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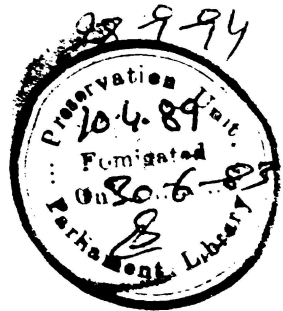
THE
LEGISLATIVE ASSEMBLY DEBATES
(Official Report)

Volume IV, 1934

(2nd April to 14th April, 1934)

SEVENTH SESSION

OF THE
FOURTH LEGISLATIVE ASSEMBLY,
1934



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GOVERNMENT OF INDIA PRESS
1934

Legislative Assembly.

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MR. MUHAMMAD YAMIN KHAN, C.I.E., M.L.A.

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LEGISLATIVE ASSEMBLY.

Wednesday, 4th April, 1934.

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

QUESTIONS AND ANSWERS.

IMPORTATION OF FOREIGN RICE.

604. ***Mr. B. Sitaramaraju:** Will Government be pleased to state whether they propose to take immediate action against the importation of foreign rice, and, if so, what steps they propose to take? If it is not proposed to take any action, will Government be pleased to state the reason therefor?

Mr. G. S. Bajpai: The attention of the Honourable Member is invited to the reply given by me on the 28th March, 1934, in reply to the short notice question on the subject asked by Diwan Bahadur A. Ramaswami Mudaliar.

Mr. B. Sitaramaraju: Has the Honourable Member anything more to add?

Mr. G. S. Bajpai: I am afraid not just now.

TERMINATION OF CONTRACTS OF VENDORS IN THE DINAPUR DIVISION OF THE EAST INDIAN RAILWAY.

605. ***Pandit Satyendra Nath Sen:** (a) Is it a fact that vendors in the Dinapore Division of the East Indian Railway received notice from the Divisional Superintendent during the latter part of February, 1934, that their contracts were to terminate shortly—some on the 25th March, some on the 1st April and some on the 10th April, 1934?

(b) What is the reason for this sudden termination of contracts? Was there any recommendation from the Local Advisory Committee? If so, what?

(c) What is the number of vendors affected and by whom are they going to be replaced?

(d) Have the Railway Board received any representation on the subject? If so, when and what action has been taken by them?

Mr. P. B. Rau: (a) I understand that the facts are generally as stated, though Government are not in possession of detailed information in regard to the particular dates on which the several contracts will terminate.

(b) So far as I gather, the Railway Administration proposes to avoid a multiplicity of small contractors at the various stations and instead to grant to one contractor the vending contracts for all sales at a large station, to include an area of, say, 25 to 30 miles from that station, there being, of course, separate Hindu and Muhammadan food vendors at each station. The proposed policy appears to have been explained to, and accepted generally by, the East Indian Railway Local (Calcutta) Advisory Committee.

(c) Government have no information.

(d) Certain representations were received by the Railway Board in March, 1934. As these arrangements are entirely within the competence of the Railway Administration to settle finally, the representations were forwarded to the Agent, East Indian Railway, for disposal. The Agent has reported that he is considering the question.

Mr. M. Maswood Ahmad: Will Government be pleased to state whether these contracts have been given to the contractors in accordance with the recommendation of the Local Advisory Committee?

Mr. P. E. Rau: As soon as this matter was brought to my notice personally by two Honourable Members of this House, I brought it to the notice of the Agent, East Indian Railway, who was at the time in Delhi, and he has promised to look into the matter and let us know later on. I am not now in a position to give any further information on the point.

Mr. M. Maswood Ahmad: May I know whether this matter was referred to Sir Hannay, the Agent of the East Indian Railway, who referred the matter to the Divisional Superintendent, Dinapur Division, where the telegram was received on the working day, but no step was taken on that telegram for three days.

Mr. P. E. Rau: Until I have received the report from the Agent, East Indian Railway, I am not in a position to give any further information on this question.

Pandit Satyendra Nath Sen: Is it not a fact that the recommendation of the Local Advisory Committee was that one contract should be given for each 25 to 30 miles area?

Mr. P. E. Rau: That seems to be so.

Pandit Satyendra Nath Sen: Is the Honourable Member aware, that the Agent, East Indian Railway, telegraphed to the Divisional Superintendent and told him that if it was correct that vending contracts for two areas were being given to one man, he should postpone further action pending consideration of his report by the Agent?

Mr. P. E. Rau: I am not aware.

Maulvi Muhammad Shafee Daoodi: Does the Honourable Member know that the monopoly in such cases will react to the detriment of the travelling public?

Mr. P. E. Rau: That is a point of view which the Railway Administration will undoubtedly take into consideration.

Dr. Ziauddin Ahmad: May I draw the attention of the Honourable Member to the discussion in the Central Advisory Committee where it was expressed that contract should be given, as far as possible, locally and that this question of sub-contracts should be avoided in the interests of good food and cheap food?

Mr. P. E. Rau: I have already drawn the attention of the Agent, East Indian Railway, to the opinion expressed in the Central Advisory Committee to that effect.

TROUBLE WITH THE POLITICAL PRISONERS IN THE CELLULAR JAIL, ANDAMANS.

606. ***Mr. S. C. Mitra:** Will Government be pleased to state if it is a fact that there was again some trouble with the political prisoners in the Cellular Jail, Andamans? If so, how and when did the trouble occur?

The Honourable Sir Harry Haig: There has been no trouble since the close of the hunger-strike last year.

WITHDRAWAL OF THE PRIVILEGE OF COMMUNICATION FROM THE POLITICAL PRISONERS IN THE CELLULAR JAIL, ANDAMANS.

607. ***Mr. S. C. Mitra:** Is it also a fact that the privilege of communication with relatives was withdrawn from the political prisoners in the Cellular Jail, in December last? If so, why and for how many months? If not, are Government in a position to state why none of the relatives in Bengal received any communication from any of those prisoners during December, 1933, and January, 1934?

The Honourable Sir Harry Haig: The answer to the first part of the question is in the negative. I have no information to the effect that none of the relatives of the prisoners received any communication from any of the prisoners during the months of December and January, but I am aware that there have been considerable delays in the delivery of letters written by the prisoners. The matter has been taken up with the Local Government.

SEGREGATION OF CERTAIN PRISONERS IN THE CELLULAR JAIL, ANDAMANS.

608. ***Mr. S. C. Mitra:** (a) Is it a fact that Drs. Narayan Chandra Ray, Bhupal Chandra Bose, and Sunil Chatterjee, prisoners in the Cellular Jail, are kept segregated from other prisoners? If so, why?

(b) Is there any chance of Dr. Bhupal Chandra Bose's early removal to an Indian jail?

The Honourable Sir Harry Haig: (a) The answer is in the negative.

(b) I am not aware of any such proposal.

CERTAIN FACILITIES TO DIVISION III PRISONERS IN THE ANDAMANS.

609. *Mr. S. C. Mitra: (a) Are the Division III prisoners in the Andamans supplied with tooth-powder and writing materials?

(b) How long are lights supplied to the prisoners in the cells at night?

(c) Is it a fact that they are kept burning till 10 p.m. only?

The Honourable Sir Harry Haig: (a) Class C prisoners are supplied with necessary materials for writing letters. They are permitted to purchase other writing materials and tooth-powder at their own expense.

(b) and (c). Till 10 p.m.

GENERAL CONDITION OF THE HEALTH OF PRISONERS IN THE CELLULAR JAIL, ANDAMANS.

610. *Mr. S. C. Mitra: (a) What is the general condition of the health of the prisoners in the Cellular Jail at present?

(b) Is there any one of the prisoners suffering from any disease? If so, how many and from what diseases?

(c) What arrangements exist for the medical treatment of the sick prisoners?

(d) Is there any hospital attached to the Cellular jail? If so, how many beds are there?

(e) Is there any kitchen attached to the hospital? If not, what is the arrangement for preparing diet for the sick prisoners?

The Honourable Sir Harry Haig: (a) The general condition of the health of the prisoners is good.

(b) At the time when Mr. Sloan visited Port Blair, one of the prisoners was suffering from tuberculosis. That prisoner has since been returned to Bengal. None of the other prisoners was suffering from any serious disease.

(c) and (d). There is a well-equipped hospital which can accommodate fifty beds.

(e) The diet for the sick prisoners is prepared in the hospital kitchen.

PRESENT CONDITION OF THE HEALTH OF S.J. BIDHU BRUSAN SEN, A POLITICAL PRISONER IN THE CELLULAR JAIL, ANDAMANS.

611. *Mr. S. C. Mitra: (a) What is the present condition of the health of S.J. Bidhu Bhusan Sen, a political prisoner in the Cellular Jail?

(b) Will he be soon transferred to an Indian jail?

(c) Is it also a fact that the climate of the Andamans is responsible for the breakdown of his health?

(d) Has he been suffering from any disease? If so, from what disease, and for how many months?

The Honourable Sir Harry Haig: (a), (b), (c) and (d). This prisoner was returned to Bengal on February 21, 1984, because he was suffering from tuberculosis.

TRANSFER OF TWO PRISONERS FROM THE ANDAMANS TO THE ALIPORE CENTRAL JAIL.

612. *Mr. S. C. Mitra: (a) Is it a fact that two prisoners were brought back to the Alipore Central Jail from the Andamans in December last? If so, why and on what date?

(b) Will Government please state the names of those two prisoners?

The Honourable Sir Harry Haig: With your permission, Sir, I shall answer questions Nos. 612 and 613, together. S. K. Bose and P. K. Mazumdar were returned to Bengal on December 20, 1933, on medical grounds.

TRANSFER OF PRISONERS SATYA KUMAR BOSE AND PRAFULLA KUMAR MAZUMDAR TO THE ALIPORE CENTRAL JAIL.

†**613. *Mr. S. C. Mitra:** Is it a fact that prisoners Satya Kumar Bose and Prafulla Kumar Mazumdar got serious illness in the Cellular Jail and that that necessitated their removal to the Alipore Central Jail?

PRISONERS CONVICTED OF POLITICAL OFFENCES SENT TO THE ANDAMANS.

614. *Mr. S. C. Mitra: Will Government please state:

- (i) how many prisoners convicted of political offences have been sent to the Andamans since 1932;
- (ii) how many amongst them died of illness; and
- (iii) how many were brought back to India for reasons of ill-health?

The Honourable Sir Harry Haig: (i) If by "political offences" the Honourable Member means offences connected with terrorism, the number is 169. No prisoners convicted of offences connected with civil disobedience have been sent to the Andamans.

(ii) 3.

(iii) 5.

INQUIRY MADE BY THE DEPUTY SECRETARY, HOME DEPARTMENT, FROM THE POLITICAL PRISONERS IN THE CELLULAR JAIL, ANDAMANS.

615. *Mr. S. C. Mitra: Will Government please state if, during his recent visit to the Andaman Islands, Mr. T. Sloan, Deputy Secretary of the Home Department, tried to know from the political prisoners in the Cellular Jail anything about their present condition? If so, what did the prisoners represent to him?

The Honourable Sir Harry Haig: Mr. Sloan visited the Cellular Jail and saw the conditions for himself. The prisoners made certain representations to him, some of which are at present receiving consideration.

CONSTITUTION OF A CENTRAL BOARD AT ARMY HEADQUARTERS FOR RECOMMENDING WITHDRAWAL OF CERTAIN OFFICERS.

616. *Mr. M. Maswood Ahmad: (a) Will Government please state whether they contemplate constituting a Central Board at Army Headquarters for the purpose of recommending the names of those officers who

†For answer to this question, see answer to question No. 612.

are to be compulsorily withdrawn from the Indian Army under the War Block Scheme?

(b) If the answer to part (c) above be in the affirmative, will Government please state the names of the members who will constitute the Board?

(c) What procedure will be adopted by the Board for the selection of the personnel for compulsory retirement?

(d) On what terms is it proposed to retire these officers?

(e) How much will it cost Government for (i) the expenses of this Board, and (ii) giving effect to the recommendations of the Board?

(f) What will eventually be the saving in the Army Budget as a result of the acceptance of the Board's recommendation and subsequent retirement of the Army Officers?

Mr. G. E. F. Tottenham: I would invite the Honourable Member's attention to the statement that I made on this subject in the course of my speech on the Army Department vote on March 6th. Final decisions have not yet been reached, and I have nothing to add to that statement.

SURPLUS SILVER IN THE POSSESSION OF THE GOVERNMENT OF INDIA.

617. ***Mr. M. Maswood Ahmad:** (a) Is it a fact that there is a large stock of silver in the possession of the Government of India, which is surplus to their requirements?

(b) Is it intended to dispose of this silver? If so, in what manner?

(c) What will be the gain or loss in rupees to Government after this transaction?

(d) Will Government please state the quantity and value in rupees of this surplus silver?

The Honourable Sir George Schuster: (a), (b) and (d). I would refer the Honourable Member to the speech which I made in this House on the 21st of November, 1933, in proposing the ratification of the Silver Agreement and also to the memorandum recorded in the proceedings of the Standing Finance Committee for the 12th of March, 1934, with regard to the disposal of the surplus silver to be retained by Government when the Reserve Bank is created.

(c) This depends on the price of silver at the time when the sales are effected.

GRANT OF THE STATUS OF A SECRETARIAT OFFICE TO THE POSTS AND TELEGRAPHS DIRECTORATE.

618. ***Mr. D. K. Lahiri Chaudhury:** (a) Will Government please define an Attached Office as distinct from a Secretariat Office of the Government of India, and in doing so explain the nature and standard of work that is required of the ministerial staff of the former as against the latter?

(b) Will Government also state if the work done in, and by the ministerial staff of, the Posts and Telegraphs Directorate is in any way inferior in quality to that done in Secretariat Offices?

(c) If the answer to part (b) be in the affirmative, will Government please explain the difference in the quality of work required as between the Posts and Telegraphs Directorate on one side and the Secretariat Offices referred to on the other?

(d) If the answer to part (b) be in the negative, do Government propose to grant the status of a Secretariat Office to the Posts and Telegraphs Directorate and treat it as a Branch of the Industries and Labour Department Secretariat? Is it a fact that the Posts and Telegraphs Directorate now transacts business in the same way as any other Branch of the Industries and Labour Department Secretariat in its relation to the Secretary and Honourable Member in charge of the Department?

The Honourable Sir Frank Noyce: (a), (b) and (c). A Secretariat office is one directly under the charge of a Secretary to the Government of India, while an Attached Office, such as that of the Posts and Telegraphs Department, is one attached to a Secretariat Office, but working directly under the Head of a particular Department. Generally speaking, more important and more complicated questions connected with the higher administrative functions of the Government of India have to be dealt with in the Secretariat than those handled in an Attached Office. Accordingly, the standard of work required of assistants and clerks (other than routine clerks) in the Secretariat is generally higher than that expected in an Attached Office.

(d) The first part does not arise in view of the reply just given. As regards the second part, the fact is substantially as stated.

QUALIFYING EXAMINATION OF RECORD SUPPLIERS HELD IN THE OFFICE OF THE DIRECTOR GENERAL, POSTS AND TELEGRAPHS.

619. ***Mr. D. K. Lahiri Chaudhury:** (a) Is it a fact that a qualifying examination of Record Suppliers was held in the office of the Director General of Posts and Telegraphs, New Delhi, on the 7th May, 1931, at which 14 candidates duly qualified themselves for the posts of Lower Division Clerks?

(b) If the answer to part (a) be in the affirmative, are Government prepared to direct the Director General, Posts and Telegraphs, to promote them to the Lower Division Clerkship? If not, why not?

(c) Is it a fact that a proposal was made by the Director General for the transfer of the qualified Record Suppliers to the Postal Circles in the Lower Division Clerkship if there were no room for them in his own office? If so, what action do Government propose to take in the matter which has remained unsettled for about three years?

(d) Is it a fact that some of the Record Suppliers have been recommended for promotion to the Lower Division Clerkship during the inspection of the office of the Director General of Posts and Telegraphs by Rai Bahadur J. P. Ganguli?

(e) Is it a fact that the Record Suppliers of all Postal Circles, who are of the same status as the Record Suppliers of the office of the Director General of Posts and Telegraphs, have been promoted to the Lower Division Clerkship? If so, what action do Government propose to take in the case of the Record Suppliers of the Director General's office?

The Honourable Sir Frank Noyce: (a), (b) and (c). The facts are that in 1931, it was suggested by the Director-General, Posts and Telegraphs, that as it was not possible to give the record suppliers of the Director-General's office a higher scale of pay than Rs. 20—1—40, which was the scale sanctioned for this class of employees in the Attached Offices of the Government of India, an attempt should be made to improve their prospects by drafting such of them as were considered fit for clerical duties to circle offices, since, owing to a reduction of staff in the office of the Director-General, there were no prospects of promoting these men to the clerical cadre in that office. A simple examination was held to test the fitness of the men who offered themselves for such appointments and 14 men were considered as qualified. The proposal to transfer the men, who had qualified in the examination referred to, to posts in the Lower Division clerical cadre of Postal Circles, was not, however, approved by the Government of India, as it was at that time considered that recruitment for this cadre from men already in service should be confined to men of the postmen class actually serving in the Circles. Nor was it possible to accommodate the men in the office of the Director-General, Posts and Telegraphs, as from April 1st, 1930, that office was declared an Attached Office of the Government of India and no such Lower Division posts were sanctioned for Attached Offices. The question of providing for the men in Lower Division posts in Postal Circles will, however, again be examined.

(d) The fact is that in 1928, Rai Bahadur J. P. Ganguli, who investigated the strength of the Director-General's office, suggested that several of the record suppliers should be in the proposed 'C' class or Lower Division clerical scale. But as explained in the reply to parts (a), (b) and (c) above, this class of clerks was not introduced in the Director-General's office.

(e) In Postal Circles, posts of record-suppliers who are engaged in semi-clerical duties were included in the Lower Division clerical time-scale of the locality concerned and the incumbents of the posts in question got the benefit of that scale. For reasons stated in my reply to parts (a), (b) and (c) above, the record-suppliers of the Director-General's office were given the scale of pay obtaining in the Attached Offices of the Government of India and were designated record-lifters. In these circumstances, Government do not consider it necessary to take any further action in this respect. As stated in the reply to parts (a), (b) and (c) above, the question of the transfer of the qualified record-lifters to Postal Circles will receive consideration as a special case.

FILLING UP OF TEMPORARY VACANCIES OF SECOND DIVISION CLERKS FROM AMONG THE RECORD SUPPLIERS IN THE OFFICE OF THE DIRECTOR GENERAL, POSTS AND TELEGRAPHS.

620. ***Mr. D. K. Lahiri Chaudhury:** Will Government be pleased to state what procedure is followed in filling up the temporary vacancy in the Second Division Clerkship from among the Record Suppliers in the office of the Director General of Posts and Telegraphs? Is it at the sweet will of some one, or is there some definite procedure?

The Honourable Sir Frank Noyce: Temporary vacancies in the Second Division of the clerical cadre of the office of the Director-General, Posts and Telegraphs, which is an Attached Office of the Government of India, are filled in accordance with the orders issued by the Home Department for

recruitment to the ministerial establishment of the Government of India Secretariat and Attached Offices. Record lifters are not ordinarily eligible for employment in the clerical cadre of that office, but in exercise of the discretion vested in him by the Home Department orders, the Director-General has selected three suitable record-lifters in his office to fill temporary vacancies till such time as qualified candidates are supplied by the Public Service Commission.

PENSION OF RECORD SUPPLIERS AND DUFFRIES IN THE GOVERNMENT OF INDIA OFFICES.

621. *Mr. D. K. Lahiri Chaudhury: Is it a fact that the Record Suppliers and Duffries of all Government Secretariat Offices draw half pension at the time of their retirement? If so, why do not the Record Suppliers and Duffries of all Government attached and subordinate offices draw half pension at the time of their retirement?

The Honourable Sir George Schuster: Yes; subject to certain maxima. The question of the revision of the pension of record sorters and daftaries in the Government of India Attached and Subordinate offices will be considered along with the main scheme of revision of pensions of inferior servants as a whole which has had to be postponed until the financial position improves.

INTRODUCTION OF INDIAN DINING CARS ON CERTAIN EXPRESS TRAINS ON THE GREAT INDIAN PENINSULA RAILWAY.

622. *Mr. K. P. Thampan: Will Government be pleased to state:

- (a) whether on the Peshawar Express Train 197 Down and 198 Up on the Great Indian Peninsula Railway, there are no Indian dining cars while the same trains between Delhi and Peshawar on the North Western Railway line are provided with such cars;
- (b) whether the Bombay, Baroda and Central India Railway authorities have provided Indian dining cars on their Railway between Bombay and Delhi;
- (c) whether there has been an agitation on the part of the public to introduce Indian dining cars on 197 Down and 198 Up Express trains; and
- (d) whether they propose to consider the desirability of asking the Great Indian Peninsula Railway authorities to introduce Indian dining cars on these Express trains forthwith; if not, why not?

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

(b) Two compartments—not dining cars—are reserved for Hindu and Muhammadan catering on Nos. 19 Down and 20 Up Delhi Expresses, between Bombay and Delhi.

(c) Government have received no representations on the subject in recent years.

(d) I am sending a copy of this question to the Agent, Great Indian Peninsula Railway, to consider the suggestion.

POSTING OF CHARTS SHOWING THE DIFFERENT ROADS AND THEIR DIRECTIONS AT CERTAIN PLACES IN NEW DELHI.

623. *Mr. S. G. Jog: (a) Is it not a fact that in New Delhi at various places, such as Windsor, Alexandra, York and others, large sized maps or charts were posted showing the different roads and their directions?

(b) Are Government aware that these maps were of great use and convenient to people living in New and Old Delhi as well as to outsiders?

(c) Are Government aware that the said maps are not to be found in those places now?

(d) Will Government please state why they have been removed?

(e) Are Government prepared to consider the desirability of having these boards posted again at the various places?

Mr. G. S. Bajpai: (a) Yes.

(b) Government are gratified to hear this.

(c) Yes.

(d) Owing to the increase in the number of roads since these maps were prepared, they had become out of date and expenditure on revising them was considered to be unjustified in the prevailing financial stringency.

(e) Government will draw the attention of Municipal authorities to the Honourable Member's suggestion.

GRANT TO THE BENARES HINDU UNIVERSITY FOR RESEARCH IN PLANT PHYSIOLOGY.

624. *Mr. S. G. Jog: (a) Are Government aware that the Benares University has established an Institute of Agricultural Research as its branch?

(b) Are Government aware that the said University, or its institute, applied to the Imperial Council of Agricultural Research for a grant for research in plant physiology?

(c) Will Government please state the amount of grant sanctioned, if any, and whether it has been paid or not? If it has not been paid, do Government propose to expedite payment?

(d) Are Government prepared to consider the desirability of making a more substantial grant?

Mr. G. S. Bajpai: (a) and (b). Yes.

