may be left at the option of the person concerned. That was incorporated in the Bill at the time it came before the House; it was not before the Select Committee that this amendment was considered fit to be incorporated. This incorporation was mostly due to the fact that we had already passed in 1920 in this House a Bill regarding Cutchi Memons who have been following the old customary law of India for a very long time. In 1920, a Bill was enacted on the same lines on which the present Act before the House was enacted, though it was left to the option of the persons concerned to make a declaration to the prescribed authority, and then the Muslim Personal Law was to be applicable to them. It was just to incorporate that in the Cutchi Memons Act that this Act was also split up into two parts, one about compulsory application, and the other about qualified application. But in 1938 even the Cutchi Memon community, who have been very much in favour of Muslim law, thought it fit to get a repeal of the old Act of 1920. Now, according to that Act, the whole of the Muslim Personal Law applies to them. This Bill is intended only to make up that defect of the present Act, and I commend it for the consideration of the House. It is only to be circulated for eliciting opinion, and the House will have to consider its merits when the opinions of the Muslim community have been obtained.

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

"That the Bill further to amend the Muslim Personal Law (*Shariat*) Application Act, 1937 (Second Amendment), be circulated for the purpose of eliciting opinion thereon by the 31st August, 1942."

The motion was adopted.

THE USURIOUS LOANS (AMENDMENT) BILL.

Qazi Muhammad Ahmad Kazmi (Meerut Division: Muhammadan Rural): Sir, for the time being I do not move this Bill.

THE INDIAN MEDICAL COUNCIL (AMENDMENT) BILL.

Qazi Muhammad Ahmad Kazmi (Meerut Division: Muhammadan Rural): Sir, I beg to move for leave to introduce a Bill further to amend the Indian Medical Council Act, 1933.

Mr. President (The Honourable Sir Abdur Rahim): The question is: "That leave be granted to introduce a Bill further to amend the Indian Medical Council Act, 1933."

The motion was adopted.

Qazi Muhammad Ahmad Kazmi: Sir, I introduce the Bill.

THE SUGAR INDUSTRY (PROTECTION) REPEALING BILL.

Dr. Sir Ziauddin Ahmad (United Provinces Southern Divisions: Muhammadan Rural): Sir, I beg to move for leave to introduce a Bill to repeal the Sugar Industry (Protection) Act, 1932.

Mr. President (The Honourable Sir Abdur Rahim): The question is: "That leave be granted to introduce a Bill to repeal the Sugar Industry (Protection) Act, 1932."

The motion was adopted.

Dr. Sir Ziauddin Ahmad: Sir, I introduce the Bill.

THE CODE OF CRIMINAL PROCEDURE (AMENDMENT) BILL.

Qazi Muhammad Ahmad Kazmi (Meerut Division: Muhammadan Rural): Sir, I beg to move for leave to introduce a Bill further to amend the Code of Criminal Procedure, 1898 (Amendment of Sections 386 and 539B).

Mr. President (The Honourable Sir Abdur Rahim): The question is: "That leave be granted to introduce a Bill further to amend the Code of Criminal Procedure, 1898 (Amendment of Sections 386 and 539B)."

The motion was adopted.

Qazi Muhammad Ahmad Kazmi: Sir, I introduce the Bill.

THE INDIAN TEA CESS REPEALING BILL.

Dr. Sir Ziauddin Ahmad (United Provinces Southern Divisions: Muhammadan Rural): Sir, I beg to move for leave to introduce a Bill to repeal the Indian Tea Cess Act, 1903.

Mr. President (The Honourable Sir Abdur Rahim): The question is: "That leave be granted to introduce a Bill to repeal the Indian Tea Cess Act, 1903."

The motion was adopted.

Dr. Sir Ziauddin Ahmad: Sir, I introduce the Bill.

THE INDIAN STATES (PROTECTION AGAINST DISAFFECTION)
AMENDMENT BILL.

Qazi Muhammad Ahmad Kazmi (Meerut Division: Muhammadan Rural): Sir, I move for leave to introduce a Bill to amend the Indian States (Protection against Disaffection) Act, 1922, for a certain purpose.

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

"That leave be granted to introduce a Bill to amend the Indian States (Protection against Disaffection) Act, 1922, for a certain purpose."

The motion was adopted.

Qazi Muhammad Ahmad Kazmi: Sir, I introduce the Bill.

Mr. President (The Honourable Sir Abdur Rahim): That finishes the agenda.

The Assembly then adjourned till Eleven of the Clock on Wednesday, the 25th March, 1942.