(c) The application for the grant was not accepted by the Imperial Council of Agricultural Research.

(d) Does not arise.

ALLEGED MALADMINISTRATION OF THE LAHORE GOVERNMENT TELEGRAPH OFFICE.

625. *Maulvi Muhammad Shafee Daoodi: (a) Is it a fact that the Muslim Right Protection Board, Punjab, had recently brought to the notice of the Director General, Posts and Telegraphs, and the Postmaster General, Punjab Circle, the maladministration of the Lahore Government Telegraph Office and the hostile attitude of the present Superintendent in charge thereof towards Muslim subordinates?

(b) Will Government please state if the allegations contained in the communication referred to above have been investigated? If so, with what result?

(c) If the reply to part (b) is in the negative, do Government propose to order an independent enquiry into the matter to allay the feelings of the Muslim subordinates?

The Honourable Sir Frank Noyce: (a) A telegram was received by Government in October, 1933, containing general allegations of hostility to Muslim subordinates on the part of the Superintendent, Central Telegraph Office, Lahore. This was brought to the notice of the Director-General of Posts and Telegraphs who did not receive a separate communication on this subject.

Government have no information whether a similar communication was also received by the Postmaster-General, Punjab and North-West Frontier Circle.

(b) The result of the investigations made by the Director-General in regard to the allegations was that complaints were received by the local authorities from only one Muslim member of the staff of the Telegraph office. As this member was entitled to represent any grievance he had in the usual way through the appropriate official channel, the Director-General decided that no action was called for.

(c) Does not arise in view of the reply to part (b) of the question.

Mr. M. Maswood Ahmad: Have Government inquired from the Post Master General whether he has got any representation in this matter?

The Honourable Sir Frank Noyce: No, Sir, it was not necessary to do so in view of the fact that the representation received by the Government of India was sent to him for investigation. It did not matter whether he received a similar communication or not. He went into the substance of the communication received, and that was obviously sufficient.

Mr. M. Maswood Ahmad: Do Government expect any reply from the Post Master General on the representation which they sent to him?

The Honourable Sir Frank Noyce: I am afraid my Honourable friend did not hear my reply to the question. The communication we received was duly sent to the Post Master General for investigation. The Director-General himself had no other means of obtaining information except through the Post Master General.

Maulvi Muhammad Shafee Daoodi: Will the report be placed before the House?

The Honourable Sir Frank Noyce: No, Sir.

Maulvi Muhammad Shafee Daoodi: May I know why?

The Honourable Sir Frank Noyce: It is a departmental communication, and it is not desirable that it should be placed on the table of the House.

Maulvi Muhammad Shafee Daoodi: Will the conclusion to which the Department will come be placed before the House?

The Honourable Sir Frank Noyce: No, Sir. It has been given in the reply to the question.

Dr. Ziauddin Ahmad: Is it expected that the Post Master General will reply to the Director-General about this letter?

The Honourable Sir Frank Noyce: I would again refer the Honourable Member to the reply I have given to part (b) of the question:

“The result of the investigations made by the Director-General in regard to the allegations was that complaints were received by the local authorities from only one Muslim member of the staff of the Telegraph Office.”

That information was obviously obtained from the Post Master General, and, therefore, the Director-General must have had a reply from the Post Master General.

RULES FOR THE PROMOTION OF PASSENGER DRIVERS TO MAIL DRIVERS ON STATE RAILWAYS.

626. *Lieut.-Colonel Sir Henry Gidney: (a) Will Government please state the rules governing the promotion of passenger drivers to mail drivers on the various State Railways?

(b) Is it a fact that the drivers, who were covenanted on the East Indian Railway from England in 1921 or 1922, have from time to time been promoted to mail drivers superseding locally recruited drivers in the passenger grade who have been awaiting promotion to the next grade?

(c) If the answer to part (b) be in the affirmative, will Government please state the reason for such promotion and supersession?

(d) Do Government propose to discontinue such practice on all the State Railways? If not, why not?

Mr. P. E. Rau: With your permission Sir, I propose to reply to questions Nos. 626 to 631 together. I have called for information, and will lay a reply on the table of the House in due course.

Lieut.-Colonel Sir Henry Gidney: Will the Honourable Member inform this House when he will have collected this information?

Mr. P. E. Rau: I am unable to prophesy.

Lieut.-Colonel Sir Henry Gidney: Will the Honourable Member consider ten days too little for this inquiry?

Mr. P. E. Rau: Certainly, Sir.

SURPLUS POSTS IN THE OFFICE OF THE DEPUTY CHIEF COMMERCIAL MANAGER, CLAIMS, EAST INDIAN RAILWAY.

†627. *Lieut.-Colonel Sir Henry Gidney: (a) Is it a fact that the Deputy Chief Commercial Manager, Claims, East Indian Railway, had several surplus posts on his office establishment in 1933?

(b) If the reply to part (a) be in the affirmative, were the following posts, among others, surplus:

(i) one post in grade Rs. 280—20—500, and

(ii) one post in grade Rs. 400—20—500?

†For answer to this question, see answer to question No. 626.

(c) Is it a fact that while there were surplus posts in this office, the Agent, on the recommendation of the Deputy Chief Commercial Manager, Claims, sanctioned two new posts in 1933, namely:

- (i) one post graded Rs. 170—218, and
- (ii) one post graded Rs. 160—220?

(d) If the answer to part (c) be in the affirmative, will Government be pleased to state whether these two posts have been examined in the course of the Job Analysis?

POSTS DECLARED SURPLUS BY THE CHIEF COMMERCIAL MANAGER, CLAIMS, EAST INDIAN RAILWAY.

†628. *Lieut.-Colonel Sir Henry Gidney: (a) Is it a fact that as a result of the Pope Committee's Job Analysis, several posts were declared surplus in October, 1933, by the Chief Commercial Manager, Claims, East Indian Railway?

(b) If the reply to part (a) be in the affirmative, what amount per annum will be saved by the retrenchment of these surplus posts in the Claims office?

(c) Has any post in the highest subordinate grade of that office (Rs. 400—20—500) been declared surplus?

(d) Have any staff affected by these findings been brought under retrenchment either by demotion or discharge?

(e) Will demotions and discharges due to the retrenchment of these surplus posts in the Claims Office be regulated by the instructions issued to Agents by the Railway Board in a letter No. 381-L., dated the 19th August, 1932?

SENIORITY OF SUBORDINATES OFFICIATING IN THE TRANSPORTATION INSPECTOR'S GRADE ON THE EAST INDIAN RAILWAY.

†629. *Lieut.-Colonel Sir Henry Gidney: With reference to their reply to starred question No. 1017, dated the 18th September, 1933, will Government please state how seniority is to be decided between subordinates who are officiating in the Transportation Inspector's grade on the East Indian Railway?

RATES AND CLAIMS OFFICES OF THE COMMERCIAL DEPARTMENT ON THE EAST INDIAN RAILWAY.

†630. *Lieut.-Colonel Sir Henry Gidney: (a) Is it a fact that the Rates and Claims offices of the Commercial Department of the East Indian Railway are considered as one unit for the demotion of subordinate staff?

(b) Are they also considered as one unit for the promotion of the subordinate staff?

(c) Are the subordinate posts in those offices interchangeable, *s.g.*, can the services of a Rates Clerk be utilised as a Claims Clerk and *vice versa*?

†For answer to this question, see answer to question No. 626.

FILLING UP OF VACANCIES IN ONE DIVISION ON THE EAST INDIAN RAILWAY FROM OTHER DIVISIONS.

†631. ***Lieut.-Colonel Sir Henry Gidney:** (a) With reference to their reply to starred question No. 1356, dated the 11th December, 1933, will Government please state whether vacancies in any one Division on the East Indian Railway must be filled by employees in that Division to the exclusion of other suitable employees working in

- (i) other Divisions, and
- (ii) in the Head Office at Calcutta?

(b) If the answer to parts (a) (i) and (a) (ii) be in the negative, will Government please state which posts are to be filled from among the employees of the several Divisions and the Head Office staff?

DEPUTATION TO THE RAILWAY BOARD REGARDING THE RATIO OF POSTS TO BE HELD BY THE EAST INDIAN RAILWAY AND OLD OUDH AND ROHILKHAND RAILWAY OFFICERS.

632. ***Lieut.-Colonel Sir Henry Gidney:** (a) Is it a fact that Government (Railway Board) received a deputation of officers from the East Indian Railway in September, 1932, regarding the ratio of posts to be held by

- (i) East Indian Railway (Company) officers, and
- (ii) East Indian Railway (Old O. & R.) officers?

(b) Has a ratio between these two categories been established? If so, what is it?

(c) Will this ratio be observed in respect of promotions from the subordinate to the official grades? If not, why not?

(d) What is the present ratio of East Indian Railway (Company) and East Indian Railway (Old O. & R.) permanent and officiating officers employed in

- (i) the Chief Commercial Manager's office,
- (ii) the Agency,
- (iii) the Chief Operating Superintendent's office,
- (iv) the six Divisions separately, and
- (v) the Chief Engineer's office?

Mr. P. R. Rau: (a) On the 1st October, 1932, the Railway Board received a deputation of East Indian Railway officers in connection with the question of the relative seniority of officers of the late East Indian Railway Company and the old Oudh and Rohilkhand Railway.

(b) The original arrangements were that in selecting officers of the old East Indian Railway cadre and the State Railway cadre for substantive promotion from the junior to the senior scale or from the senior scale to the administrative grades, the convention that the total number of posts in the senior scale and the administrative grades should be filled in the ratio of 2 to 1 by officers of the East Indian Railway cadre and the State Railway cadre, respectively, would be followed. This ratio was adopted

†For answer to this question, see answer to question No. 626.

tentatively till the preparation of a combined seniority list. This has been done since and promotions are now made on the usual basis of seniority and efficiency.

(c) I am making enquiries from the Agent, East Indian Railway, as regards this point and shall lay a reply on the table later.

(d) I can obtain for the Honourable Member the existing number of officers in the various offices mentioned by him divided into East Indian Railway Company Officers and State Railway Officers, but this is not likely to be of any value as variations take place from time to time according to the exigencies of the public service.

Lieut.-Colonel Sir Henry Gidney: Is the Honourable Member aware that this trouble between the Oudh and Rohilkhand Railway, as it was formerly called, and the East Indian Railway, as it was formerly called, has been going on for many years? And are Government aware of the fact that it is creating great discontent among the staff, both officials and subordinates, of the former on account of unfair and unjust treatment, and the favourable treatment that is given to the East Indian Railway staff, official and subordinate?

Mr. P. B. Rau: So far as I am aware, the trouble as regards officers at any rate has ended.

Lieut.-Colonel Sir Henry Gidney: Are Government aware of the fact that they sent a Member of the Railway Board to Moradabad to investigate this very matter and that the matter has not been finally decided?

Mr. P. B. Rau: Does my Honourable friend refer to officers or subordinates?

Lieut.-Colonel Sir Henry Gidney: Particularly of the subordinate staff, inquiries have been made.

Mr. P. B. Rau: I am not aware personally of the fact that my Honourable friend referred to.

Dr. Ziauddin Ahmad: Sir, I cannot tell what the source of the Honourable Member's information is, but one officer has specially told me that they have got genuine grievances, and he said further that they did not try to redress the wrongs of the subordinates, because their wrongs are not redressed by the Railway Board.

Lieut.-Colonel Sir Henry Gidney: Will the Honourable Member inform this House whether or not it is a fact that not a single officer of the Oudh and Rohilkhand Railway, as it was formerly called, is today in any high administrative post in the East Indian Railway headquarters?

Mr. P. B. Rau: I am afraid I shall require notice of that question.

APPOINTMENTS OF FIREMEN AT BULSAR ON THE BOMBAY, BARODA AND CENTRAL INDIA RAILWAY.

633. ***Mr. N. M. Joshi:** (a) Will Government be pleased to state if it is a fact that seven appointments of special 'C' Grade Firemen were made at Bulsar on the Bombay, Baroda and Central India Railway?

(b) Is it a fact that the appointments were made from among the apprentices and not from among the firemen who are in permanent service?

(c) If the reply to part (b) be in the affirmative, will Government be pleased to state the reasons why they did not fill up these appointments from among the retrenched men at Bulsar who were waiting for reinstatement?

Mr. P. E. Rau: With your permission, Sir, I propose to reply to questions Nos. 633 and 634 together. I am calling for certain information and will lay a reply on the table in due course.

DENIAL OF THE BENEFIT OF SUNDAY REST TO WORKERS IN THE RUNNING SHEDS AT CERTAIN PLACES ON THE BOMBAY, BARODA AND CENTRAL INDIA RAILWAY.

†634. ***Mr. N. M. Joshi:** (a) Will Government be pleased to state if it is a fact that on the Bombay, Baroda and Central India Railway the benefit of the Factories Act regarding Sunday rest is given in the running sheds at Parel, Bandra, Bulsar and Ahmedabad, to certain categories of employees?

(b) If the reply to part (a) be in the affirmative, will Government be pleased to state why the same benefit is denied to the same categories of workers in the running sheds at Rutlam, Godhra, and other places on the Bombay, Baroda and Central India Railway?

(c) Do Government propose to take steps to remove this discrepancy?

INTRODUCTION OF THE HOURS OF EMPLOYMENT REGULATION AND WEEKLY REST CONVENTION ON COMPANY-MANAGED RAILWAYS.

635. ***Mr. N. M. Joshi:** (a) Will Government be pleased to state whether they have issued to the Company-managed Railway Administrations instructions to introduce the Hours of Employment Regulation and Weekly Rest Convention?

(b) If the reply to part (a) be in the negative, will Government be pleased to state the reasons for not doing so?

Mr. P. E. Rau: (a) and (b) The question of applying the Act to Company-managed Railways will be considered when the financial position improves. Meanwhile, Government have asked the Agents of the Bombay, Baroda and Central India and Madras and Southern Mahratta Railways for their views on the possibility of introducing these regulations on their system from next year and for a detailed estimate of the cost of expenditure that will be involved under present conditions of traffic.

RECRUITMENT OF NEW MEN IN PREFERENCE TO THE RETRENCHED MEN ON THE BOMBAY, BARODA AND CENTRAL INDIA RAILWAY.

636. ***Mr. N. M. Joshi:** (a) Will Government be pleased to state if it is a fact that on the Bombay, Baroda and Central India Railway new men have been recruited in preference to the retrenched men?

†For answer to this question, see answer to question No. 633.

(b) Is it a fact that retrenched men with lesser service are given preference to those with longer service, when appointments are made from among the retrenched men?

(c) Is it a fact that retrenched men are being reinstated on a reduced pay ranging from 25 to 60 per cent?

(d) Will Government be pleased to state what action they propose to take to enforce the orders of the Railway Board and the recommendations of the Murphy Committee as regards the reinstatement of retrenched men?

Mr. P. B. Rau: (a) to (c). Government have no information.

(d) Instructions issued by Government on the subject of retrenchments apply strictly only to the State-managed Railways; but Company-managed Railways which under their contracts enjoy considerable freedom in matters of administration were invited to follow the same instructions. I am forwarding a copy of these questions to the Agent, Bombay, Baroda and Central India Railway, for any action that he may desire to take in the matter.

CONSIDERATION OF WAR SERVICES IN SELECTING THE PERSONNEL FOR RETRENCHMENT IN THE POSTS AND TELEGRAPHS DEPARTMENT.

637. **Mr. N. M. Joshi:** Will Government be pleased to state whether it is a fact that they had issued instructions in December, 1933, directing that War Service should be taken into consideration in selecting the personnel for retrenchment in the Posts and Telegraphs Department?

The Honourable Sir Frank Noyce: Yes.

Pandit Satyendra Nath Sen: Does this principle apply to the Posts and Telegraphs Department only or to all other Departments?

The Honourable Sir Frank Noyce: I am afraid I shall have to ask for notice of that question as I am only concerned with the Departments in my immediate charge.

Mr. N. M. Joshi: If these instructions hold good, will the Honourable Member consider cases where these instructions are not being followed?

The Honourable Sir Frank Noyce: Certainly, I shall be glad if the Honourable Member will bring any cases, in which he thinks these instructions have not been followed, to my notice. I shall then be happy to inquire into them.

UNSTARRED QUESTIONS AND ANSWERS.

PAUCITY OF STAFF IN THE CENTRAL PUBLICATION BRANCH.

297. **Mr. S. O. Mitra:** (a) Are Government aware that the break-up of the establishment of men employed on daily wage basis by the Central Publication Branch has resulted in dead-lock in the office by throwing the whole machinery out of gear for paucity of staff?

(b) Is it a fact that most of the men employed on daily wage basis were recruited by the Officiating Manager on payment of money?

(c) Is it a fact the Officiating Manager's spirit of self-aggrandisement had manifested itself in the appointments he made?

(d) Are Government prepared to investigate whether it is a fact that underhand and surreptitious methods were actually employed by the Officiating Manager?

The Honourable Sir Frank Noyce: (a) No.

(b) and (c). Government have no information.

(d) Not unless the Honourable Member is prepared to produce evidence in support of his allegations.

ALLEGATIONS AGAINST THE SECRETARY, WORKS COMMITTEE, GOVERNMENT OF INDIA PRESS, NEW DELHI.

298. **Rao Bahadur M. C. Rajah:** (a) Are Government aware of the fact that lately the post of the Secretary of the Works Committee of the New Delhi Government Press has been converted into a profitable source of income by the present incumbent?

(b) Has the attention of Government been drawn to the fact that Mr. B. N. Dutt, Secretary of the New Delhi Press Works Committee, took a tricycle from a Bania and in return managed to secure a Verandah for the latter's shop in the Press Area?

(c) Is it a fact that the said Mr. Dutt secures meat, milk, sweets and other trifles free from the shopkeepers living in the Press Area, simply because he holds the office of Secretary of the Press Works Committee?

(d) If so, what action, if any, are Government prepared to take in the matter?

The Honourable Sir Frank Noyce: (a) and (b). No.

(c) No information to this effect has reached Government and the Manager states that, to the best of his knowledge, there is no substance in any of the allegations contained in the Honourable Member's question.

(d) Does not arise.

ALLEGATIONS AGAINST THE SECRETARY, WORKS COMMITTEE, GOVERNMENT OF INDIA PRESS, NEW DELHI.

299. **Rao Bahadur M. C. Rajah:** (a) Is it a fact that lending or borrowing money by the Press employees amongst themselves is strictly forbidden on pain of dismissal according to the rules of the "Hand-book for the Government of India Press"?

(b) Are Government aware of the fact, that Mr. B. N. Dutt, Secretary of the Works Committee, has been breaking this rule by lending money to Press employees in the name of his wife?

(c) Is it a fact that lately Mr. Dutt's wife went to a Court at Delhi and obtained a decree against an employee of the Government Press, New Delhi? Are Government aware that in this particular case money was actually lent by Mr. Dutt in his wife's name to the man concerned?

(d) If the answer to the above be in the affirmative, what action do Government propose to take in the matter? If the answer to the above be in the negative, will Government please state whether they are willing to institute enquiries in the matter?

The Honourable Sir Frank Noyce: (a) Yes.

(b) No.

(c) and (d). No information has reached Government; but, if the Honourable Member can supply particulars, an inquiry will be made.

EXPENSE TO GOVERNMENT DUE TO THE TRANSFER OF THE CENTRAL PUBLICATION BRANCH TO DELHI.

300. **Mr. D. K. Lahiri Chaudhury:** (a) Will Government be pleased to state if it is a fact that the transfer of the Central Publication Branch to Delhi has resulted in more expense to Government on the whole?

(b) Will Government be pleased to state if it is a fact that all printing and binding materials required by the Delhi and Simla presses have to be obtained mainly from Calcutta?

(c) Will Government be pleased to state if it is a fact that Government have to pay railway freight, etc., on all the above materials?

(d) Will Government be pleased to state if it is a fact that heavy railway freight has now to be paid by the Delhi and Simla presses for the additional printing and binding materials required for publications which would otherwise have been printed in the Calcutta press had the Central Publication Branch remained in Calcutta?

The Honourable Sir Frank Noyce: (a) The transfer involved a substantial initial outlay, but considerable capital and recurring expenditure would have been necessary if it had not taken place. The estimates of the latter amounts showed that Government would have had to spend in less than three years a sum equivalent to the cost of the transfer, and would have had to meet further charges in future years. While, therefore, the move should yield substantial economies, the economies secured in the first year have not, of course, balanced the initial outlay.

(b) Yes.

(c) Freight has to be paid on materials obtained from Calcutta.

(d) No; any increase in the freight charges is due to the policy of concentrating ordinary printing work in Delhi and although this step was assisted by the transfer of the Publication Branch, it was regarded as desirable on its own account. I should add that a substantial part of the publications printed at Delhi and Simla are required for distribution in these centres, so that the freight charges cannot be regarded as a measure of the additional expenditure involved.

TECHNICAL QUALIFICATIONS FOR THE POST OF ASSISTANT CONTROLLER, PRINTING.

301. **Mr. D. K. Lahiri Chaudhury:** (a) Will the Honourable Member in charge of the Department of Industries and Labour kindly reconcile the reply given by him in this House on the 22nd March, 1933, in which he stated that technical qualifications in printing were not considered essential for the post of Assistant Controller, Printing, with the reply given to the General Purposes Sub-Committee by the Industries and Labour Department in paragraph 13 of their replies in which they expressed their inability to take over the work of the late Central Printing Office on the ground that the work done in a portion of that office was of a technical nature?

(b) Will Government be pleased to state if they are now prepared to declare that technical qualifications are essential for the post of Assistant Controller, Printing? If not, why not?

(c) Will Government be pleased to state the reasons why technical qualifications are considered essential in the case of Managers of presses?

(d) Will Government be pleased to state if it is a fact that the Managers of Presses have to follow the instructions of the Assistant Controller, Printing, in matters relating to printing?

(e) If the reply to part (d) be in the affirmative, will Government be pleased to state if it is not essential that the Assistant Controller, Printing, should also possess technical qualifications in printing? If not, why not?

The Honourable Sir Frank Noyce: (a) It does not follow that because work is too technical to be suitable for a Secretariat, the officer in charge of it must have particular technical qualifications.

(b) No; because it would not be true.

(c) Because printing is a highly technical craft.

(d) I am not clear what instructions the Honourable Member refers to. But I understand that the Assistant Controller does not issue any instructions which involve any questions of printing technique.

(e) Does not arise.

IDLE HOURS IN THE GOVERNMENT OF INDIA PRESS, CALCUTTA, SIMLA AND NEW DELHI, AND CERTAIN HIGHER APPOINTMENTS.

302. Mr D. K. Lahiri Chaudhury: (a) Will Government be pleased to state the total number of idle hours in the Government of India Presses, Calcutta, Simla and Delhi, during (i) the last year and (ii) this year up to date?

(b) Will Government be pleased to state (i) the grounds on which the posts of Deputy Controller, Stationery, Assistant Controller, Stationery and Manager, Central Publication Branch, were considered "technical" before and only held by European officers possessing technical qualifications in Printing and (ii) the grounds on which they are now considered non-technical and held by non-technical officers?

The Honourable Sir Frank Noyce: The totals for the financial years are:

(a) (i) 1932-33: 15,806.

(ii) 1933-34: 12,842.

(b) It has never been essential for the occupants of these posts to be qualified printers. Officers with printing qualifications have been appointed on some occasions, because they were regarded as the most suitable officers available.

THEFT OF RAILWAY PROPERTY AT THE NEW DELHI RAILWAY STATION.

303. Mr. M. Maswood Ahmad: (a) Will Government be pleased to state whether on the night of the 20th/21st July, 1933, a theft of the railway property—bamboos and wooden blocks—was committed at the New Delhi Railway Station?

(b) Was the matter reported to the then Lower Ridge Road Police Post?

(c) Was any enquiry made by the Police? If so, what was the result of such enquiry?

(d) How was the deficiency of the Railway property made good?

(e) What action, disciplinary or otherwise, was taken against the offenders?

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

(c) As regards the first part, the reply is in the affirmative. As regards the second portion and parts (d) and (e), Government are making enquiries.

MANAGING COMMITTEE OF THE EAST INDIAN RAILWAY HIGH SCHOOL AT TUNDLA.

304. Kunwar Hajee Ismail Ali Khan: Will Government be pleased to state:

(a) the total number of members of the Managing Committee of the East Indian Railway High School at Tundla;

(b) the number and names of Muslim, European, and Hindu members of the said Managing Committee;

(c) how many members of the said Managing Committee are (i) Railway servants and (ii) non-officials;

(d) whether it is a fact that from amongst the members of the Managing Committee, one is an officer (acting usually as President) and the other is his subordinate belonging to the same department, with the result that the subordinate member cannot exercise his independent vote; and

(e) whether it is a fact that one of the Muslim non-official members and the European member of the said Managing Committee have either tendered or are about to tender their resignations? If so, why?

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

HEADMASTER OF THE EAST INDIAN RAILWAY HIGH SCHOOL AT TUNDLA.

305. Kunwar Hajee Ismail Ali Khan: (a) Will Government be pleased to state the name of the present Headmaster of the East Indian Railway High School at Tundla?

(b) Is it a fact that some time ago he left or was compelled to leave the said school for some time on account of insanity?

(c) Was any enquiry ever made before he was re-instated? If so, will Government be pleased to state the results of such an enquiry and lay on the table the findings of the said enquiry committee?

(d) Will Government be pleased to state the number, after his re-instatement, of the boys sent up for the High School Examination and the number of boys who passed in that examination?

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

MUSLIM STUDENTS IN THE EAST INDIAN RAILWAY HIGH SCHOOLS AT TUNDLA.

306. Kunwar Hajee Ismail Ali Khan: (a) What was the total number of boys in the East Indian Railway High School, Tundla, during the years 1922 to 1933 and the number of Muslim boys in the said school?

(b) Is it a fact that there is a sufficient number of Muslim boys in the lower classes but they are not promoted in sufficient numbers to the upper classes as in case of boys of other communities? If so, will Government be pleased to state the number of (i) Hindu and (ii) Muslim boys reading in lower classes and the number of such boys promoted?

(c) How many boys have passed High School Examinations from the said school during the last ten years and how many of them were Muslims?

Mr. P. E. Rau: I have called for information, and will place a reply on the table of the House, in due course.

TEACHERS IN THE EAST INDIAN RAILWAY HIGH SCHOOL AT TUNDLA.

307. Kunwar Hajee Ismail Ali Khan: Will Government be pleased to state the total number of teachers and assistant teachers in the East Indian Railway High School at Tundla and how many of them are Hindus and Muslims?

Mr. P. E. Rau: I have called for information, and will place a reply on the table of the House, in due course.

PROMOTION TO THE POST OF INSPECTOR IN THE DELHI HEAD POST OFFICE.

308. Mr. S. G. Jog: (a) Is it a fact that in Delhi Head Post Office the posts of two Selection Grade Inspectors were converted into time-scale posts with a fixed allowance of Rs. 50 per month?

(b) Is it a fact that these posts were given to members of one and the same community who have only five years' service including the two years' period of leave?

(c) Is it a fact that those officials superseded other graduates with longer service, some of whom have passed the Lowest Selection Grade Examination, the Departmental Accountants Examination, or even obtained the double degrees in Science and Law, while the officials nominated, passed no such examinations, and failed to pass in the first chance, the clerks' confirmation examination?

(d) Is it a fact that because of these nominations, three out of four posts are held by members of that particular community?

(e) Is it a fact that appeals were filed by such senior, better experienced and qualified aggrieved officials to the Postmaster General, Punjab, Lahore, who rejected all of them on the plea of discretionary powers being vested in first class postmasters?

(f) Is it a fact that such cases have also occurred in this department in other places in India?

(g) If the replies to the preceding parts be in the affirmative, will Government please state what is the criterion for exercising the discretionary powers and whether Government are prepared to withdraw them

and substitute instead some competitive examination or fix some other standard such as of seniority?

The Honourable Sir Frank Noyce: (a) to (g). Information is being collected, and will be placed on the table, in due course.

MEMORANDUM SIGNED BY SHAMS-UL-ULEMA MAULANA SYED AHMAD, THE IMAM OF JAMA MASJID, DELHI.

309. Maulvi Muhammad Shafee Daoodi: (a) Will Government be pleased to state whether the facts mentioned in the memorandum signed by Shamsh-ul-Ulema Maulana Syed Ahmad, the Imam of Jama Masjid and the Secretary of the Managing Committee of Jama Masjid, Delhi, and which has been sent to the Department concerned, are correct? If not, which of them are not correct?

(b) Will Government be pleased to state the reasons for refusing sanction or disapproving plans or passing such other orders in respect of these mosques and mausoleums?

(c) Are Government prepared to revise their policy in this respect?

Mr. G. S. Bajpai: The information has been called for, and will be furnished to the House on receipt.

THE MATCHES (EXCISE DUTY) BILL.

Mr. President (The Honourable Sir Shanmukham Chetty): The House will now resume consideration of the following motion moved by the Honourable Sir George Schuster on the 3rd April, 1934:

“That the Bill to provide for the imposition and collection of an excise duty on matches be referred to a Select Committee consisting of Sir Cowasji Jehangir, Mr. Rahimtoola M. Chinoy, Mr. S. C. Mitra, Mr. B. Sitaramaraju, Mr. B. V. Jadhav, Mr. Sitakanta Mahapatra, Sardar Sant Singh, Mr. R. S. Sarma, Rao Bahadur S. R. Pandit Mr. N. N. Anklesaria, Pandit Satyendra Nath Sen, Sirdar Harbans Singh Brar, Sir Leslie Hudson, Sir Darcy Lindsay, Mr. A. H. Ghuznavi, Mr. Muhammad Anwar-ul-Azim, Dr. R. D. Dalal, Mr. D. N. Mukherjee, the Honourable Sir Frank Noyce, and the Mover, with instructions to report within seven days, and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five.”

Mr. B. V. Jadhav (Bombay Central Division: Non-Muhammadan Rural): Sir, the Honourable the Finance Member, when moving for the reference of the Matches (Excise Duty) Bill to Select Committee, did not make a speech at all. I was really surprised at his taking this course of action. On the former occasion, when he moved for the reference to Select Committee of the Sugar (Excise Duty) Bill, he made a fighting speech, almost a bitterly fighting speech, and, at that time I was not surprised, because I have seen that Finance Ministers on the occasion of their last Budget are not so very anxious to propitiate the Opposition Benches. I do not know what the experience of this Central Legislature is, but that is what I have learnt in a Provincial Legislature.

On a former occasion, I had given some consideration to the question as to what the financial policy of the Government of India was. When India was governed by the East India Company, the policy openly was that of

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exploitation. Indian industries were ruthlessly annihilated and India was reduced to the position of a supplier of raw materials and a consumer of manufactured articles. It was said:

"Khalka Khudakā, mulkā bādshāhākā, ammal kumpanee sarkarkā."

In other words, the world belonged to God Almighty, the country belonged to the Emperor of Delhi, but the power was exercised by the Company. It meant to say that the Company was independent both of the Emperor of Delhi and of God Almighty. Any measures were followed to suit the then policy of the East India Company. The East India Company was replaced by direct administration under the Crown, and Parliament became responsible for the governance of India. About that time England had given up the protection policy and had taken to free trade. That policy was followed by the Government of India for as every one knows the Government of India have to follow the policy laid down by Whitehall, and the City, and that policy certainly is generally in the interests of England and not of India. Although Indian economists were crying themselves hoarse over protecting the indigenous industries, the tenets of free trade were thrust into their teeth and a ruthless policy of free trade was imposed upon India. But England was obliged to change her policy, give up her policy of free trade and take to protection, and the Government of India now saw the necessity of taking to protection and levying duties. They started the machinery of the Tariff Board. Now, there has been a good deal of change in the policy of the Government of India, one might say. The policy of protection is saddled with the policy of levying excise. When I consider the different vicissitudes of the policy, I find one strong principle in all of them. The principle is that of raising revenue and nothing else. Irrespective of the good of the country, the policy of the Finance Member and the Government of India as dictated to from Whitehall is to raise revenue and more revenue. If revenue can be had, then the eyes are closed to other facts, whether the duty will do harm to the country or will do good to the country. In the free trade days, the same was the policy; the Government were not in love with free trade

Mr. President (The Honourable Sir Shanmukham Chetty): The Chair has been waiting for the last ten minutes to see if the Honourable Member is talking specifically of match excise. He is talking of the general free trade and protection policy of the Government of India.

Mr. B. V. Jadhav: I am coming to it. I am talking about the excise policy of the Government and I am trying to show that the policy of Government has all along been, whether it was free trade, or protection, or excise, to raise revenue and nothing else

Mr. President (The Honourable Sir Shanmukham Chetty): But this is not the occasion to review the general policy of the Government of India in regard to free trade and excise. It must be specifically related to the Bill before the House.

Mr. B. V. Jadhav: I am coming to it. In this Bill Government want to have an excise duty on matches, and this duty is to be imposed with the sole object of making up the deficit. The policy, as I said, is a policy of securing more and more revenue. Matches have now an import duty to pay; on account of that protection the Indian match industry is raising its head. Two match boxes have been sold in the bazaar for one pice. Now,

the Finance Member is going to impose an excise duty of one pice per box. That is nearly 400 per cent. and it is very excessive. Match boxes have become very necessary in the life of the country. People have discarded their old methods of producing light and they have taken to the match box, because it is an easy way of striking a light. But Government seek now to impose an excise duty of 400 per cent and so the match box cannot now be sold under two pice. This is very hard upon the poor people, and I register my humble protest that such a heavy duty on matches will bring into operation the law of diminishing returns. The consumption of matches is sure to fall and people will have to learn to do without using matches to the same extent to which they have been using them up till now.

Government are providing for the manufacture of only one size of match boxes. At present in the market there are three sizes of match boxes: some with 40 to 45 splints, others with 60 to 65 splints and a third bigger size with 80 to 85 splints. The small ones are sold very cheap in the market and they are purchased by the poorer classes of people. The middle sized ones have also got their patrons

The Honourable Sir George Schuster (Finance Member): May I just put it to the Honourable Member that it is just the sort of point that we want to discuss in the Select Committee. We quite recognise the force of some of the points he is making, and we are prepared to consider some sort of modifications to meet those points about the number of sticks in the box, and so on. These really definitely are points for the Select Committee.

Mr. B. V. Jadhav: Sir, I am very glad to have this assurance from the Honourable the Finance Member. I was afraid, however, from the stiff attitude he has always been assuming in this House that perhaps he would not allow the consideration of these points in the Select Committee. Perhaps it might be urged that the principle was one size of box, but now I am quite satisfied with the assurance he has given, and so I shall not pursue this matter further.

Sir, in certain places match making is carried on as a cottage industry, and a few boxes are made and sold locally. These locally made matches which are the products of cottage industry are not numerous enough, nor are they of such superior quality as to command large sales outside, and, therefore, I say that such small works should not be brought under this excise Act. It ought to be the policy of the Government to encourage cottage industries, and match making is, I think, very suitable for a cottage industry. Such boxes when made will not meet the whole want of the country, but then it will give employment to a number of people who are at present unemployed, and I think this point deserves consideration in the Select Committee.

At present there are a number of factories in India. But this industry is dominated by a company which is called the Swedish Company, which, I think, is a near imitation of Swadeshi. This Company has spread its tentacles all over the country, and they are not so very careful about the well-being of their rivals. The Bill will have to be considered in the Select Committee in such a way as to see that no unnecessary impediments are thrown in the way of genuine Swadeshi enterprise by foreign companies who have got into the field and compete with indigenous enterprise. As long as there is an Indian competition strong enough, then

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the interests of the country are safe. There cannot be any monopoly. But, if, by the policy of Government, small concerns are crushed out of existence, then there will be a monopoly in the hands of a foreign company and India will suffer. I am raising this protest, because I have seen that in the aluminium industry Government did not take care to help the Indian pot makers, and now we find that the whole trade has been concentrated in the hands of foreign exploiters, and the indigenous companies have almost gone into liquidation. The same woeful tale may not have to be told about the match industry, and, therefore, I warn Government to be very careful at the outset.

Sir, there are certain provisions in this Bill, especially the provision of boxes with 80 splints, which are very detrimental to the industry as a whole. If the Bill had been passed into law with such provisions, it would have crushed the indigenous match companies, it would have crippled their operations to a very great extent. But now I am glad to see that the Finance Member is willing to have some such points considered in the Select Committee, and I hope that the whole Bill will be recast in such a way that the indigenous industry will not be prejudiced. I may also at the same time bring to the notice of Government that the precautions prescribed by the Importation of Foreign Capital Committee have not been insisted upon this foreign concern. There had been a talk with the Central Government, there was an undertaking, and perhaps there was a written document also by the Swedish Company. But Government have been rather amiss in not enforcing the conditions of that agreement. I think Government will be more alert and have some consideration for the advancement of local industries.

Mr. B. Sitaramaraju (Ganjam *cum* Vizagapatam: Non-Muhammadan Rural): Sir, yesterday when the Finance Member said that he was not called upon to face on this industry an agitation of such intensity as he had to experience on sugar, he was perfectly correct, but it is not because that the burden on the victims of this legislation is less than it is on the sugar industry, but because we all know that there is a vociferous section of industrial groups who have thoroughly realised the value of propaganda and have been able to secure support to advance their claims: but, none the less, the suffering, whatever it was in the case of sugar, is made 100 times more intense in the case of matches.

No sooner had the Finance Member closed his speech indicating this measure than the prices of matches went up from one pice to two pice. It is very difficult for Honourable Members to realise how hard it is for the large class of consumers to shoulder the burden. Honourable Members opposite drawing princely salaries and capitalists, who have grown fat upon the poor, may not be able to realise the extent to which that suffering is cast upon the country. It is also equally true that the victims of this legislation, though many, are yet unorganised. Their voices today are not heard, but, Sir, the voices are on their way, and they will come even to this House, and may God help, when they come, for they will be felt even by those who have driven those people to make their voices heard in this House. It is not my purpose to discuss the policy underlying the imposition of these excises. To a certain extent, I do feel that when an industry receives protection, it is at the cost of either the consumer who has to bear the burden or at the cost of the tax-payer who has to forgo

the revenue. In either case, I always consider that the protective tariffs should be considered more as a loan from the people of the country to the industry concerned, and that the time must come when the industry must make a repayment of that loan. But there are also other considerations to be taken as relevant factors for the imposition of such excise duties. Though the growth of this industry is not as romantic as that of sugar, nevertheless, within the last few years, the industry has grown rapidly, and we find that today it is in a position to supply the entire home demand. The industry has got certain natural advantages in this country. One is that the country is a very big country and we are able to have a very big home market for the products of this industry. Secondly, we have very cheap labour, and, thirdly, the industry is able to produce the necessary raw materials, and with a little more care it should be able to exceed the demand. With such advantages, the industry has been able, within a few years, to capture the home market, and that is an achievement in itself, but such an achievement is but natural.

When we consider these proposals, we have to take into consideration three important factors. One is the effect of these proposals on what is called the cottage industries; secondly, on the factories themselves; and thirdly, on the people who are the consumers. It is not disguised by the Finance Member when he made his speech on the Budget that this measure is intended to affect adversely the cottage industries. He said:

"The Bill will provide for no concession in favour of the so-called 'cottage industry', which really means nothing more than the dipping in chemical mixtures of splints made in factories and the pasting of paper wrappers and of strips carrying other chemical mixtures on boxes made from veneers made in factories. Any such concession would make evasion of the duty and an artificial attack on the position of regular match factories materially easy; and we are justified in allowing this consideration to prevail by the fact that the Tariff Board, in paragraph 134 of their Report, regarding the grant of protection to the Match Industry definitely advised against any special measures which would have the effect of encouraging match making as a 'cottage industry' because it was not suitable for such operations both on economic grounds and because of the dangerously inflammable nature of the materials used."

This passage of the Finance Member's speech would only disclose how imperfectly he appreciated even the report of the Tariff Board. Like all half truths, this statement is very dangerous, as I will presently show that it is far different from the recommendations of the Tariff Board themselves, though, so far as he has stated, this passage does occur in the report, but, when we go through the report as a whole, the House will realise that the report of the Tariff Board was not properly appreciated. At the outset I may be permitted to make one observation. When the Tariff Board examined this industry, it must be remembered it examined the state of an industry which was in existence in 1927. More than seven years have elapsed since the industry was examined, and, therefore, the report of the Tariff Board is, after all, seven years old. There is nothing to show the state of the industry at the present time, and, therefore, the recommendations of the Tariff Board which ignore this consideration must be looked at with a certain amount of reservation. The circumstances under which the Tariff Board dealt with the question of the cottage industry and the considerations which operated upon the mind of the Tariff Board when making their recommendations have duly to be taken note of. What was the case that the Tariff Board was asked seven years ago to take into consideration? The Tariff Board was asked to

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consider the claim made by the cottage industries for a particular special treatment. The Tariff Board at page 75 says:

"It was claimed that the interests of the smaller concerns would be sufficiently safeguarded if an excise of 8 annas per gross was imposed on matches manufactured by companies or firms financed by foreign capital and a bounty at 4 annas a gross granted to cottage factories for five years."

That was the claim made by the cottage industries before the Tariff Board. It was common knowledge that most of the factories were under a Swedish combine; later on, though it was not mentioned in the report, there were also Japanese factories which cropped up in Calcutta and other places about which I shall speak afterwards. These are foreign companies, and the cottage industries had to face the competition of these factories, and they asked for some special consideration to be shown to them. Apart from the fact that these cottage industries are the real Indian industries and the foreign companies, who founded factories here, can be called Swadeshi only by courtesy,—in spite of that, these cottage industries did not base their claim for protection merely because they were Indian. As has been pointed out by the previous speaker, they are industries which are intended to benefit the poorer classes, which are intended to find employment for a large class of people and which are intended to serve the local needs in a restricted manner. The nature of the country also does justify, in view of its poverty, the growth of this kind of industry in the country. In spite of these considerations, what the cottage industries said was that, as they were immediately asked to face the competition of foreign companies in this country, if the Government were to impose an excise duty, that excise duty might be imposed upon such factories at eight annas per gross, of which they wanted only four annas as bounty. I am not going to question the reasons of those members who constituted the Tariff Board. Whatever may be their reasons, they had come to one conclusion. They said that the nature of the industry is such that the future of the industry as a whole cannot be a cottage industry. It must be taken into account, they said, that it is difficult for an industry of this kind to compete successfully and supplant the factories in this country. Further, they were of opinion that any special advantage to be shown to the cottage industry at the expense of the factories established in this country would not conduce for the future of a cottage match industry in this country. Further, they opine that the cottage industry is such that it can always cater for only a restricted market, because, when compared to the cost of their production and the cost of production of the factories, the cost of packing cases and things like that which are necessary for carrying on the trade into a wider field, they would be in a position which would be very difficult to maintain in competition with factories. Lastly, they remark, a remark which has been taken advantage of by the Honourable the Finance Member that the manufacture of these cottage industries is a menace to public safety. Let me offer one remark in this connection. I have read the report of the Tariff Board rather carefully, and I find even from the report itself that there is absolutely no justification for the remark they have made. The reason is this. They stated that at the time of their inquiry certain persons got burnt in an accident in a certain match factory. Would Honourable Members believe me when I say that they actually noted what that factory was and it was found to be not a cottage industry at all. It was a regular factory, a factory whose future at any rate the Members of the Tariff Board support with enthusiasm. That was a factory, which was able to turn out

about one thousand gross a day. Beyond the fact that there was an accident in a certain big factory, they have not been able to point out a single case where a cottage industry had suffered at all. I think they are absolutely unjustified in drawing any inference from the fact that because there was an accident in one factory, therefore there must have been accidents in cottage industries also. They also made a further remark that at that time the want of the growth of the co-operative movement is a great handicap for the growth of the cottage industry. We all know that the co-operative credit system and co-operative organisations have been taking advantage of the present state of affairs and they have been rapidly expanding in their activities and operations. However that may be, the recommendation of the Tariff Board was merely to impress upon the Government that the cottage industry can never be expected to supplant the factories, and, therefore, the consideration at the expense of the factories which they asked for before the Tariff Board could not be granted. I am very sorry to note that the Honourable the Finance Member has ignored the most important passage which is very relevant for the discussion under this Bill, that is when the Tariff Board said that if you were to impose an excise duty, then you have to show some consideration to the cottage industries. They say on page 81:

"Should Government decide to impose an excise duty on matches made in India, it may not be possible for the smaller cottage factories to pass this on entirely to the consumer. Rates of interest charged on advances are high and it is almost always necessary for such factories to sell their goods without delay at the best price obtaining. Thus when considerable sums have to be paid to Government on account of excise revenue, it may be necessary to sell stocks at a lower price than the addition of the excise would justify. Some additional expense on account of book keeping and the maintenance of registers might also be necessary. While as has been seen there is no ground for extending assistance to match manufacture as a cottage industry, it would be unfair to impose by means of an excise duty on cottage factories a special burden which would not be borne by better equipped concerns having greater financial resources. We think, therefore, that if possible, a reduction not exceeding two annas per gross should be allowed to cottage factories in the event of the imposition of an excise duty."

This is the recommendation that was made by the Tariff Board for the cottage industry. This is something different from what is contained in the Finance Member's speech. The Tariff Board do want some special treatment to be given to the cottage industry in case you impose an excise duty and they say they have not forgotten the administrative aspect which the Honourable the Finance Member has been pleased to refer to in his speech. The Tariff Board say:

"We are aware that administrative difficulties may occur, in particular in determining what is or is not a cottage factory. At the same time we consider that this should not deter Government from attempting to alleviate the special burden imposed on such factories. We have carefully considered whether it is possible to lay down any definition of a cottage factory but we find, that the only practicable method of differentiating cottage from other factories is by output, which we consider should be fixed with reference to local conditions."

That was the recommendation. The Tariff Board even seven years ago felt that several Local Governments had been taking interest in promoting the cottage industries. Special officers and persons capable of promoting the development of this industry had been requisitioned. The Tariff Board themselves admit, as in the case of Mr. Bose, that they were unable to have the co-operation of the Local Governments or were unable to examine Mr. Bose, the one officer who would have been able to help them with the necessary materials regarding the advantages and disadvantages of this type of industry which were not otherwise available to

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them. Under those circumstances, it cannot be said the Tariff Board had been able to judge this type of industry in all aspects. They also admit, that there are the sociological and the educational aspects of the problem which do exist in the case of a cottage industry, but they opine that it was a matter more of a policy with which they are not directly concerned; it was a matter of policy for the Government to consider when they deal with an industry of this nature whether they would pay due regard to the sociological and educational aspects of such an industry. Under these circumstances, I venture to submit that the Government are not justified to call in the report of the Tariff Board in order to strengthen their case in dealing with the cottage industry in this matter, and I do consider that the Government should reverse their opinion and the conclusions that they have so far been able to come and appreciate the needs of this type of industry. It is their duty to support the growth of that industry instead of throttling it.

The other question was with regard to the position of these foreign factories, namely, the Swedish Combine and the Japanese factories and others which have come into existence since the Tariff Board made its report. Sir, there are the people who are really going to be benefited by this measure by throttling the cottage type. Very few of these factories are Indians. The capital is foreign, personnel is foreign, and the industries that will be benefited will be those largely belonging to foreigners. Sir, in this connection I would like particularly to ask the Government whether it is a fact or not that some of these companies do not even use the wood produced in this country. Sir, I was told that up to a certain percentage wood is still being imported into this country. Notwithstanding the recommendations of the Tariff Board themselves made seven years ago that the Government immediately take to extend the plantation of the necessary wood and advise the Local Governments to extend the plantation of wood suitable for this purpose and notwithstanding the fact that they also recommended that such researches should be made in Dehra Dun, nothing appears to have been done.

Mr. B. V. Jadhav: Something was done in Bombay.

Mr. B. Sitaramaraju: Bombay is not Dehra Dun. I was speaking of the research in Dehra Dun and the way in which plantations were not promoted as recommended. In Bombay, if some plantations have been made, those plantations were not the outcome of any activities of the Government themselves, but they were the result of the operations of the Swedish Combines, if my information is correct. I am not quite sure of that, however. At any rate, some of the plantations are possibly the result of the encouragement of the Swedish company. However that may be, the point is this. There is wood here. There is also the possibility of every variety of wood being grown in this country, but the Government have slept over the matter all these years. Further, I was also given to understand that when we in this country complained of the exploitation by these foreign capitalists, the Government were approached even by the Swedish combines and they informed the Government that they were prepared to give an undertaking in writing that they would be prepared to take Indian capital into their concerns, and such undertaking, it appears, was actually given in 1932. Now, what have the Government done? Did they call upon the Indian capitalist to come and subscribe? What have they done to promote the gradual Indianisation of those factories which today we are trying our best to safeguard at the sacrifice of a wholly indigenous industry

called the cottage industry. Then, there is one more question, that of the duty. The Tariff Board themselves say that in fixing the duties, in view of the limitations imposed by the minimum monetary unit in use in the match trade and having regard to the possibilities of the middleman's profits, they recommend Rs. 1-8-0. It would appear that the present proposals do not take into consideration that factor—that matches must be sold either at one or at two pice, and that there is no half-way house. Under these circumstances, I hope the Government do realise that an increase from one pice to two pice means a tremendous increase, an increase which is not justified, an increase which Government have no right to make in the case of an article which is a prime necessary of life.

Mr. N. M. Joshi (Nominated Non-Official): Mr. President, my Honourable friend, Mr. Jadhav, said only a few minutes ago that the object of the Government in imposing an excise duty on matches was to meet a deficit in their revenue. I feel, Sir, my Honourable friend has made a mistake. The Honourable the Finance Member himself stated that in order to meet the deficit in his Budget he was imposing a duty on sugar, on tobacco and on silver and his proposals were complete so far as they were necessary to meet the deficit of the Central Government. Sir, the Honourable the Finance Member made it quite clear that the excise duty on matches was necessary in order to give a contribution to Bengal and some other Provinces amounting to more than two crores of rupees. I would, therefore, like to discuss this question further before I discuss the question of matches on its own merits.

In the first place, I would like to say that it is a wrong policy for Government to indicate, not through a particular clause in a Bill, but by speeches either of the Finance Member or of others, that the proceeds of a particular tax will be devoted to a particular purpose. I think that is a wrong policy.

The Honourable Sir George Schuster: May I just interrupt my Honourable friend? I never said anything of the kind. We are not earmarking the proceeds of a particular tax for a particular purpose: all I said was that it was necessary, if we were to carry out a particular purpose, to increase our revenue; but the revenue from each head of taxation, of course, goes into the common pool.

Mr. N. M. Joshi: I realise what the technical position is.

Sir Cawasji Jehangir (Bombay City: Non-Muhammadian Urban): Did not the Honourable the Finance Member state that the extent of assistance given to certain Provinces would be equal to the realisation of the excise duty on matches?

The Honourable Sir George Schuster: No; I never made that precise statement. It is, of course, obvious that the extent of assistance that we give will depend on our revenue position. But if this House, for example, cut about the sugar excise proposals, that might also affect our ability just as much as cutting the match excise proposals.

Mr. N. M. Joshi: I myself never said that the Government had definitely earmarked the revenue coming from the match duty for a particular purpose. There is no mention of this object in the Bill itself. But the

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speech of the Honourable the Finance Member did not leave any doubt on that point. I shall, if you like, quote his actual words :

"The proposals which I have mentioned, namely, Sugar Excise net revenue 1,40 lakhs Tobacco duties 30 lakhs, Silver 4 lakhs, less the loss of five lakhs on the abolition of the export duty on raw hides, should produce a net improvement in revenue of 1,69 lakhs, which will cover the deficiency of 1,53 lakhs and leave us with a small surplus of 16 lakhs.

This would complete my plan so far as the Central budget is concerned, but I have one other important proposal to put forward which can be independently considered."

Sir, then the Honourable Member deals with the contribution to Bengal and also the excise duty on matches. I am, therefore, justified in stating that the object of the Government in imposing an excise duty on matches is to give a contribution to Bengal and other Provinces.

The Honourable Sir George Schuster: My Honourable friend is perfectly justified in stating that. But what he stated was that it was wrong for us to introduce legislation for a special purpose which was not provided in the legislation. What I pointed out was that we had to raise revenue from a number of taxes and they all flow into the common pool. On the expenditure side, our proposals are represented in demands for grants and not in the legislation and it would have been entirely wrong for us to include any proposal for the disposal of the proceeds of the match excise duty in the Match Excise Bill, not only because it is not a fit subject for legislation, but also because the proceeds of the match excise duty are not earmarked for a special purpose. They flow into the general pool.

Mr. N. M. Joshi: I myself never said that the proceeds of the match duty were earmarked. At the same time, the Honourable the Finance Member in his speech gave a clear indication why the excise duty was imposed on matches. I do not, therefore, say that there is anything technically wrong, but, at the same time, I am questioning the policy of putting before a Legislature through the speech of a Finance Member that the proceeds of a particular tax are necessary for a particular object. I feel that it is a wrong policy. What I would have really suggested to the Honourable the Finance Member was that, as he dealt with sugar, tobacco and other commodities, he should have dealt with matches, and he should have also dealt with the money necessary for Bengal independently. He should not have shown any connection between the two. That is my point.

Then, Sir, I have another remark to make in connection with this contribution to Bengal. That remark is that, although the Honourable the Finance Member complained that the Legislature did not discuss that question as fully as he desired, I feel that the Honourable the Finance Member and the Government of India were not quite fair to the House in that respect. I feel that when the Government of India had to take a step of this importance, they should have brought forward their proposal by means of a separate Resolution. A contribution to one Province amounting to two crores of rupees is not an ordinary subject that could be included in the ordinary Budget. To include such an item in the ordinary Budget and expect the Legislature to discuss it fully is, I feel, not being quite fair to the Legislature itself.

The Honourable Sir George Schuster: I might say that if there had been any general demand for that course, it could have been very well expressed in the course of the general discussion of the Budget and we should have been very ready to consider it.

Mr. N. M. Joshi: Mr. President, I am not blaming the Honourable the Finance Member wholly in that respect. I feel that it would have been much better if such a demand had also proceeded from the Legislature itself. What I am complaining is that on account of the fact that this contribution was introduced through the General Budget and not by means of a separate Resolution, we are at a disadvantage in discussing that subject quite independently and freely. I am myself at a particular disadvantage. If it was shown to me that a contribution to Bengal was necessary, I would certainly have voted for it. But what happens now is that we are left with one source of revenue to the Government of India, namely, the matches. On principle, I am against the excise duty on matches. So, if I vote against the excise duty on matches, I should be supposed to be voting against the contribution to Bengal. That is my complaint.

Mr. B. Das (Orissa Division: Non-Muhammadan): May I remind my Honourable friend that he never questioned the Secretary of State at Joint Parliamentary Committee that he was against the principle of excise duty on matches.

Mr. N. M. Joshi: I am not aware that the Secretary of State was ever examined about the propriety of imposing certain taxation as a result of the deficits of our budgets. I feel that if the Secretary of State had been in this House, I would have either examined him or I would have made my speech even in his presence. In the Joint Select Committee, we did not consider the question of the appropriateness of certain taxes on a certain occasion. We discussed the constitutional question. I am not suggesting that constitutionally an excise duty is a wrong thing. I, therefore, have to express my difficulty that, in discussing this question of Bengal contribution, we are at a disadvantage.

Now, Sir, I am also against the method which the Government of India have selected in coming to a decision of this important question. When I spoke during the general discussion on the General Budget, I mentioned that when there was a likelihood of conflicting interests arising between the various provinces, it was a much better thing for the Government of India that a decision in matters of this kind should be left to an impartial body. During the discussion, my Honourable friend, Mr. Mudaliar, hinted that what I really wanted was that the decision should be left to a body like the Joint Select Committee. That was not also in my mind. I would not like any organisation like the Government of India or the British Parliament to give a decision in a matter of this kind. Any decision of Government is likely to create inter-provincial jealousies and is likely to give rise to agitations which are intended to influence the Government of India in favour of one Province or another. I, therefore, feel that where there is a likelihood of a conflict of interests between the different Provinces, it is a much better plan that the decision should be left to an impartial body.

The Honourable Sir George Schuster: Does my Honourable friend mean a body like the Meston Commission?

Mr. N. M. Joshi: I was coming to that point.

Mr. President (The Honourable Sir Shanmukham Chetty): The Chair cannot allow on this Bill an elaborate discussion on the justification or otherwise of the proposal of the Finance Member relating to the contribution to Bengal. That will be entirely out of order.

Mr. N. M. Joshi: That is exactly what I say. If there had been a separate Resolution, we could have discussed that question, and what I also mentioned in the beginning was that if the Honourable the Finance Member had not also connected the two, I would not have referred to this subject, but he himself has stated that the two things are connected.

Mr. President (The Honourable Sir Shanmukham Chetty): Whatever the Honourable the Finance Member might have said in his speech, the vote of the House on the Matches (Excise Duty) Bill will not give any indication of the mind of the House on the contribution to Bengal. If the Honourable Member, Mr. Joshi, votes against this Bill, it is not an indication that he is against the contribution to Bengal and *per contra* even if he votes for the Matches (Excise Duty) Bill, that cannot be construed as Mr. Joshi having approved the contribution to Bengal.

The Honourable Sir George Schuster: May I point out that the House has already in fact approved the contribution to Bengal by passing the demands for grants.

Mr. President (The Honourable Sir Shanmukham Chetty): A vote on the Matches (Excise Duty) Bill cannot be construed as expressing the opinion of the House on the merits of the question relating to the contribution to Bengal.

Mr. N. M. Joshi: I shall not deal with that question at great length. However, you would permit me to make my attitude on this question clear only in a few sentences. The Honourable the Finance Member asked me whether I wanted a Committee like the Meston Committee. What I really wanted was that there should be a small Committee of independent men, even a Meston Committee would be preferable to the Government of India coming to a decision on this question. I would inform the Honourable the Finance Member in that respect that although this subject of Meston contribution and inter-provincial contributions was discussed in this Legislature several times, I never spoke on the Meston Settlement as a Member coming from Bombay, I did not oppose the Meston Award on the ground that I felt that the Meston Committee was an arbitral Committee, and that Committee having come to a decision, it was my duty, as a citizen of India, to accept that decision willingly and even cheerfully. I feel if India is to be free from inter-provincial jealousies, we have to learn one lesson and that lesson is that whenever we have a conflict, we must be willing to place our conflict before an arbitration board and after having placed it before such a board, we must also be willing to accept its award. It is only by that method, Mr. President, I feel that India will become one country. I shall not go into that question at greater length, but I shall say this that if the Government of India wanted to make a contribution to Bengal and if the Government of India wanted two crores of rupees for that purpose or for any other

purpose, an excise duty on matches was not the right kind of tax at all. In one of my speeches during the discussion on the Finance Bill, I stated that the proceeds of the indirect taxation of the Government of India were proportionately much larger than were found in several other countries. The Taxation Enquiry Committee itself has stated very definitely that the proportion of indirect taxation in India is much larger than what it should be. The Honourable the Finance Member asked me if the money is to be found, what I would suggest. I may, as a private Member, say that it is not my duty to suggest to the Government of India what items should be taxed in order to find a certain amount of revenue. Sir, it is the responsibility of the Government. But I shall not shirk that question by saying that it is the responsibility of Government. I shall suggest that, if the Government of India had to find a revenue of two crores, they could have easily found that revenue by increasing the income-tax, or, if it is absolutely necessary, even by lowering the taxable limit of the income-tax. Sir, I would have supported the Honourable the Finance Member if he had brought forward such a proposal. If he wants another proposal, I would have also said that the Finance Member should have thought of imposing an income-tax on agricultural incomes, and if he wanted money specially for Bengal that would have been a most suitable tax for that purpose, because Bengal is a Province where you can really secure a large revenue by imposing a tax on agricultural income, and if all the proceeds of a tax on agricultural income had been given to Bengal, there would have been no unfairness to Bengal. But, Mr. President, it is not my purpose to suggest proposals to the Honourable the Finance Member to find out the revenue which he wants. At this time, I must, therefore, confine myself to the discussion of the merits of the excise duty on matches.

I feel that it will be admitted by everybody that whatever may be the merits of the excise duty on sugar, the excise duty on matches is bound to fall wholly on the consumers in this country. It is a tax which will be paid by the people who use matches in this country. I feel that from that point of view, it is a wrong tax. I am not opposed to every kind of indirect taxation, but an indirect taxation of this kind which falls upon an article which is an article of necessity for all classes of people in this country is a bad tax. I admit an excise duty on matches is not as bad a tax as the salt tax. I shall even say the excise duty on matches is not as bad a tax as the tax on kerosene, but surely it is not a tax which can be said to be a tax on luxury. I, therefore, feel that the excise duty on matches is a wrong tax if Government want to find some revenue to meet their deficits. Not only is the tax an unjust one, but the tax is an excessive one. It has been pointed out by several speakers that we propose to put a tax of one pice on a match box which is costing at present half a pice. There should be some limit to the taxation which the Government of India should impose on an article of necessity to the common people of this country. I am quite aware of the fact that the Finance Member holds the view that if the Government of India are to find revenue, a substantial amount of revenue, they must levy a tax on articles of common use to the common people of the country. He has made that quite clear. But I feel that even the Honourable the Finance Member holding that view should try to distribute the burden more equitably than I feel he has done. I, therefore, feel that not only is the tax unjust, but it is also excessive. I hope, therefore, that, the Legislature will not support him in that respect.

[Mr. N. M. Joshi.]

I should like to say a word about the system of licensing which the Finance Member has introduced in this Bill and that word is to express my approval of that system. I had proposed before in this Legislature that whenever Government want to impose high duties on articles either for protection or even for revenue when the effect of that taxation is to protect an industry, the Government of India should impose certain conditions on that industry. The system of putting an industry under a license is a system which will enable the Government of India to impose their conditions on an industry with the greatest ease. I, therefore, fully approve of the proposal of putting this industry under a system of licence.

My Honourable friend, Mr. Das, and my Honourable friend, Mr. Raju, made certain remarks about foreign capital being introduced in this country to carry on certain industries. From my labour point of view, I absolutely make no difference between Indian capital and foreign capital. Indian capital and foreign capital both equally supply employment to labour, and, from that point of view, I have absolutely nothing to complain about. Moreover I feel that if the country follows the policy of protection, it is only natural that we should expect foreign capital coming to our country and establishing industries and I feel that on the whole the country will not lose much. Even then I am quite prepared to say that if the Government of India accept my proposal of imposing conditions upon an industry, then certainly it is much more easy for Government to impose conditions upon the industry in which the capital is foreign capital.

Sir, I shall make only a few remarks on another point which was raised by my Honourable friend, Diwan Bahadur Mudaliar. My Honourable friend stated that the Honourable the Finance Member has queered the pitch of the Indian Federation by imposing these excise duties. Sir, I am entirely in agreement with my Honourable friend, the Diwan Bahadur. Not only do I feel that the Government of India have queered the pitch of the Federation, but I feel that by introducing these excise duties, before the Federation comes into existence, the Honourable the Finance Member has created a great difficulty for the Federation coming into existence. If the Indian States begin to enjoy revenues coming from the proceeds of these excise duties, some of them will insist upon the amounts being left with them for their enjoyment. Some of them may make it a condition of their entry into the Federation, that they will not enter it unless they were given the proceeds of these excise duties. I, therefore, feel that the Honourable the Finance Member has done a great wrong for the future Federation in introducing these excise duties at this time. Sir, for all these reasons, I feel that this duty on matches is a wrong duty and the Legislature should not approve of it.

Mr. Amar Nath Dutt (Burdwan Division: Non-Muhammadan Rural): Sir, there is a proverb in Bengali. "*Dhan bhante Shibér geet*", i.e., reciting songs about Shiva when you are husking paddy. The debate about this Bill providing for the imposition and collection of an excise duty on matches has brought about certain aspects of a certain contribution to Bengal and that in a way which was neither complimentary to the gentlemen who spoke on the subject nor relevant to the subject-matter under discussion. Sir, I sigh for the days of Sir Phirozeshah Mehta and Sir Surendra Nath Banerjee when fifth rate and sixth rate men were not the arbiters of our political destiny either as the opposition or as

those sharing the responsibilities of Cabinet Government. That a portion of this excise duty ear-marked for Bengal will go to Bengal does not appear anywhere either in the Bill or in the Statement of Objects and Reasons to which we should confine our attention at the present moment.

Mr. N. M. Joshi: It is in the Finance Member's speech.

Mr. Amar Nath Dutt: Even if the Finance Member introduced that matter in his speech, I think he did it merely to show how this excise duty was necessary in order to meet the expenses which the Government of India will have to incur in the next year, not that, because we are contributing certain money to a certain Province, therefore this excise duty was necessary to be imposed on the people. That was never his argument. That being the case, I beg to submit that my friends might have reserved their love of Bengal for their own Provinces where they might have utilised all those sentiments for the purpose of the next election rather than any purpose which is useful neither to the House nor, for the matter of that, to the Government of India.

Sir, it was also suggested that this expenditure about Bengal should have been brought about by a separate Resolution and that then we might have discussed all those things; and even my friend, Mr. Joshi, would go to the length of having something like the Meston Award against which we in Bengal have a good deal to complain as an unfair settlement of our claims. But that subject is certainly not quite relevant to the matter under discussion, and I shall confine myself now to the Bill itself. I have gone cursorily through the Bill, because it is a very petty Bill and we will have to deal with it daily in our law Courts and for us, who are practical lawyers dealing with these small enactments which provide for punishment, there seems to be some omission here and that omission will be apparent as soon as I submit before the House why I say it is an omission. I mean that there is no definition of "matches" anywhere in the Bill itself. That is necessary in view of the tax which is going to be proposed; and in this connection I am thinking of the poorest classes. I, of course, refer to those poor classes of people who are not my friend. Mr. Joshi's clients, because Mr. Joshi wants to have labourers living the same life as my Honourable friend over there and that is his idea of socialism. But, apart from that, we, who live in villages, cannot but think of the poor people who are satisfied with their poverty and do not want to have either a Karl Marx or a Lenin to improve their situation, but who know that they are living far more happily than if a prophet like Karl Marx had come to their rescue. And they are men who do not use a match box but light the fire with an indigenous apparatus which is known as *chakmaki* in Bengal, namely, a stone and a piece of steel and cork by rubbing which he lights the fire. But, in order to light their lamps, they have to take some sticks pointed with sulphur, and if those sticks are called matches, I submit it will really be a tax on the poor and that should have been made clear here, that small sticks pointed with sulphur are not matches, because I find that in clause 4(c) it is mentioned "matches not in boxes". There is some confusion of ideas and it would have been better if the word "matches" had been defined. If the intention of the Honourable the Finance Member be to tax even those lighting sticks containing sulphur only, then I must respectfully submit that I shall be bound to oppose this excise duty

The Honourable Sir George Schuster: I am afraid that even if it were my intention, I should be unable to carry it out: because we should be quite unable to tax sticks of that kind: but if it will help my Honourable friend to cut short his speech, I may say that this is a point which we shall have to consider in Select Committee: the question of the definition of matches is one of the points which have been brought to my notice which I think will have to be considered in Select Committee.

Mr. Amar Nath Dutt: I am very thankful to the Honourable the Finance Member for saying that this will be taken into consideration, and I hope that those Members who will go to the Select Committee will consider this matter. I do not think I need say anything further on this as the Bill goes to Select Committee where improvements will be made. With these words, I resume my seat.

Sir Cowasi Jehangir: Mr. President, this is the third time that the Honourable the Finance Member has come before the House with a demand for the sinews of war. It is rather exceptional that we should have to discuss Government's resources on three different occasions: first, in the Finance Bill, then in the Sugar (Excise Duty) Bill and now on this Matches (Excise Duty) Bill. Really, all three Bills are for the same object. But I would like to ask my Honourable friend a few very pointed questions.

It is the duty of this House, when it sanctions taxation, to assure itself that Government are in a position to collect and will collect that taxation. With regard to this particular tax, I am reliably informed that Government will get precious little for the next nine months. Matches have already been made in anticipation of my Honourable friend's Bill. That is my Honourable friend's business, not mine. But there are other provisions about which I have considerable apprehensions. He states in the Statement of Objects and Reasons that he has already entered into an agreement with certain Indian States, and that he hopes to enter into agreements with other Indian States who have factories within their territories or who may have factories in the future, and that these States have agreed to levy an excise duty on matches manufactured in their States, that all the money is to go into a common pool and the States are to get their share on an estimated consumption basis. I want to know what this estimated consumption basis means. When you tax a commodity like matches to the extent contemplated under this Bill, you are liable to make a commodity which is a necessity of life into a luxury. If it was a necessity of life and is considered by Government to be a necessity of life, I contend that the conditions under which the poorest classes live in Indian States are very different to the conditions under which they live in British India, and I trust that my Honourable friend is not going to return the excise duty collected in Indian States on any population basis. This House will have to be assured that Government will get their due share of the excise duty collected in Indian States. We have had very bitter experiences in the past, and I do not desire that Government should again make mistakes as they have made in the past with regard to an important measure of revenue such as the excise on matches. I do not know whether it will be open for the Select Committee to discuss with the Finance Member what he means by an estimated consumption basis. If he gives us an assurance that we can discuss it fully in Select Committee, I will pursue that matter no further just now

The Honourable Sir George Schuster: Certainly that can be discussed in Select Committee.

Sir Cowasji Jehangir: Then I will pursue that matter no further, and I trust that in the Select Committee assurances will be given such as can be embodied in the Select Committee's report and which will meet with the approval of this House.

Now, I am coming to a very important principle. When Government in any country come before their Legislature with a demand for supplies, they have got to assure that Legislature that they have done all they can and are doing all they can to collect such revenues as the Legislature has already sanctioned. It is only when the House and the public are assured that the administrative machinery of Government is efficient, that all revenues sanctioned are collected, can any House have the justification of sanctioning further taxation. I do not think that this House is fully assured or the public, that the Government collect all the revenues that have already been sanctioned, and, therefore, I desire to raise this principle on this Bill, which seeks our sanction for further taxation for revenue purposes. I contend that Government have not done justice to themselves or to British India with regard to their customs duties. I contend that they lose a very large amount of revenue through the diversion of trade due to certain measures taken by our friends, the Indian States, who have ports within their territories, and I think the time is now ripe that the Government should give this House and the public a definite assurance that they will do their best, that they are doing their best, to collect all customs revenues that this House has sanctioned. Until and unless an assurance is given that Government will collect all the revenues we have already sanctioned, I trust that this House, every Member of this House, will resist further taxation. Sometimes it is said we do not have a sense of responsibility on this side of the House. I claim that when we insist upon Government collecting the revenues that we have already sanctioned, we show a greater sense of responsibility than my friends on the opposite Benches who neglect to take such measures as are in their power, to collect such revenues as we have already sanctioned. If there is a talk of responsibility, I maintain that a lack of responsibility has been shown by my friends opposite and a sense of responsibility has been exhibited by Honourable Members on this side of the House when they insist that Government shall not tax us further while they do not collect the taxes we have already sanctioned. Mr. President, there has been clear evidence that there is a screw loose somewhere. The diversion of trade from some of our big ports shows that there is a loss of revenue to the Government of India. What assurance is my friend, the Finance Member, or—I do not see him here,—my friend, the Political Secretary, going to give us that they will tighten up the administration, that they will tighten up those screws that are evidently loose, and that they will collect every rupee of the revenue that is due to them. I want to have those assurances on the floor of the House before I agree to being further taxed by such a measure as the one before us.

Mr. President, on a matter of principle, I am not against the excise duty on matches. It was one of those sources of revenue on which we laid great stress, on which we hoped the future Federation would be able to rely for more than their own requirements. We, who come from the

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Provinces, including Bengal, were hoping to get a part of the taxes on the excise on matches, but, Sir, long before the Federation begins to function, my friend has tapped that source of revenue. Now, Sir, if it is really necessary, if my friend is really hard up, well it is not for us to say, we shall not investigate immediately this new source of revenue. We shall investigate it, but before we investigate this source of revenue, which was undoubtedly ear-marked for the future, we want the assurances that I have already referred to, assurances which Government are in a position to give. We have heard a great deal about the inability of the Government to do all they can do with regard to collecting the customs duties which really ought to go to the treasury of the British Government in India. I see no difficulties. We have heard a good deal about the principle of paramountcy. I am going to ask the Government for a definite assurance today that they will exercise their rights under the principle of paramountcy to see that they are not deprived of their legitimate revenues sanctioned by this House. I am going to ask for those assurances just now before this debate concludes, and if such assurances are not forthcoming and to the satisfaction of this side of the House, I am going to appeal to my friends behind me to consider this measure in the Select Committee most carefully and to await Government's assurances with regard to the measures they are going to take. I have no desire to deprive any Province of their just dues. I have said all along that we in Bombay are jealous of no one. We sympathise with all in their trouble. We ask for the sympathy of all in our troubles, and, only when there is such mutual sympathy throughout India between different communities, between different sects, between different Provinces and different parts of India, will India be able to attain Swaraj, and, therefore, we are not jealous, but if we have complaints to make, if Madras has complaints to make, I will ask my friends here to support us and demand from Government that we too should get our legitimate requirements from the Central Government.

Sir, I quite realise that this tax on matches would not have been levied had it not been for the dire straits in which the Bengal Government find themselves today, and I am prepared to consider a measure of taxation for that purpose, but I do desire that the Government of India shall not forget that this source of revenue was ear-marked for the assistance of other Provinces along with Bengal who are in exactly the same position as Bengal. By all means let Bengal get what has now been actually promised and voted to Bengal. I would like to remind the House to what extent we have gone and committed ourselves, to what extent we hold out a friendly hand to our friends from Bengal. We have already voted a certain amount of money without being assured in any way that this Bill will bring to the Government of India what they expect it will bring during the next year, and if it does not,—and I have great apprehensions it will not,—then we have committed ourselves to giving Bengal that assistance from the general revenues. Whether this Bill fails to bring in the required amount or not. I am prepared to commit myself ever to that extent,—I do not know whether the House realises what it has done,—I am prepared to do it with my eyes open,—I did not wish to raise that point,—but I do desire that Honourable Members should fully realise it, and I do hope my friends from Bengal, including my

friend, Sir Abdur Rahim, will acknowledge that we have played the game by Bengal. It may be, Mr. President, that this Bill, even if it is passed and accepted by this House, may bring in next to nothing during the next year. If what I hear is true that the match factories have already manufactured matches which will last this country for the next nine months, then this Bill is going to bring in only one-third or one-fourth of what the Finance Member has stated. The balance will have to be made up out of the general revenues and handed over to Bengal, and it will be a deficit in my friend's Budget to that extent next year. If I am wrong, I stand open to correction, but that is the position as I see it. We have committed ourselves, willingly committed ourselves, and I want my friends from Bengal to acknowledge that we have done so much, and in return I ask my friends to assist all other Provinces which may be in the future or which are in the same position as Bengal. I can tell my Honourable friend, the Finance Member, that although he is to leave us—and we shall miss him,—he should make a note on his files that Bombay is not going to rest content unless her legitimate grievances are remedied, and Bombay will insist and beg of this House not to grant Government any further taxation until the Government take such measures as are effective to collect all the revenues that this House has already sanctioned. You come before us three times for money. You come before us with a Finance Bill, you come before us with a Sugar Bill, you come before us with a Match Bill, and you deliberately throw away as much revenue as this Bill will bring in. I say, deliberately, and I use the word with a full sense of responsibility. Is that a Government,—is that a Government with a full sense of responsibility, and who talk to us, non-officials, helpless as we are, of having no sense of responsibility? I accuse the Government of having no sense

The Honourable Sir George Schuster: My Honourable friend is going too far. He started by saying that what he wanted was an assurance. He has given me no chance of giving the assurance he has asked for, and he has now proceeded to accuse me of deliberately throwing away something like Rs. 200 lakhs of money!

Sir Cowasji Jehangir: I do accuse the whole Government, and not you alone,—I do accuse the whole of the Government on the opposite Benches of having for the last few years closed their eyes to the fact that a certain amount of revenue was not being collected which could have been and ought to have been collected. And I ask for an assurance that that state of things will not continue in the future. Two different things—the past cannot be remedied, the money has gone. I cannot ask the Government to raise it again. But I make that accusation, and I ask for the assurance. It is no use crying myself hoarse in this matter, but let the dead past bury its dead, and let us begin anew and let us see that you are in earnest and that you really mean to tackle this problem, however difficult it may be, however difficult the times may be in which to do it. It has to be tackled and it must be tackled, or else you have no right to come to this House for further taxation. One or the other, take your choice. Don't come with such Bills before us and ask for further taxation, or take such measures as are effective and as will bring you a very large amount of money from the taxes that have already been sanctioned. Sir, we will consider in Select Committee all the provisions of this Bill. Matters which may be inequitable will be readjusted, will be

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considered. My Honourable friends here, some of them, mentioned the question of foreign companies in this country. There are companies in this country who manufacture matches, who do not happen to be Indian companies. But I understand, Sir, with regard to one of those companies called the Swedish Match Company which are the managing agents of a Company called the Western Indian Match Company, that the majority of the directors are Indians and that the share capital raised by that Company is only Rs. 50 lakhs out of a block account of 1,20 lakhs, that they were prepared, I understand also, to offer the rest of the capital to the Indian public, but their prospectus and their financial condition was such that it appeared not very likely that the Indian investor was going to jump into such a venture just now.

Sardar Sant Singh (West Punjab Sikh): Has it not closed its doors?

Sir Cowasji Jehangir: No, no. It is working. It met with a disaster in 1932, a world crash, in which this Company was very seriously involved. I understand that they are prepared to offer the rest of the capital to Indian investors, but they have not much hope that the Indian investor will jump at the offer. I understand that, from the administrative point of view, the Company is being Indianised. I also understand that a large amount of wood used is wood grown in India now—it was not so, but it is now,—and that the wood imported is only used for a very small quantity of matches which may be called luxury matches of the very finest quality which very few people buy. That, I understand, is the position, but I think the whole question should be considered in the Select Committee, and under no circumstances should purely Indian companies be in any way handicapped. My own understanding of the position is that the purely Indian companies have increased their production within the last four years from 40 to 50 per cent. If that is so, it is something to be proud of, and we all hope. . . .

Mr. B. Sitaramaraju: Have you any information about the Japanese firms?

Sir Cowasji Jehangir: I have no direct information about Japanese firms, but I think we can make enquiries in the Select Committee. I think my Honourable friend is a member of the Select Committee. It will be our duty to investigate these things and to see that no unfair advantage is gained by any section of the trade over the other. Mr. President, I have nothing further to state. I do hope,—although my remarks have been rather heated, I had justification for them, and I owe this House no apology for bringing forward a matter which concerns the Government of India and their revenues and my own Province and the port built in Bombay of which every Honourable Member has a right to be proud. That port of Bombay does not belong to Bombay alone. It belongs to all parts of India and my Honourable friends will realise that it is from this port that they usually sail for Europe and we have the honour of receiving them, and it is at this port that they come on their return journey. It is their port as well as ours, and we claim their support. Every one of the Honourable Members must see that no undue advantage is taken over this port by the unequitable measures of port authorities outside British India, and it is the duty of this Honourable House to see that my

Honourable friends opposite wake up to their responsibility and collect the revenues that are due to them and thus also help the Port of Bombay.

The Honourable Sir George Schuster: Sir, . . .

Mr. President (The Honourable Sir Shanmukham Chetty): What time will the Honourable Member take?

The Honourable Sir George Schuster: I do not think I will take long. I will try to finish in ten minutes.

As I approach the end of my time in India, I am filled sometimes with feelings of regret, and sometimes almost of relief

Sir Cowasji Jehangir: I hope that my remarks have not had anything to do with that feeling of relief to which he refers. It was not personal to him, but it was addressed to the Government of India. May I say that the Finance Member is the least responsible? I have made the accusations against the whole of the Government of India. I have levelled them against the whole of the Government, but perhaps I may say that the Finance Member is the least responsible.

The Honourable Sir George Schuster: My Honourable friend has rather spoilt the point of my remarks. What I was going to say was that I was filled with a certain feeling of regret that it looks as if it will never be my luck to sit on the opposite Benches while my Honourable friend occupies a seat here. I admit, of course, that I should not be able to imitate or reproduce his minatory mien and tone, but at the same time it would undoubtedly give me some satisfaction to be able on occasion to criticise my Honourable friend and call him to account for every possible or every imaginary shortcoming—which, I feel sure, even he would be guilty of as a Member of the Government of India. If my Honourable friend had stopped before the last five minutes of his speech, I had been going to say that there was practically nothing in this debate with which I felt inclined particularly to quarrel. I sympathise with my Honourable friend himself in his criticism of our procedure this year in making three bites of a very sour and unpleasant cherry. It would have been much better if we could have dealt with the whole taxation programme in one. I realise also that there is a great deal of force in what my Honourable friend, Mr. Joshi, said about the procedure which we have followed in connection with this proposal for a special grant to Bengal. I feel in many respects much like my Honourable friend himself does on that subject. It might have been possible, though I do not myself quite see how it could have been fitted in, but it might have been possible to deal with that proposal in the form of a special Resolution; and certainly if there had been a demand from the House,—and I would remind my Honourable friend that he himself is a Member of the House and not perhaps the least vocal of its Members,—if there had been such a demand in the course of the discussion of the Budget we should certainly have considered it most seriously because there are certain aspects of this matter which I should have been very glad to have fully discussed by the House. My friend, Mr. Mudaliar, took me to task the other day for having ventured on that observation and credited me with motives which I hope he does not really believe. I definitely thought that this matter should be fully discussed for several reasons. I will mention one reason in particular to illustrate my meaning. I made it clear in my Budget speech that this proposal of ours to help Bengal is definitely dependent on a particular condition. We feel

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that if the Central Government are to come to the help of Bengal, then the Central Government must satisfy themselves that Bengal is doing everything possible within her power to help herself. Indeed it is only on satisfying that condition that we can have a real answer to some of the criticisms that have been made on behalf of other Provinces like Bombay that we are putting a premium on extravagance and that they have subjected themselves to a much heavier burden, much more self-denying ordinances than Bengal has done. It would have been valuable to discuss a condition of that kind, and we should have been glad to have the opinions of the House upon it. In that connection I wish to make one further observation. My Honourable friend, Sir Cowasji Jehangir, has warned us that we may not be able to collect the full revenue from the match excise duty this year. I recognise that that is indeed a possibility. The amount of revenue which we collect will depend on the amount of issues from factories during the current year, and if there is a very large accumulation of stocks already issued, obviously this will have to be worked off before the normal flow of issues from factories begins.

Diwan Bahadur A. Ramaswami Mudaliar (Madras City: Non-Muhamadan Urban): It is not confined to issues from factories.

The Honourable Sir George Schuster: It is always difficult in introducing a measure of this kind to stop an undesirable period during which those who have the excisable articles to sell have the excise added to the price, although the article which they are selling has not paid the excise. I trust that we shall find that in the case of matches that normal position is not an exaggerated one, but we must face the possibility that there may be some loss of revenue in this matter. If that should attain serious dimensions, then we shall have to consider the whole position, but I would prefer to discuss that matter further in the Select Committee.

Now, Sir, most of the points that have been raised in this debate are essentially matters for discussion in the Select Committee. Several speakers have referred to the fact that by our proposals, as they stand in the Bill, we are standardising a certain size of box of matches and that we shall be increasing the price of that box of matches one pice to two pice. We recognise that there may be disadvantages in that result, and that is a matter which will have to be discussed in Select Committee. I think that I might leave practically everything else that has been said on that subject to be covered by that formula of mine that it is a suitable subject for discussion in Select Committee.

There are only two other general points on which I must say something. There has been a certain amount of talk by one or two speakers about the position of the largest group of match manufacturers in this country and about assurances that have been given in the past as regards steps which they were to take in order to ensure that a larger proportion of their capital was held by Indian investors and that their whole staff would be further Indianised. If I am pressed on this matter, I am ready to give a very full account of what the Government of India have done, but I would prefer not to deal with it fully now. I may merely say this, that the Government of India on their side have done their best to give effect to what was formerly proposed, and I would also say that this particular match concern on their side have also been ready to give effect to the general arrangements which we had in view. There have been definite difficulties as regards their taking an occasion to put more of their capital into Indian hands. The times have

not been propitious for issues of shares, while everyone, I think, is aware of certain complications which have occurred as regards the group to which that particular concern belongs; but I must say this, that we have no reason to suppose that on the part of the Company there has been any unwillingness to proceed along the lines that Honourable Members want. They have also taken very definite steps towards Indianisation of their own staff and to give proper opportunities for Indians to be trained as specialists in that particular line of manufacture. I think, Sir, that I may leave this matter with that general account.

Then, I turn lastly to what my Honourable friend, Sir Cowasji Jehangir, has said as regards our loss of revenue in other directions, revenue, he said, for which we had obtained the authority of the House, and revenue which by our own gross negligence we were losing. Now, Sir, if my Honourable friend wants an assurance that we in the Government of India are fully alive to certain dangers and that we are going to take every possible step we can take within our rights, then I can give him that assurance without any sort of hesitation. (*Sir Cowasji Jehangir*: "Hear, hear.") I would say further that I welcome the interest which my friend is taking in this matter, and I fully recognise that he is displaying a proper sense of his own responsibility to the public of British India in taking the line that he has taken. My Honourable friend, I think, is probably aware of the difficulties in the situation owing to the existence of certain ancient treaties and agreements, and he is also aware that all that we can do is to stop abuses of the situation created by those treaties and agreements. Therefore, as I am sure my Honourable friend is aware of that position, I must take exception to the charges, the definite charges that he has levied that we have deliberately sacrificed large sums of revenue, or if not deliberately, at least that we have done so as a matter of negligence which, in legal terms, is so gross that it amounts to a deliberate purpose. Sir, I must rebut that charge. We have been fully alive to the situation. We have not been blind to the dangers, nor have we omitted any steps that we can possibly take. But there are certain aspects of the matter which are perhaps assuming a more acute form now, and as regards these, I can give my Honourable friend an assurance—and indeed I thought I had already done so in this House in answer to other speeches made by other Members from Bombay at an earlier stage in our financial discussions. Sir, that is all that I need say on that particular subject. In general, I think we may all congratulate ourselves on having got through this discussion with a strict attention to material points and on being able to enter upon our discussions in Select Committee in an atmosphere which bids fair to help us all in producing a reasonable and business-like measure. (Applause.)

Mr. President (The Honourable Sir Shanmukham Chetty): The question is:

"That the Bill to provide for the imposition and collection of an excise duty on matches be referred to a Select Committee consisting of Sir Cowasji Jehangir, Mr. Rahimtoola M. Chinoy, Mr. S. C. Mitra, Mr. B. Sitaramaraju, Mr. B. V. Jadhav, Mr. Sitakanta Mahapatra, Sardar Sant Singh, Mr. R. S. Sarma, Rao Bahadur S. R. Pandit, Mr. N. N. Anklesaria, Pandit Satyendra Nath Sen, Sirdar Harbans Singh Brar, Sir Leslie Hudson, Sir Darcy Lindsay, Mr. A. H. Ghuznavi, Mr. Muhammad Anwar-ul-Azim, Dr. R. D. Dalal, Mr. D. N. Mukherjee, the Honourable Sir Frank Noyce, and the Mover, with instructions to report within seven days, and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five."

The motion was adopted.

The Assembly then adjourned for Luncn un Īar Past Two of the Clock.

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

THE INDIAN STATES (PROTECTION) BILL.

The Honourable Sir Harry Haig (Home Member): Sir, I move:

“That the Bill to protect the Administrations of States in India which are under the suzerainty of His Majesty from activities which tend to subvert, or to excite disaffection towards, or to interfere with such Administrations, as reported by the Select Committee, be taken into consideration.”

In moving this motion, it is not necessary for me to say more than a few words. It is unfortunate, but it has been inevitable that the discussion on this Bill has had to be interrupted for a period of about six weeks. The House is well aware that that interruption was necessitated by other urgent legislative business, but I do not think the House will by this time have forgotten our earlier debates. They will remember that the Bill, after full discussion, was referred to the Select Committee on the 7th February and that the Select Committee's report was presented on the 14th of February. The Select Committee has made a number of amendments which were intended to meet some of the main criticisms that emerged during the debate.

In the first place, there was a general criticism that it was undesirable that legislation of this character should take the form to any extent of an amendment of the Indian Penal Code. We felt in the Select Committee that was a reasonable criticism and the House will see that we have struck out two of the clauses of the original Bill and have substituted a new clause 2 which states the new offence directly and not by reference to any amendment of the Penal Code. In the second place, we have tried to meet what was perhaps the most effective criticism made of the original draft of the Bill, a criticism which was voiced by my Honourable friend, Sir Cowasji Jehangir, namely that the Press provisions might have this result that a mere narration of facts which, as he said, might in certain cases be bound to excite disaffection would be penalised under the Bill as drafted. We have, as we believe, met that point by inserting a new *Explanation* in clause 3 providing that statements of facts made without malicious intention and without attempting to excite hatred, contempt or disaffection shall not be deemed to come within the provisions of the Press restrictions. Finally, a number of smaller amendments have been made which have been suggested by members of the Select Committee with the general intention of making the provisions of clauses 4, 5 and 6 of the Bill more specific. In particular, there had been some criticism that the word “interference”, which we had used with regard to the provisions intended to prevent interference with the administration of the States, was too wide and too vague, and we have substituted the word “obstruction” which we think conveys a clearer and a more definite idea. A minute of dissent was appended to the report of the Select Committee. With reference to that, I would call the attention of the House to the fact that those who signed that minute agreed in the principle of certain important provisions of the Bill. They made it clear in their minute that the Indian State's Administrations should be protected from conspiracies formed in British India in order to overawe such administrations and from

the formation of *Jathas*. Their main objection was to the provisions relating to the Press. Well, Sir, I have no doubt that in the course of the debate the views expressed in that minute of dissent will be further elaborated, and I do not think it is necessary for me now to attempt to meet the detailed criticisms in advance. I shall have an opportunity of dealing with them at the close of the debate.

Sir, I move:

Mr. President (The Honourable Sir Shanmukham Chetty): Motion moved:

"That the Bill to protect the Administrations of States in India which are under the suzerainty of His Majesty from activities which tend to subvert, or to excite disaffection towards, or to interfere with such Administrations, as reported by the Select Committee, be taken into consideration."

Sardar Sant Singh (West Punjab: Sikh): Sir, the more the time passes the more laws are enacted and these have been so numerous now on the Statute-book that it is impossible for any lawyer even to remember the names and titles of the Statutes. Sir, the simpler the society, the simpler the laws, and, the more complex the society becomes, it is more difficult to regulate the conduct of the members of the society. The theory of legislation, as I understand it, requires that the law should lay down the principles on which human conduct is to be regulated. The definition of such principles is necessarily restricted by the language difficulties. But when a particular Administration, instead of ruling the country by the rule of law, begins to attach more importance to the maintenance of order than to the maintenance of the rule of law, the Administration seeks to be armed with extraordinary powers of repression. The Montagu-Chelmsford Reforms brought with them an enthusiasm for repeal of the repressive laws by the newly constituted Central Legislature. Most of the repressive laws were repealed by earlier Assemblies. But, later, the pendulum swung to the other side and we find the executive authorities asking for more repressive laws and still more stiffer laws, with the result that every Session has found a new repressive law introduced in this House. The latest type has come in the form of protection to the administration in the Indian States.

Sir, so far as I can understand, the permanency of a State depends upon the existence of the good laws wisely administered. If the laws are bad, the State is bound to crumble down sooner or later. Even if the laws are good, but badly administered, the State cannot claim a right to obedience to those laws by its subjects. History tells us that when the laws became too oppressive for the subjects to bear, the people rose in rebellion to break those laws and the whole administration was upset. The jurists admit the right of the subjects to rebel under certain conditions. The right to rebel against an established, but tyrannical, authority is as important a right as an obligation to obey the laws of the administration.

An Honourable Member: Divine right.

Sardar Sant Singh: Yes. Similarly we have to see, when we are going to do away with repressive laws altogether. Has not the time come when we should cry halt to this mad desire for more power to repress, and say, so far and no further. But the Honourable the Home Member,

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the all powerful in this country, seems not to be satisfied with the arms in his armoury, and wants, with the advance of military weapons of war, further weapons in order to suppress even the legitimate constitutional agitation to ventilate the grievances of the people. Here is a Bill devised to meet those cases where agitation is carried on not against the Government established by law in British India, but against a neighbouring State, a State whose administration is not based upon any principle and where the will of the despot placed by chance or by accident of birth on an ever shaking throne of a particular State is law unto his subjects and who allows no scope to his subjects on the platform or in the Press or anywhere to ventilate their grievances. What then are the subjects of that State to do?

Mr. C. S. Ranga Iyer (Rohilkund and Kumaon Divisions: Non-Muhammadan Rural): Why should not the subjects rebel in the State if the States are so bad?

Sardar Sant Singh: My Honourable friend puts a very relevant question, why should not the subjects of that State rebel against that State? Yes, I quite agree that, in some cases, conditions have been brought about where the right to rebel has already accrued where the subjects will be morally and even legally justified to unfurl the banner of rebellion against the administration that tyrannizes over them. My Honourable friend, Mr. Ranga Iyer's desire would have been gratified by an exhibition of uprisings, at any rate in some of the States if the supreme hand of the Paramount Power had not been extended for protection of their misrule. By extending their protection to the State the power of resistance to the abominable laws of that State have been completely taken away from its subjects.

Mr. C. S. Ranga Iyer: Is the Bill aiming at the protection of the Paramount Power or the States? Is the Bill increasing the power of the Paramount Power or making it impossible for British Indian subjects to engineer rebellion within the States?

Sardar Sant Singh: My Honourable friend has very ingenuously put this question, and my reply to that question in very simple language is this. I do not know whether it will increase the power of the Paramount Power or not, but it certainly will weaken the resistance of the States subjects to the evil which admittedly exists in the administration of these States.

Mr. C. S. Ranga Iyer: Does the Honourable Member approve of the idea of British India being made the arena for creating rebellion in those States, for this Bill has nothing whatever to do with States subjects.

Sardar Sant Singh: I quite approve that British India should provide a platform for the ventilation of grievances of these poor oppressed subjects of the States, because, if the grievances are just ones then why should they not be ventilated anywhere? I think, if I mistake not, England provided an asylum to the political refugees of other countries for a very long time (Applause) where the grievances were ventilated by those who were not British subjects. However, I come to the point under discussion.

Sir, if we carefully study the various opinions that have been received on the Bill and confine ourselves to the opinion of those who hold such responsible posts as those of District Magistrates of important districts, one point is absolutely clear and on which there is common agreement, and it is this that the States are badly administered and despotically administered. There is no Press, no platform for the States subjects to ventilate their grievances. If this is an admitted fact, may I ask most respectfully from the Honourable the Home Member whether the right that he asks us to confer upon the administration of a State on the British side that no agitation against any State or no ventilation of grievances shall be permitted on the British soil

The Honourable Sir Harry Haig: May I interrupt my Honourable friend. The object of the Bill is not to prevent the ventilation of grievances. That has been made clear several times already in the debates.

Sardar Sant Singh: The ostensible object is exactly the same as the Honourable the Home Member has stated. I take his word for it and I accept it. But what will be the actual effect of this legislation, what will be the practical effect? We agree to differ on that point. According to me, the practical effect would be that the ventilation of the grievances, such as the holding of the State Conference as was recently held at Delhi, would be impossible under this law. However, I shall deal with that point when I come to the particular clause in the Bill. But I take my stand on this that we are creating a right in favour of the States by not permitting the ventilation of grievances of their subjects on the British soil. Supposing I agree to the extension of such a right upon a State, what is the corresponding obligation which the State would undertake in the fulfilment of this right? What is the corresponding obligation which the States would accept? Will these States broaden their shoulders and allow their own subjects to ventilate their grievances in a manner known to the civilised administrations and which is conceded in British India? (Hear, hear.) Are these States prepared to allow reasonable freedom of the Press, freedom of speech? Will they learn that toleration and that forbearance towards criticism which is daily demonstrated by the Honourable Members of the Government in this House and which extorts admiration from us in spite of ourselves? Sometimes I know we use very harsh language towards the Honourable Members of the Government. There is the all powerful Home Member and there is none wielding such immense power in any state or even in any part of the world as the Honourable the Home Member does in India, and yet, when we use harsh language which must occasionally be causing pain to his feelings he listens patiently to us without entertaining any feeling of rancour against us. Can the Government give us any assurance that a corresponding obligation will be given by the States that they would allow their subjects to ventilate their just grievances in a constitutional manner and that they would bring up the administration to a certain minimum standard of civilisation? The necessity for insisting on a minimum standard of civilised administration of a State is pointedly brought home to us by a historical fact. I would like to tell the House that when the British people went over for trade to China, to Japan and to Egypt and to other countries did they not insist that the British subjects shall be tried by British tribunals and not by local tribunals under whose protection they decided to live? Recapitulations and trial by their own laws

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were insisted upon in every country of their temporary adoption. Why should we not insist that the State which demands such protection, must conform to some standard of civilised and human administration, and must give us some guarantee that they would allow their subjects, the freedom of carrying on constitutional agitation by peaceful and legitimate means?

Some people doubt even this much whether the demand for protection emanated at all from the princes.

Dr. Ziauddin Ahmad (United Provinces Southern Divisions: Muhammadan Rural): There was no demand.

Sardar Sant Singh: My friend, Dr. Ziauddin, says that there was no such demand.

Dr. Ziauddin Ahmad: I do not say that; it was said on the floor of the House by Government.

Sir Cowasji Jehangir (Bombay City: Non-Muhammadan Urban): Was it said on the floor of the House by Government in the Simla Session that there was no demand from the princes for such an Act?

The Honourable Sir Harry Haig: No, Sir. Such a statement has never been made on behalf of Government, and it would not be accurate in my view. I think there is not the slightest doubt that the States in general welcome this Bill.

Sir Cowasji Jehangir: But did they ask for it, or demand it?

Mr. Vidya Sagar Pandya (Madras: Indian Commerce): Did not the Executive Council or Committee of the Princes' Chamber apply to Government for a Bill like this?

The Honourable Sir Harry Haig: I cannot say whether any formal application has been made by any State or any group of States, but the views of the States were perfectly well known to the Government of India before the introduction of this measure.

Sardar Sant Singh: While we are on this subject, I should like to ask whether any resolution to this effect was passed in the Chamber of Princes; and, if not passed, was any such resolution even tabled and appeared in the agenda that they wanted from the Government of India such kind of protection for the administration of States? If they did not express any desire, I do not see any necessity why a repressive law should be introduced in the Statute-book of India where we already find too many repressive laws. Therefore, if no demand has come from the quarters which should be interested in making such a demand, it would be quite a reasonable question to ask why should we incur the odium of placing another repressive piece of legislation on our Statute-book. If I mistake

not, the princes did not require their administrations to be protected against scurrilous attacks made in the Indian Press. If they want anything at all, it is protection of their persons, protection of their personal reputation and reputation of the members of their families and other near relations against the defamatory attacks that appear in the Press from time to time. The right method is to introduce a measure of that nature to protect them if the Princes Protection Act is not considered sufficient for that purpose. But this Bill does not extend protection in that direction to the persons of the princes or the members of their families. It professes to protect their administration. What is that administration? It has not been defined anywhere. Honourable Members will notice that in the amendments, that I have tabled on several clauses, I have suggested that after the word "Administration" the words "established by law" should be added. My object in putting this forward is that first of all we ought to be sure whether the administration of a State is established by law. Here is the case of Alwar in point.

The Honourable Sir Brojendra Mitter (Law Member): What law?

Sardar Sant Singh: That is exactly my difficulty. I will expect the Honourable the Law Member to enlighten the House on that point.

The Honourable Sir Brojendra Mitter: The Honourable Member wants not merely an administration, but he wants to qualify that by the phrase "established by law". I am asking him what law he has in mind.

Sardar Sant Singh: I base my argument on a similar expression in section 124A of the Indian Penal Code, where the offence of sedition is directed against the Government established by law in British India.

The Honourable Sir Brojendra Mitter: The Government of India is established by Parliamentary Statute. I am asking with regard to these States, what is the law which my friend has in mind?

Sir Abdur Rahim (Calcutta and Suburbs: Muhammadan Urban): Can there be no law besides Parliamentary Statutes?

The Honourable Sir Brojendra Mitter: I only want to know what law is in the mind of my Honourable friend.

Sardar Sant Singh: My complaint is that there is no law (Laughter), and that is why there can be no protection to such an administration. Let my friend read the history of India with me for a minute. When the battle of Plassey was fought and the administration came into the hands of the East India Company which was a trading company, was it established by law then? Parliament's suzerainty had never been established. My friend, Mr. Sitaramaraju, has written a series of articles on that, and I will expect him to enlighten us on that subject. But, then, Parliament assumed responsibility for India and passed a law. What is the law by which the States are there?

Raja Bahadur G. Krishnamachariar (Tanjore *cum* Trichinopoly: Non-Muhammadan Rural): I shall acquaint my Honourable friend with that, and, in two minutes, he will find himself hoist in his own petard, because every Indian prince can frame a law without the trouble of a Legislative Council. He issues a *firman*, and that is the law. Does he like that law?

Sardar Sant Singh: It is a very nice point made by the Raja Bahadur. He says that a prince can make a law for himself. Well, can the Maharaja of Alwar say that the administration is lawless now, and, therefore, he is coming to the State to resume his administration by merely issuing a *firman* that he would be put on the throne?

Raja Bahadur G. Krishnamachariar: But there is the army and the law of force against him.

Sardar Sant Singh: My Honourable friend, the Raja Bahadur, has given away his case by saying that there is the law of force. If it is a law of force, we have nothing to say. The law of force can protect that State. If anybody goes into that State with *jathas*, force will protect the administration of that State. Then, why do you enact this law? There is no necessity of enacting this law in that case.

Coming back to my subject and resuming the thread of my argument, my submission is that no protection against a seditious speech of a British subject or a State subject can equitably be extended to a State for the simple reason that there is no administration established by law. If the ruler says that he puts a man into jail for a certain number of years or for an unlimited and undefined period, it would be perfectly natural for a relation of his to come here and say that his father or brother has been put in jail for no offence, and without trial. It would be perfectly justifiable conduct for him to raise hue and cry in this part of the country. How can you say that such a man is a criminal and seditious one. Sedition against whom, and against what administration? An administration which is not civilised and which is not carried on on any principle. You want to punish me, because I raise a hue and cry here in British India against a very grave injustice done to me.

Raja Bahadur G. Krishnamachariar: What do you do in British India? Ask Mr. Mitra.

Sardar Sant Singh: I am ashamed to confess that British India got these manners from the Indian States.

Raja Bahadur G. Krishnamachariar: No, the States got them from British India.

Sardar Sant Singh: The position is this, that if you want to enact a law to protect the administration of a State, first of all you will have to place that administration on some basis, some legal foundation, on some system, however crude that system may be. When there is no system in the administration, my submission is that . . .

The Honourable Sir Brojendra Mitter: I should like to know, if my Honourable friend will pardon my interrupting him, what is the meaning of the word "legal" when he says that the State must rest on some legal foundation? Does he refer to municipal law or international law?

Sardar Sant Singh: I will answer that question briefly and in this manner. We know that in such cases we cannot have a Parliamentary enactment. That is out of the question from the very fact that the State owes its allegiance to the suzerain power which is the Crown. But we can have that sort of administration made by its ruler which bases the administration on

some sort of a Constitution, some system of Constitution. Let it be a despotic system, but there should be some system. When there is no system, how do you protect that system of administration? If we look into the administration of many of the States and examine them with a little care, putting on the spectacles of jurisprudence or the jurist's glasses, we will at once discover that the State administration is based upon no principle. It represents entirely the will and convenience of the ruler. I may or may not like the will of the ruler, and if I do not like the will of the ruler. I will certainly have a right to cry that injustice has been done to me, if that will strike me. Why do you gag my mouth from crying? There is no reason for it. The princes rightly do not want such a Bill. If there is no demand from the princes, and they are perfectly justified in making no such demand, because they know that, by making such a demand, there will be a corresponding obligation placed upon them to bring their administration into some sort of system, whatever that system may be. However, the Honourable the Law Member shakes his head and does not seem to agree with me: that is my misfortune.

The Honourable Sir Brojendra Mitter: No; I only suggested that it was no answer to my question: I get no light.

Sardar Sant Singh: I come now to the second point, and that is that such a legislation, as is placed before us in the form of this Bill. 3 P.M. is necessarily an emergency legislation, legislation of an extraordinary character. What is that emergency for which this legislation is necessary? The Honourable the Home Member has just now stated that no demand has come from the States themselves.

The Honourable Sir Harry Haig: I think my Honourable friend is misinterpreting what I said.

Sardar Sant Singh: I interpret the statement that the Honourable the Home Member has made just now on the floor of this House that no formal demand has been made and that no resolution has been passed by the Chamber of Princes as amounting to no demand having been made at all. I interpret it in that language, and I proceed on this assumption that no formal demand has been made, and, therefore, there is no emergency . . .

Mr. Vidya Sagar Pandya: Does a resolution passed by the Executive Committee or the Council of the Chamber of Princes and submitted to the Government amount to a formal application or not?

Sardar Sant Singh: If there is no formal demand, there is no emergency, and if there is no emergency, there is no justification for such a legislation. Here is an opinion coming from the responsible Government of a Province where there has been less trouble from *jathas*, and, therefore, its opinion is not prejudiced in any way against either the *jathas* or the *State*,—I mean the Province of Madras: the Government of Madras say:

"The majority of the provisions of the Bill are *prima facie* of an emergent character and would appear to require considerable justification if they are to be made acceptable to public opinion."

That appears at page 21. I have tried to show by this that there is no justification for such a measure.

[Sardar Sant Singh.]

Then, I come to the point about *jathas*. This formation of *jathas* has seemed to frighten even a cool-headed Honourable Member like Mr. Aggarwal. He thinks that the *jathas* have been giving so much trouble to the States that they must be prevented from forming themselves and going into the State to create disturbances. The word *jatha* is a technical term. This technique was employed to an assembly of persons who marched into the Nabha State in the year 1923-24

An Honourable Member: What is the meaning of the word ?

Sardar Sant Singh: *Jatha* means a collection of men.

An Honourable Member: What men ?

Sardar Sant Singh: Punjabis. It is a Punjabi word which applies to Muslims as well. *Jatha* is a technical term employed in the Punjab, and it first came into prominence when organised bodies of men marched from British India to the Nabha State to get their grievances redressed. The grievance was that the State had interfered with the religious rites of the Sikhs in that State. *Jathas* came to be used—it has become a common term in the Punjab—even the police has formed a new *jatha* of their own and they call it a *jatha*—I forget the exact qualifying phrase, but it means a collection of miscellaneous men without any organisation, without any discipline. In cases where offences cannot be traced and no clue is found of an offender, this *jatha* is sent out to discover clues or the offenders: it is a legal body recognised by the police force in the Punjab. I do not say that it does not work well: it does work well

Khan Bahadur Malik Allah Baksh Khan Tiwana (Nominated Non-Official): It is never used in the police force in the Punjab.

Sardar Sant Singh: I think the Watch and Ward Officer is there, and he knows it very well.

The term *jatha* is assuming more importance now, because it has travelled from the Punjab to the Government of India, and it now finds its place in this legislation. The object aimed at is that this *jatha* should not be allowed to go and create disturbances or subvert the established administration of a State which is friendly towards British India. Quite so. A position will arise like this: suppose there is a religious feud between the ruler of a State and his subjects, just as it happened in the case of the Nabha agitation—there was no political motive behind it; there was no need to create any disturbance in the State or subvert the administration of a State; but the need was that the reading of the holy "Granth Sahib" was prevented by the authorities of the State and the *jathas* went there to recite the holy "Granth Sahib". How can you prevent it? That will be interference with the religious liberties of the subject. Nobody can deny that the religious beliefs of the people living in British India as well as in Indian States are common; their ceremonies are common, their methods of worship are common. How can you distinguish between that *jatha* and a *jatha* which goes there for political purposes or for the purpose of getting their grievances remedied? There can be no distinction, and I don't think even my friend, Mr. Aggarwal, will hold the view that in such a case such a *jatha* should not be allowed to go there for worship. Under the circumstances, there is nothing to frighten the administration or to create a prejudice against *jathas* as

such. Nobody disputes the proposition that it is an inherent right of the people of this country to worship in their own way. The religious liberty is guaranteed to us by the Proclamation of Queen Victoria

Raja Bahadur G. Krishnamachariar: What about the Temple Entry Bill ?

Sardar Sant Singh: The Temple Entry Bill is not relevant to the matter under discussion, my complaint is that this law will act very harshly upon *jathas* which proceed to a place for religious worship only and other allied purposes, and not for a purpose which can be characterised as subverting the administration of a State.

Now, Sir, I shall generally examine the provisions of this Bill, though I would not go into the details of the various clauses. I will only refer to certain portions of the Bill as it is framed and as it has emerged out of the Select Committee. I will try to show that it is quite undesirable to pass this Bill into law. The most important clause, the principle of which I want to discuss in this connection, is clause 4. Now, this clause 4 prohibits an unlawful assembly. It is very wide in its wording. Of course, if an unlawful assembly commits an overt act, if it threatens to subvert or tends to subvert the administration in a State, such an assembly should not be allowed to proceed with its activities. Even if we accept the principle of this Bill, the only thing which can be made punishable is the overt act committed by an unlawful assembly, but to go beyond it and put power in the hands of the executive as mentioned in clause 4, will be very dangerous indeed. It says:

“When a District Magistrate, or in a Presidency town the Chief Presidency Magistrate is of opinion that within the jurisdiction attempts are being made to promote assemblies of persons”

—not that the assembly has come into existence, but—

“attempts are being made to promote assemblies of persons for the purpose of proceeding”,

then it becomes punishable, and notice may issue in writing to that person. Sir, this reminds me of a very nice story about myself

An Honourable Member: About yourself ?

Sardar Sant Singh: Yes, about myself. When the martial law was declared in Lyallpur, one fine morning I got up and answered the knock at the door of my office. It was after the Easter holidays. I thought that some new clients had come to me after all these days and that I would make some money. When I came out of my house, I, to my surprise, discovered that the District Magistrate and the Superintendent of Police were standing there. I had hardly opened the door when I was told: “You are under arrest”. Well, the Raja Bahadur’s force came in. I could not say anything. Then followed the process of making arrests. In all 11 persons were arrested and marched to the jail under a very great but unnecessary show of military force. When we were ushered in the jail, we asked the District Magistrate and the Superintendent: “Will you please tell us for what offence we have been arrested, what have we done?” This set them thinking, and they met in conference for about ten minutes in the office of the jailor, and, coming out, told me that the jailor would tell me our offence. Later on, I asked the jailor as to what was the offence with which we were charged.—and he said: “You are

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charged for being members of an unlawful assembly". We had attended no assembly for the last four or five days previous to our arrest. We were sleeping quietly in our homes when we were arrested. How could we be charged for being members of an assembly which never met. However, the jailor further said: "You are a member of an unlawful assembly and you are charged under section 143, Indian Penal Code." A word was sent to our lawyer to inform him of the nature of the offence for which we had been arrested. The offence with which we were charged was bailable in law, and we instructed our lawyers to apply for bail. The bail application was heard by the District Magistrate. It would interest the Honourable Members of this House to know what transpired in the course of the arguments for bail. After hearing the counsel, the District Magistrate remarked in his quiet way "Oh, this is a bailable offence no doubt, but if you insist on bail being granted as of right, the offence charged being bailable, I add a non-bailable offence to the charge", and he actually added a charge under section 302/109, I. P. C., abetment of murder.

An Honourable Member: Murder? (Laughter.)

Sardar Sant Singh: Yes, abetment of murder.

An Honourable Member: Is it a fact?

Sardar Sant Singh: Yes, certainly it is a fact, but it is really funny. It has been put on record, and the section was added.

Now, Sir, if a District Magistrate or a Presidency Magistrate can exercise his legal powers in that manner, can there be any safety at all for anybody? I might tell the House that this District Magistrate, later on, became His Excellency the Governor of the Punjab. In those days, the policy of the Government was to strike terror, and probably the District Magistrate

The Honourable Sir Brojendra Mitter: Why did they let you off?

Sardar Sant Singh: Because a lawyer from Bengal got us released. Mr. Hasan Imam came from Bengal to defend us.

The fact is that such repressive laws are in practice worked in accordance with the policy of the executive authorities. In the case of Indian States the vesting of such momentous powers even in a District Magistrate or Presidency Magistrate has a chance of becoming a danger to individuals and menace to society. Indian States command a lot of influence on account of their wealth—how can the poor Magistrate withstand the temptation of issuing an order on behalf of that State? This is not my opinion. I shall quote from an opinion received. A prince who, if he wants to get a man into trouble, can corrupt a Magistrate and thus abuse the process of law to the prejudice of his victim. At page 22 of the opinions, the District Magistrate of Nilgiris says:

"The provisions against 'interference with the administration of a State' are very wide. It is obvious that they could be abused. The expectation that they will not be apparently based on the presumption that they will be administered in good faith by Magistrates and Governments. Against this presumption must be put the possibility (to put it no higher) that future Governments and Magistrates may not be incorruptible, and that many of the States, who may desire the application of these

provisions, have sufficient wealth to make the bribing of individuals a matter of no account to them. I think it inexpedient to put those in authority in India in the position of being able to grant or refuse a favour to an Indian State, so far as it is possible to avoid this . . ."

An Honourable Member: It is a calumny against the future Federation.

Sardar Sant Singh:

" . . . I do not know upon what information the District Magistrate would normally base his opinion that action under section 5 or 6 is necessary. In practice it would probably be upon information given by the Government, and the effect of Government's action upon any except the most independent Magistrate would be equivalent to an order. I think it better that the terms of the Act should be more in accordance with the probable facts and, if Government is likely to exercise such authority, the responsibility should be openly placed upon it."

My submission is that the powers placed in the hands of a District Magistrate or a Presidency Magistrate under clause 4 of the Bill are so wide, so indefinite, that they are capable of being abused, and if they are capable of being abused, no Legislature will be justified in enacting such a legislation. That is why I suggest that action should be confined to overt acts of the assembly, and that, before any overt act is committed by any member of the assembly in pursuance of the common object of the assembly, no action should be taken. But as soon as an overt act is done, some power should be given to the Magistrate as is given under the Indian Penal Code and the Criminal Procedure Code,—power of dispersal and the use of force in dispersing the assembly, so as to avoid future mischief, and, if necessary, to prosecute them for the disobedience of the lawful order promulgated at that time.

Mr. Vidya Sagar Pandya: It may be too late.

Sardar Sant Singh: They are not to cross the boundary in one day.

I come to clause 5, which resembles section 149 of the Code of Criminal Procedure. We know that this section has lately been used very lightly in restricting the legitimate activities of political persons and political bodies. Why a wider power should be given under another set of circumstances passes my comprehension. I submit that such a power requires to be restricted considerably.

Then, Sir, there are certain words used in the body of the Bill which are very wide in their application. The penal provisions should be strictly worded, so that there can be no scope for any Magistrate to exercise his power in a manner which militates against the established provisions of the law.

Lastly, I submit that so long as no guarantees are obtained from the princes in order to prevent them from interfering with the administration of laws in British India, no such protection should be extended to the princes. What I mean is this. It is a well known fact that many newspapers are being subsidised by Indian princes, many newspapers

An Honourable Member: Partly owned.

Sardar Sant Singh: are partly owned by Indian princes, and what is the guarantee that those newspapers may not print or publish such statements as will provoke the other party to retaliation or reprisal? Why

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should only the person who retaliates be punished when there is already a person in the **British Indian Province** that provokes the retaliation? Can Government deny that many newspapers are subsidised by Indian princes

An Honourable Member: The *Pioneer*.

Sardar Sant Singh: The *Pioneer* is a respectable paper,

An Honourable Member: It is subsidised.

Sardar Sant Singh: . . . and it has a show of respectability.

Another Honourable Member: Largely owned.

Sardar Sant Singh: But there are newspapers whose sole business is to carry on propaganda on behalf of certain princes. They are published and sent free, they are broadcasted without any subscription, and thus they provoke the other party into a retaliation. If this Bill is enacted into law, the result would be disastrous to the person who retaliates merely in self-defence, while it will give a free hand to the paper that is being subsidised by the princes. I want to draw the attention of the Foreign and Political Department to the difficulties that the subjects of Indian States have to meet even with British authorities. I refer to a peculiar case. 200 people have been living here in Delhi, they have taken residence in Delhi in the Gurdwara and they have been trying to approach the Political Department for getting their grievances heard only. The Political Department finds itself helpless to help those people. Sometimes they are asked to go and see the Agent to the Governor General. Sometimes the Foreign and Political Department pleads excuses which fail to satisfy them. The result is that men, women and children are living in the Gurdwara waiting for some decision. They were arrested by the police. They were taken to the jail and they were let off later on, because they could not be detained as they had committed no offence. They said that they were not going to do anything unconstitutional and that they only wanted an interview with the Foreign and Political Department, and that a grant of reasonable hearing would satisfy them. But no satisfaction has so far been given by the Foreign and Political Department. I think the Honourable the Political Secretary will bear me out that they have been coming to him several times. We cannot interfere with the management of the States, we cannot put any question here; but we can protect the States all right by legislation. Here is a case in point. The Foreign and Political Department finds itself unable to give them a hearing to find out the truth of their grievances. Under the circumstances, my submission is that unless there is a corresponding obligation placed upon the States to come to terms in the first place with their subjects and then enter into treaty relations with British India, they are not entitled to any protection from this Legislature.

Raja Bahadur G. Krishnamachariar: When we were discussing the Indian Princes (Protection) Bill on the last occasion, when it was referred to a Select Committee, I thought, and I am speaking subject to correction, that the principle of the *jathas* had been admitted by this House.

The only question was whether the clause relating to press, and the last clause which was clause 6,—and now, I suppose, it is clause 5,—I suppose it is the same clause which deals with the action of the District Magistrate upon information where, in his opinion, a certain course should be adopted. That was too drastic a provision and I at least understood that these two questions would be discussed, and as they were going to be discussed in detail in the Committee, I thought there would be some chance of its being modified for the reason that I shall presently submit!

Before I come to the few observations that I would respectfully submit for the consideration of this House at this stage of the Bill, I should preface my remarks with one or two observations regarding the point with which my friend, Sardar Sant Singh, started. He says: "Do not give any protection, but if you do give any protection, protect the Government established by law. It ought to be the Government established by law". When I interrupted him and gave him the constitutional position, I do not suppose he was satisfied. He thought that I had given away my case.

[At this stage, Mr. President (The Honourable Sir Shanmukham Chetty) vacated the Chair which was then occupied by Mr. Deputy President (Mr. Abdul Matin Chaudhury).]

In view of that, I am bound to lay before this House the constitutional position in an Indian State. The constitutional position in an Indian State, so far as I have understood it, is this. Whether it is acceptable to the lawyer Members of this House or even to the lay Members of this House, that is a position which cannot be challenged, and that is, the sovereign in an Indian State has got legislative, executive and judicial powers all centred in himself. That is the constitutional position. If he cares to, he can exercise all these powers himself.

Mr. N. M. Joshi (Nominated Non-Official): Where did you get that from?

Raja Bahadur G. Krishnamachariar: Instead of interjecting these remarks, if my friend will only sit down and read the Constitution of British India and read the constitutional law relating to India, he will not trouble himself to interrupt me, but at the same time he might be greatly illumined by the position. All that my friend knows is to say that labour is suffering, but the point is as my friend, Mr. Clayton, said, where are you going to get the money? His idea is tax the land and distribute the money among all these people. That is all that he is concerned with. As Mr. Ghuznavi said the other day, it is he who is fomenting all the trouble in India, and, therefore, he is quite in sympathy with the other side of people who foment trouble in British India and direct their attacks against the Indian States. He may be dismissed without much consideration until he confesses that he has read this constitutional law and he is in a position to contradict me. Until that time comes, which I know will never come, the constitutional position is that the sovereign in an Indian State has, among other things, legislative powers, and if he issues a *firman*, if he issues an ukase, if he issues an order that such and such shall be the law, that is the law. There is no getting away from it, and that is the law that has got to be obeyed. The Courts of

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that country have got to administer it, and I shall proceed one step further. In the exercise of that judicial function, if that sovereign appoints a committee, and if that committee comes to a certain decision upon a judicial question, upon a question which in British India would come before a Court, if the sovereign confirms the authority and the decision of that committee, that decision becomes a decree. It becomes a decree in the sense that you can found a case in British India just as you file a suit therein upon a decree passed in a foreign State. That, Sir, is the position.

Sardar Sant Singh: May I point out to the Honourable Member, if I mistake not, the same is the position of our King-Emperor in theory.

Raja Bahadur G. Krishnamachariar: I am not concerned with theory. I know, a good many things which exist in theory and most of the things so far as the British sovereign is concerned, since he became a constitutional monarch, have been lost out of desuetude. Either he does not use it himself or somehow or other they do not get exercised. Therefore, the case of the British sovereign is in no sense analogous to the sovereign in an Indian State, and, consequently, if my friend asks for a Government established by law in an Indian State, it is the Government that actually exists there, and what more do you want? That is the Government established by law, just as, for instance, in British India, when the Crown took over the Government of British India, they passed an Act in Parliament, an Act for the better Government of the territories vested in Her Majesty. That sort of law you do not require, and that is the reason why I said that my friend would be hoist in his own petard. He would not improve his position by asking for this condition. None of the things that he asked for are within the region of practical politics and unfortunately he discussed the whole thing with an absolute disregard of the existing condition in an Indian State. He asked me whether it is the will of the ruler. I said, I am sorry it is. I do not want to lecture on law and what it means. Law emanates from the ruler. In British India and in England, it emanates from the legislature, but in an Indian State it emanates from the sovereign and there it ends.

Mr. B. Das (Orissa Division: Non--Muhammadan): It is lawless law.

Raja Bahadur G. Krishnamachariar: Lawless law is a poetic expression used by the late Poet Laureate, with which we are accustomed more in British India than in an Indian State. Day by day we have been saying that the laws passed in this House, when they come to be administered, and when they come to be criticised in a public platform, we always call them lawless law and the irony of it is that my friend, the Sardar Sahib, took half an hour to criticise the Indian State and ask for that very lawless law there.

Leaving the constitutional position there, I shall only refer to one other matter as a preliminary before I address myself to the observations I want to submit to this House. Before doing that, I should like to congratulate my Honourable friend, Mr. Glancy, on the excellent speech he delivered. Unfortunately I had no chance to speak after he spoke, because

he said he was not quite anxious to speak until he had heard other speakers, and under the rules I had no chance to speak after he spoke. I am very glad he made that speech, and I think it will be regarded as a charter in the hands of the Indian princes as to what the Government of India think or ought to think at least about themselves. This is what my friend, Mr. Glancy, said,—and he is perfectly right and I vouch for every word he said. My friend, Mr. Das, says that “I have got to read through the lines”. Sir, I am not one of those persons who, trying to read between the lines, forget the lines themselves. I am a plain man who is quite content to read the words as they stand, to understand them and to try to apply them, and if somebody says I do not understand it, I will only fling it at his own face and say “there is your language and that is what it says”. Sir, after saying a good many things about the Indian States, all of which is absolutely true, his speech begins upon this point (page 529, Assembly Debates, No. 8, Volume I). This is the most eloquent manner in which he referred to the position and I am going to put a little question. Says Mr. Glancy:

“It would be idle to deny that from time to time many Indian States have fallen sadly short of the ideal and have rendered intervention necessary, but as several Honourable Members have pointed out, I should like to take this opportunity of saying that in a well-conducted Indian State where the ruler takes a close personal interest in the welfare of his subjects—and there are many such States, both great and small—” mark the words ‘both great and small’—“the people, so far as I have been able to observe are everywhere as happy as they are in British India or as far as my limited experience goes, anywhere in the world.”

The Honourable Member was not going to say that they are more happy than in British India, which I claim to be the case of States where the ruler takes a personal interest in his subjects.

Mr. S. C. Mitra (Chittagong and Rajshahi Divisions: Non-Muhammadan Rural): In which State do you mean they are happier?

Raja Bahadur G. Krishnamachariar: I am very sorry my mouth is closed. I wish to say “several States” and that is the reason why I stated “in those States where the ruler takes a close personal interest in his administration and in his subjects”.

Mr. B. Das: Can't we go there? (Laughter.)

Raja Bahadur G. Krishnamachariar: I know, within a week of your arrival, there would be such a great commotion that I should have to run to the Honourable the Home Member, whether this law is passed or not, to intervene (because I will say I am very much troubled over these gentlemen) and get them across the frontier. (Laughter.) That is the only way to get rid of these gentlemen; I do not want to put them in jail,—as my friend, Sardar Sant Singh, was first put into jail and after three days he was told he belonged to an unlawful assembly. The easiest thing is to try and get a special train, put these gentlemen into it across the frontier and tell them: “Settle your accounts with your own Government”.

Mr. S. C. Mitra: If they are so happy as stated by the Honourable Member, why do they then apprehend that only one or two men going there would possibly disturb the whole state?

Raja Bahadur G. Krishnamachariar: Sir, bad things are more easily done than good things. You can always incite men and make them imagine they have got grievances, and they immediately begin to think they have got grievances, whereas, when a man goes on peacefully in his life, he does not think of anything else, and he is quite content. (Hear, hear.) He has got his money, he has got his occupation, and there is no trouble about it, and consequently it is just as well that my friend, Mr. B. Das, and his friends should keep themselves away without troubling us in the Indian States.

An Honourable Member: What about Mr. Joshi?

Raja Bahadur G. Krishnamachariar: Well, as to Mr. Joshi

Mr. Deputy President (Mr. Abdul Matin Chaudhury): Order, order. Instead of replying to all these side remarks, the Honourable Member may proceed with his speech.

Raja Bahadur G. Krishnamachariar: When interruptions are made, and when I have no objection to yielding, I think, Sir, I am quite entitled to reply to them.

Mr. Deputy President (Mr. Abdul Matin Chaudhury): The Chair has not the slightest objection to the Honourable Member replying to all these interruptions if he is prepared to give way.

Raja Bahadur G. Krishnamachariar: The reason why I am willing to allow these interruptions is that my mouth will be closed shortly and these gentlemen may say things to which I cannot afterwards reply. Now, I can completely nail them to the counter and they won't have much time to waste afterwards and that will also save the time of the House. I do not object to anybody interrupting me, that has always been my policy.

An Honourable Member: You can stand against the whole House.

Raja Bahadur G. Krishnamachariar: This is the passage I wanted to quote:]

"A good Indian ruler excites in the minds of his subjects a degree of affection and devotion which it is difficult sometimes for a Westerner to realise and it seems to me that in these times when many changes are passing over the face of India and many readjustments have to be made, it is worth while thinking very seriously before one proceeds to weaken or uproot any such nucleus which the seeds of loyalty and patriotism will naturally collect. . . ."

An Honourable Member: Are you reading Mr. Glancy's speech?

Mr. A. H. Ghuznavi (Dacca cum Mymensingh: Muhammadan Rural): Are you reading from "Arabian Nights"? (Laughter.)

Raja Bahadur G. Krishnamachariar: I do not quite follow the occasion for this hilarity—whether it is at my expense or at the expense of my Honourable friend, Mr. Glancy. Years and years ago, I did read the

"Arabian Nights", but I forgot that book. I am glad to see that Mr. Glancy is said not only to have brought to the notice of this House instances in the language of the "Arabian Nights" of which Haroon-al-Rashid, was supposed to be the chief actor, but that sort of thing does happen next door to you and me today and tomorrow if only our friends will not be jealous of these poor unfortunate people, simply because they have got more money than you or I have. As I said, outside the House, I am quite prepared to give anybody any number of names, but the position is this. Remember, I do not claim these gentlemen to be perfect as angels—even angels are not perfect. As the Lord says in the Bhagavat Gita, "I, who am an *avatar* of God, even I am invested with a good many faults, and what can I do?" Sir, that is the state of the world, so that when even God Almighty comes as an *avatar* as in Bhagavat Gita, he says:

An Honourable Member: What *sloka*?

Raja Bahadur G. Krishnamachariar:

"Ava jananti mam mudhas manushim Janum Ashritam."

"Simply because I have put on the grab of a human being, fools laugh at me"—and that is the fate of Almighty God even when he appears through an *avatar*,—when he becomes a "man". Of course I may not know so much of the Shastras as my friend, Mr. Jadhav. So, how can I claim infallibility for these gentlemen? What I do say is that here is an independent and disinterested English gentleman who need not give this certificate if he was only confining himself to the point at issue, and yet, having had experience of these people from a detached point of view, and, if I may say so respectfully to my Honourable friend, Mr. Glancy, with a somewhat critical eye sitting there across, then, even on the principle of giving the devil his due, it is up to this House not to laugh at these people, but to appreciate their good qualities. Sir, if in a State governed by people of this sort, gentlemen with the Sikh technique of the *jatha* collect in British India in order to create trouble, I think the British Indian Government would not tolerate them. Therefore, it is up to the British Government to protect these Indian States from invasion by these persons. I said on the last occasion and I think it will bear repetition that when a trouble similar to this happened in British India at the time when the late Mr. Jackson was murdered in Nasik and when a large number of Maharashtra youth took protection in a place called Aurangabad in His Highness' dominions, after a little bit of discussion the Penal Code there was amended in order to include sedition against the Government of India as an offence being committed within the Nizam's dominions.

Mr. Jagan Nath Aggarwal: Was it by a *firman*?

Raja Bahadur G. Krishnamachariar: We do not always use the *firman*. When a gentleman like my friend Mr. Aggarwal comes there and tries to disturb the peace of the country, we use the *firman*, because it has got to be met with swift action. Ordinarily, it is the Act of the Legislative Council that does it. And if my friend will excuse me, it was I who

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passed that law. After having stated that, there is only one statement in my Honourable friend's speech to which I should like to refer. That statement refers to what happens when a so-called Administrative Act or a series of Administrative Acts do not appeal to the British Government. This is what he says:

"I do not propose to ask you what the practice ought to be but I shall merely content myself by saying in a few words what the accepted position actually is. The position is that where a serious misgovernment prevails in an Indian State, the Government of India do regard themselves as under an obligation to interfere."

Why do they regard themselves under this obligation? This is a practice which is not sanctioned either by any treaty or by any agreement or by any usage except by an Act which I should be sorry to characterise in its proper language which it deserves. It is because of this extraordinary claim of paramountcy which the Government of India have been slowly developing and which they say does not depend upon treaties. Certainly it does not depend upon conquest, because these gentlemen were never conquered in a pitched battle where they fought and were beaten. The late Lord Chief Justice of England, who was the Viceroy of India, claimed that paramountcy is paramount, and it does not depend upon treaties or any such thing. We are paramount, and, therefore, we have got paramountcy rights. Sir, that will not do. The Government of India have absolutely no rights in the manner in which they claim them for themselves. They have absolutely no duty in regard to this.

Sir Cowasji Jehangir: The Bill will be withdrawn.

Raja Bahadur G. Krishnamachariar: I was only talking of the constitutional position. But, I was quite sure that an objection like that will be raised. But I desire most emphatically to protest against it. Sir, I am not speaking on behalf of any Indian State, but I am speaking as a man who has tried his best to understand the position between the Government of India and the Indian States. From that point of view, I say that this practice is absolutely incorrect, illegal and improper. I will not say anything further.

Mr. B. R. Puri (West Punjab: Non-Muhammadan): Do you maintain that even in the event of an extensive bad rule in a State, the Government of India are debarred from interfering?

Raja Bahadur G. Krishnamachariar: Constitutionally I do maintain that they are debarred from interfering, but they might interfere as a matter of policy, for example, to send troops to a State where there was more trouble than the State forces could contend with. In fact, the Indian princes might themselves ask for this help. But they cannot do it otherwise. I can assure my friend, Sir Cowasji Jehangir, that we are not discussing anything irrelevant, and I think it is my duty to register my protest on behalf of those persons who have devoted themselves to the study of the constitutional law and to the extent to which they are being pushed now. No wonder there is some trouble about the Federation. Sir, so far as the clauses are concerned, I venture to submit my most emphatic protest to the opinion expressed by the Collector of Nilgiri. I do not know who that gentleman is, but I do not desire to characterise him.

by a proper name. He poses to excel himself in the qualities of honesty and straightforward talk, and he says that in the future Government there will be corrupt Magistrates open to bribery, and, therefore, they will not administer this law honestly, and, consequently, such a law need not be enacted. Sir, this gentleman was probably sitting in his easy chair when he wrote that statement, and probably he considered himself protected by the defamatory statement, because I know it is no defamation to call the whole nation as rascals or by some such expression. It was under that impression that he had the temerity to state that in the future Government, which is going to be an Indian Government, there will be more corruption, and, consequently, the Magistrates will be open to bribery. If I were to deal with this statement, it will take more time and it will lead to acrimonious discussion. If any of my friends want it, I shall give the whole printed record of 500 pages of the case in the District Court of Tanjore where some of the most important officials have not come out quite unscathed. But I will not pursue this matter. I only want to enter a strong protest that this sort of statement should have been made. With regard to clause 4 relating to the *jathas*, I have already said that I am not going to attack it because such a thing should not be allowed. With regard to clause 5, the objection that I raised in the beginning still stands. It begins "Where, in the opinion of a District Magistrate" Now, what is meant by "where"? It will not be within his jurisdiction, because he knows exactly what is going on in his jurisdiction. It will mean really the report of a head constable. But that may go. He is supposed to form an opinion that a certain person, within his own jurisdiction, or outside in the Indian States, is likely to cause some trouble, not in his jurisdiction, but in the jurisdiction of an Indian State, and the thing that it might produce among other things is an affray. So far as I know, if two drunkards fight in the street, that is an affray under the definition in the Indian Penal Code. If that person goes to an Indian State, it is supposed that he is going to start an affray in that State and so the Magistrate says he is going to lock him up. Those of us who have been practising law know exactly that this is a reproduction of sections 109 and 110 of the Criminal Procedure Code for security to keep the peace and to be of good behaviour. First, serve him a notice giving the facts and then give him the chance of saving yes or no. But whatever he might say, does not count. The man is bound over and the High Court does not interfere. We do not know what has happened, so says the High Court. The man on the spot is the proper judge, and, therefore, the High Court says, we cannot really interfere except in very flagrant cases of injustice. Is it proper, and I repeat the question that I put on that occasion, is it right even in the interests of that very Magistrate to compel him to take steps upon materials which he cannot investigate and which he has absolutely no means of testing and coming to the correct conclusion beyond what is stated in that information report which has been communicated to him and beyond that he has not got any material at all? Is it fair even to that Magistrate to ask him to act in this manner? When he has done all this, there is no appeal. I know that my Honourable friend, the Home Member, said when I raised this very question at an earlier stage of the proceedings that there was a right of appeal somewhere. But I believe the Government have created a new offence in this Act and as the Act does not refer to the Criminal Procedure Code and as an offence has not been defined as it has been defined in the Indian Penal Code—any act made punishable either by this law or by any other

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law, local or whatever it is, for the time being in force—and that definition does not occur here, I take it that this Bill is self-contained and there is no right of appeal. *Na appeal, na dalil, na vakil*, these three formulas apply to them, and I think it is quite unfair.

As for the provisions regarding the press, I hope my Honourable friend, Mr. Ranga Iyer, who knows all about the press and anything that he does not know is not worth knowing, I hope he will either support or attack these things, and I do not intend to take the time of the House over that point. Having said this, I think on the whole this is a good measure, and it ought to be passed into law subject to the objection regarding clause 5.

Rai Bahadur Kunwar Raghbir Singh (Agra Division: Non-Muhammadan Rural): I think this Bill has not come a day too soon.

4 P.M. It ought to have come earlier, so that the troubles in the States should not have taken the turn they have. I have seen the opinions which have been collected from the country. I admit that most of the opinions are against the measure, but, Sir, there are opinions which show that the provisions against the press are disliked by the people more than the other portions of the Bill. It has been given out here that this Bill is to:

“protect the administrations of the States in India which are under the suzerainty of His Majesty from activities which tend to subvert, or to excite disaffection towards, or to obstruct such administrations.”

We know that the position of the princes is that of the children of His Majesty. In one of the titles of the princes we find:

“*Farzandi Dilpizir Daulat-i-Inglishia*”,

that is a title, and so they are treated as the children of the King. When they are considered as such, it stands to reason if the Government ask for protection to them, and there is nobody who requires more protection than the children. The princes being in that category, they do stand in need of protection.

Mr. B. Das: Are they demented children?

Rai Bahadur Kunwar Raghbir Singh: They are not such spoilt children like you, who want new provinces.

Mr. B. Das: But the whole press is against them.

Rai Bahadur Kunwar Raghbir Singh: No, only a few nationalist papers. I do not agree with the speech made by you the other day. Well, Sir, it has been said that the princes do not require protection, but that it is their subjects who require protection and not the princes. No doubt the position of the subjects in Indian States is, according to British Indian ideas, much inferior to our position. That is where the British Indian people stand on a better footing than the subjects of Indian States, because they are subject to one power which is also subject to another Paramount Power, and it is, I think, a legitimate wish that the people also should be protected. But if the ruling princes are not taught how to govern, I do not see how the administration of States can be improved. We have been seeing in several cases that Indian princes are sent abroad for education.

It has also been argued that it is useless to send out people to other countries for education when we have got the best educational institutions in this country. We have also seen that the princes who return from England are more anglicised than they are required to be fit enough to govern for which purpose education is meant for them. The other day, one of my colleagues was complaining against the educational policy of the Government, but the reply from the Government side was that it was a transferred subject and that we were ourselves responsible for the education we received. But here, Sir, the States are directly under the control of the Paramount Power.

Mr. B. V. Jadhav (Bombay Central Division: Non-Muhammadan Rural) The princes' colleges are also under the Paramount Power.

Rai Bahadur Kunwar Raghbir Singh: Yes. They are not given that education which should make them fit to govern. I can give several examples. There was the Maharaja of Bharatpur and he was under the protection of the British power and so he was given good education under able tutors and he was kept under minority administration. He was given every kind of education which was considered to be the best, and yet he proved to be a failure. But, Sir, it has been a complaint that the education which was required for the princes was not given to them. If they were given proper education, their administration should also have improved.

Mr. Muhammad Anwar-ul-Azim: Send them to Oxford and Cambridge.

Rai Bahadur Kunwar Raghbir Singh: Not only Oxford and Cambridge, but our *muktabs* and *pathshalas* are better for our purpose than education in Europe.

An Honourable Member: Not for a ruling prince.

Rai Bahadur Kunwar Raghbir Singh: Yes, even for a ruling prince. Those who governed India formerly had not seen any colleges or universities.

Sir, unlawful activities in British India are sought to be checked by the Bill before us. When this Bill was introduced, there were only one or two States in which there was some sort of rebellion, but now the number stands at about four or five, and I do not know what will be the position if this Bill is thrown out. But, constituted as we are, I know it will not be thrown out. But I appeal to the Members of the House to make the provisions against the press less stringent than they are. If this stringency is lightened, I am sure there will be less opposition from the country to the Bill than at present.

Bhai Parma Nand (Ambala Division: Non-Muhammadan): Sir, I accept the definition that has been given to us by my Honourable friend, Kunwar Raghbir Singh, in regard to the relationship that exists between the Paramount Power and the Indian princes. In one respect, I have my sympathy with the object of this Bill. I understand the object of this Bill to be the prevention of the formation of *jathas* in British India; so as to prevent British Indians from going and creating obstruction to the administration of the Indian States. Taking that point of view, I have to say that it is not very long ago that

[Bhai Parma Nand.]

a number of Members of this Assembly saw the necessity of waiting upon His Excellency the Viceroy so as to submit to him that the formation of such *jathas* should be stopped in British India. So far as I remember, His Excellency's reply was that he was very anxious to stop the movement, but he had no powers as the law did not provide him with enough authority to carry out his wishes. Therefore, I take it that this Bill before us aims at providing the Government of India with sufficient powers to prevent the formation of these *jathas*. In that case, I myself and the Members who waited upon His Excellency have no grounds to oppose this Bill.

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

But there is another difficulty with which I am faced. As I said, I understand the nature of the relationship, as defined by my Honourable friend, between the Paramount Power and the princes, but my difficulty is, what is the nature of the relationship of ourselves as representing the people of British India with these Indian States? The British Government being the Paramount Power, and in the words of the Honourable the Home Member, the suzerain power, have the right and duty to protect these Indian States. But what is unintelligible to me is, how are we to come in between these two great powers, the Indian States and the Paramount Power, to pass laws for the protection of the princes? As I said, the British Government can very well do it and they have all the authority and power to protect them. But what is the necessity of bringing in such a Bill before this House and have our sanction to it? My difficulty becomes apparent when we look at certain cases that attract our attention.

My Honourable friend, Sardar Sant Singh, quoted an instance of a group of about 200 persons who are waiting here for months putting up in *dharamshalas*. Quite away from their homes and families, they have to depend upon the charity of others for their meals. They approached him and they approached me also twice or thrice, but our question was, how could we, as Members of this Assembly, help in the removal of their grievances in any way? The only power that we possess in regard to the grievances of the people, is to put certain questions and that too by your kind permission and have Government's answers. But in the case of these 200 refugees from the State, we have not got that power and we cannot even put questions. I do not know if we can privately approach the Political Secretary and explain their case. Their trouble is that they have not even been heard. They have got their grievances and as the Paramount Power has got the duty of protecting the princes, it follows that it has also the duty of protecting the subjects and of redressing their grievances in the best possible way.

This is only one instance. We have several times received representations and pamphlets published in States by the subjects, who are put to grievous troubles for the maladministration of their States. We know they hope to have some satisfactory reply from us, but we also know that we are quite helpless in the matter, and can do nothing. Let me take another instance which I want to mention with your permission. That is the case, not of the subjects, but of a ruler of a State whose administration went wrong somehow and who probably was asked to explain his

conduct or to submit to some sort of inquiry. He ran away out of British India and there he is seemingly determined to fast and to die. Now, Sir, his companions and friends are sending telegrams to me and perhaps to other Members to save him, and I cannot understand how we can help him. He can be relieved of his troubles by the Government alone.

There is another point that I want to bring before the House, and that is this. We are asked to pass laws, which are even more hard than the Ordinances, for the protection of these princes. But what is our position with regard to these princes? I want to explain it. I am a British subject: I can go to England, and there I am taken as a British subject: I have the right of voting and get myself represented in any Council or other organization of the British Empire. I can stand as a candidate for the British Parliament and even try my chance for becoming a Member. There are colonies, where, if I am allowed to go, I have the rights of citizenship of those colonies. There was a time when we had these rights in the United States of America and quite a number of Indians became citizens there. When a law was enacted to deprive us from this privilege, our press made a great row over it, although I think they had no right to do so. But the case with our own States is entirely different. The people of these States are the same as our own people: so far as history is concerned, their history is part of our history; geographically we are one; but when we come to the constitutional field, we do not understand what our relations are with those States. They seem to be much worse than the relations with a foreign or even a hostile country. For instance, I take the case of a State close to the Punjab: a man lives there for twenty years or so; his children are born in that State; neither he nor his children have got the right to vote in any representative institution of that State. He has not the right to become a State subject. I want to put this question to my Honourable friend, the Foreign Secretary. He has been in a position to draft Constitution for such a State: what is the provision he has made for British Indians in that State to have the right of representation or of voting in the ordinary representative institutions of that State? This is the main grievance of hundreds and thousands of the Punjab people who have settled in that State and have made it their home, but are deprived of every right. I do not understand any earthly reason why the people, who have lived there and have got property or who have been in service there for the whole of their life and have settled there with their families, should not be given any right; as if the State is a thing which is a specially heavenly place in India. If that State is a place beyond human rights, then why should we be asked to legislate for the protection of the administration of that State?

This is not all. I want to give another instance with reference to another State. In that State, the Hindu form a large majority, they got the permission of the ruler of that State to hold a Conference to express their grievances. After getting the permission, they approached me, and with much entreaties—as I did not want to go there—I consented to preside over that Conference. As soon as the fact was known—at that time I was a Member of this Honourable House, that was my credential for the duty I had to perform—an order was issued that no outsider could come into the State to take part in that Conference. According to that order, some four or five persons who had been sent to work for that Conference were arrested and driven out and one of them

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had to undergo an imprisonment of one year. If this is the attitude of these Indian States towards us, law-abiding people, who do no harm to the administration of these States in any way, if we cannot enter that State for a lawful purpose, for which the State itself had given permission, I do not understand what interest we have in that State and what right the Government have to ask us to pass such a law for these States. What are we so far as these States are concerned? I repeat, the British Government could issue a permanent Ordinance to protect these States in the best way they wanted; but I do not understand why we who are not even allowed to enter the state, who have not even the right to be voters in those States, who are we to pass so unreasonably stringent laws for the protection of these States? This is a matter of great constitutional difficulty about this Bill.

One point more. When some of these suffering subjects in these States came to me or my Sabha and complained that they had very serious grievances against their administration, I had an occasion to talk of what I complained, in a public meeting held at Nagpur. I cannot say what kind of distorted and false report was made to the District Magistrate of Nagpur, but that Magistrate, in giving his opinion on this Bill.—and these are called public opinions!—mentioned my name in particular and stated that in my lecture I had said something about this State and that State, and, if it were in his power, he would stop my coming to Nagpur and taking part in the meeting. (Laughter.) Why so, Sir? Simply because some C. I. D. fellow made some false report to him and, on the basis of that report, he has had the courage and wisdom to express his opinion in that fashion. And if that is the object of this Bill, I do not understand what right we have or why we should at all have any inclination to sanction this Bill in this House? In conclusion, I have to say that I am not in disagreement with the main object—and have no reason to oppose it as it is done on our own prayer—but I do not understand the constitutional position of the Members of this Honourable House to pass this law for the protection of these States.

Sir Abdur Rahim: Sir, reference has already been made to the constitutional position so far as this Bill is concerned. My friend, the Raja Bahadur, raised it pointedly and he naturally took strong exception to the new idea of Paramountcy; but he forgot that the Bill which he is supporting is based on this very idea. If he reads the report of the Select Committee, he will find this:

“We the undersigned members of the Select Committee to which the Bill to protect the Administrations of States in India which are under the suzerainty of His Majesty from activities which etc., etc.”

Raja Bahadur G. Krishnamachariar: That was my point—an omnibus protest.

Sir Abdur Rahim: That is the point of my Honourable friend, the Raja Bahadur, and undoubtedly the Raja Bahadur is also aware that the Indian States and British India have been existing side by side for many and many a year and, as he has undoubtedly studied the Penal Code carefully, he must have noticed that, as a matter of fact, a provision has been existing in the Penal Code for the protection of these States; only they were not then considered subject States; they were considered

Asiatic Powers in alliance with the British Crown. If he will look at section 125, he will find :

“Whoever wages war against the Government of any Asiatic Power in alliance or at peace with the Queen or attempts to wage such war, etc., etc., shall be punished. . .”

Then, in section 126, he will find :

“Whoever commits depredation or makes preparations to commit depredations on the territories of any power in alliance or at peace with the Queen shall be punished, etc., etc.”

As a matter of fact, this was the law and this has been the law all along and it was not very long ago that the idea of Paramountcy or Suzerainty in substitution for the provisions of these sections which provide for protection of Asiatic Powers in alliance with the British Crown has come into existence. There are many Members in this House who are naturally anxious to preserve the status of the Indian princes, and I would ask them, if their anxiety is real, then to consider whether they are doing them good service or otherwise, by invoking these powers, by vesting these powers in the Government of India to enact laws of this character. That is to say, the status of the States has been in recent times very materially reduced, and I believe, if I am not mistaken, their status has been reduced since 1919 or even a little later. Now, Sir, if these sections were applied, and I believe they were applied at one time, then there would have been no necessity for provisions of this character, and we have been proceeding all along on that assumption. For the first time, I believe it was in 1921, that attempt was made to enact laws for the protection, as it is called, of Indian States, and, after that, the words “Paramountcy or Suzerainty” came into vogue. We all know how that legislation went through this House; it had to be certified by the Governor General before it became law, because it was summarily rejected by this House. That is the constitutional position, and I am not surprised that the Indian States have made no formal application or demand to the Government of India for a law of this character, because it means necessarily a derogation from their status. That is the reason I believe,—I am not in the secrets of the States or Government of India,—but I believe that is the reason why they have not approached the Government of India in this matter. But, upon these facts, *prima facie* the conclusion is that they object to any laws being enacted by the Government of India which would imply that they are in charge of those States and they must be looked to for protection . . .

The Honourable Sir Harry Haig: May I remind the Honourable Member that in the Press Act of 1910 there was a similar provision applying to princes and States under the suzerainty of His Majesty?

Sir Abdur Rahim: Probably I overlooked that; even then, I think, my friend, the Home Member, will agree,—and really I got the information from him,—that this change of phrase, implying a very important change in status, was brought about within recent times.

Raja Bahadur G. Krishnamachariar: The Press Act of 1910 is like the adoption Sanad of Lord Canning. Nobody asked for it.

Sir Abdur Rahim: Now, as a matter of fact, I don't think that sufficient evidence has been adduced before the House to show that there is really any necessity for a law of this character. During the discussion that took place on the motion for reference to Select Committee, there was

The Honourable Sir Brojendra Mitter (Law Member): May I interrupt my Honourable friend for a minute? In the General Clauses Act of 1897, India is defined as British India together with any territories of any Native Prince or Chief under the suzerainty of Her Majesty. I have not made any research into this matter to see how far back this goes. But this phrase occurs in 1897.

Mr. K. C. Neogy (Dacca Division: Non-Muhammadan Rural): Sir, we have it on the authority of the Maharaja of Bikaner that that was the earliest time when this particular phrase was used.

The Honourable Sir Brojendra Mitter: Which was the earliest time?

Mr. K. C. Neogy: It was in 1895 that this phraseology was brought into use for the first time.

Sir Abdur Rahim: I believe there is a reported case in which resort was had to section 125 of the Indian Penal Code in order to deal with certain matters arising in connection with an Indian State. Therefore, the exact date does not really matter much. The point is, the Penal Code really made provision for cases of this character, and I don't think any necessity has arisen for going further than the Penal Code in this matter. For instance, if you treat any of these States as Asiatic Powers in alliance with the British Crown, then, in that case, all serious cases could be met by the provisions of the Penal Code. In the Select Committee all the provisions were very carefully considered, and we had opportunity to discuss the provisions in detail. It was more or less conceded by many Members of this House, that the formation of *jathas*, for instance, ought not to be allowed. That is really going a little further than the present law; but substantially it is of the same nature as the provisions of section 125 and section 126 of the Penal Code, for these also provide against preparations.

Now, I wish particularly to draw the attention of the House to clauses 3 and 5 of the Bill as have been re-numbered in the Select Committee. Clause 3 deals with publication of certain matters in the press, and that clause refers to the Criminal Law (Amendment) Act of 1932 and the Press Emergency Powers Act of 1931. The result of this enactment read with the appropriate sections of those Acts is,—I want to explain that, because it may not be possible easily for every Honourable Member to grasp the effect which this Bill will produce if it is enacted into law,—the result would be that it would be open to executive authorities, when statements calculated to excite disaffection or to bring into hatred or contempt the administration established in any State in India are made,—to invoke and put into operation all the summary powers given by the Criminal Law Amendment Act. That is to say, an offence of that nature, if it relates to an Indian State or rather the administration of an Indian State, will not be triable by the ordinary Court in accordance with the ordinary judicial process, but it will be dealt with by executive action.

The Honourable Sir Harry Haig: I am sorry to interrupt my Honourable friend. He said that the effect was to apply all the provisions of the Criminal Law Amendment Act. I think that there is some misunderstanding there. The effect is to apply the provisions of the Indian Press (Emergency Powers) Act, and when he says that no judicial process can be allowed, the ordinary judicial process, under the old Princes (Protection) Act, remains as before. This Bill provides certain executive procedure which is alternative to the ordinary judicial procedure.

Sir Abdur Rahim: I was dealing with the effect of clause 3 of the Bill. The effect of that is to substitute executive action for judicial procedure. I did not say anything more, and that is absolutely correct.

The Honourable Sir Harry Haig: As an alternative.

The Honourable Sir Brojendra Mitter: Not to substitute, but to supplement.

Sir Abdur Rahim: That is to say, Government, taking action under this clause, is not bound to resort to the Court and can go to the executive authority and have the press security forfeited and have the proprietors of a press punished otherwise.

Raja Bahadur G. Krishnamachariar: And the High Court has no power.

Sir Abdur Rahim: That is what I meant by substituting executive action for judicial process, and I say I was strictly correct. Supposing an offence was committed against the Government, an offence of sedition, then, in that case, under the ordinary law, apart from the Criminal Law Amendment Act, the offence would be triable by an ordinary Court according to judicial procedure.

Now, Sir, are we justified, having given all these powers, these very drastic powers to the Government to meet certain emergencies of a very serious character according to the Government's own case—are we justified in extending those powers to cases where no such emergency is alleged or proved? That is the whole point. I claim that the right of association and the right to express opinions on public matters which are the fundamental rights of any citizen living under a civilised Government cannot be encroached upon or affected in any way except by the due process of Courts. That is the position we take up, and whether we live under a democratic Government, or a bureaucratic or autocratic Government, that is a fundamental right which we cannot submit to be taken away from us. The ordinary law was allowed to be suspended by the drastic provisions of the Criminal Law Amendment Act in order to meet a very serious emergency as the Government alleged at the time. Why should we extend it now? According to the case of the Government themselves, that emergency has passed. The Civil Disobedience Movement is at an end, the no-rent campaign is at an end, all that all these movements implied and the associations that carried on the movements have been practically crushed. If that is so, why should we be asked now to enact laws of this character?

Mr. S. O. Mitra: Permanently for all time.

Sir Abdur Rahim: Some Honourable Members are mistaken in thinking that this law is meant for the States or the subjects of the States or the princes. That is not so. The law is directed against us. Under this law, no subject of any Indian State can be dealt with unless he comes and lives in British India. Therefore, the law is directed against ourselves, and we are entitled to be satisfied that there is such an emergency at the present moment with reference to the affairs of Indian States that we must deprive ourselves of the ordinary fundamental right of a citizen to express our opinion freely on the public affairs of the country. That is the position which the Honourable the Home Member has placed us in by putting forward this measure. Sir, I am not disclosing any secret, but no attempt was made to place any further evidence before the Select Committee than was placed before this House. The case has not been carried any further, and I, therefore, submit to the House very confidently that an enactment of this nature is not justified, for the circumstances have not been proved to exist, which would justify an exceptional repressive measure of this character. That is the short point, and that is the most important point. I do not care whether the Indian States or the princes or rulers of those States are democratic, despotic, or if they have any Constitution or not. That is not the point here at all. The whole thing is irrelevant, it is drawing a red herring across our path. The real point, the only point is, why should there be any law like this enacted for our benefit? Take now clause 5. It purports to proceed on the analogy of section 144 of the Criminal Procedure Code, with which my lawyer friends in this House are perfectly familiar. We know also that that section has been applied—at any rate that has been the complaint of many people—to political cases and to prevent the holding of political meetings. I do not know whether the Government are prepared to admit that section 144 has, as a matter of fact, been so applied, and, if so, that has not been properly applied. But whatever the Government's position in that respect may be, section 144 of the Criminal Procedure Code is very different from what this clause purports to provide. Section 144 of the Criminal Procedure Code has nothing to do with the prevention of any offence against any State, against any Local Government or the Government of India or the administration of any Government. It has nothing to do with them. The idea of section 144 is to secure the peace in certain emergent cases by summary preventive action by an order of the Magistrate which would last for two months. But it is not within the scope of section 144, as it now exists in British India, to bring possible offences against the State. Meetings, for instance, for expressing public opinion on matters of public importance—these do not come within the scope of section 144 of the Criminal Procedure Code which applies to British India. What are you going to do now? What is proposed is that that very summary procedure which is entirely intended for a different purpose should also be applied to meetings or any act done which has any bearing upon the administration of an Indian State. If that is a legitimate extension of section 144 of the Criminal Procedure Code, then, I ask one question. Why not have a similar extension of the law in British India itself? Are offences against our State or the offence of sedition against the Government of India or any of the Local Governments established by law in this country less serious than similar offences against an Indian State? Surely not. Even judging from the magnitude of results, there is no comparison between the two. Now, if my Honourable friend is justified in enacting a provision of this nature, then I think he would be equally justified in coming to you and saying "Here is a

lacuna in the law. Here is an omission which you have supplied in the case of an Indian State. I call upon you now to enact a similar measure with respect to your own Government". What answer would you have then? You could possibly have no answer. Section 144 could not possibly have been intended to apply to cases of this nature. There really seems no sort of justification for bringing in a provision of this character. This is a very serious matter and a question of principle. It is especially serious with respect to what may happen in the future.

To revert to clause 3. Offences against the State including the offence of sedition are matters of serious concern, and any person alleged to have been guilty of them is entitled to be tried properly. To say that a man, who is guilty of an affray or assault, is entitled to have his case heard properly in Court under a judicial procedure, but that a man charged with a serious offence against the Government is not entitled to be tried in the ordinary way by the Courts, that is a position which it seems to me cannot reasonably be maintained. It is against all canons of civilised jurisprudence to leave it to the Magistrate to deal with cases of disaffection or sedition as you call them in the case of the Indian States. I do submit with absolute confidence that it is inadvisable that there should be any such law with reference to matters affecting the administration of an Indian State. It is not a question of the form of Government that prevails in an Indian State or prevails here. It is the question of the ordinary right of a citizen to have a fair trial in a Court, if he has committed any offence. That is the ordinary fundamental right which is violated by a provision of this nature and which this House ought not to allow unless it is shown that a critical situation has arisen, which makes such a measure absolutely necessary. No such case has been made, and I do not see that the Government are at all justified in asking us to enact this law.

Now, what will be the effect of a measure like clause 5 of this Bill? The effect would be, as has been pointed out in the minute of dissent which some of my colleagues and myself wrote, that even a gathering of the subjects of Indian States, however peaceful and well conducted, could be prohibited by a Magistrate, if he in his discretion thought that it was not desirable that any such meeting should be held. Are we going to give such a far reaching power to the executive of this country? I do think that, so far as these two clauses are concerned, no good case has been made out by the Government. As regards the other clauses, I recognise that there has been some modification of the language which would tend to make those provisions, no doubt still very wide in character, somewhat more definite than they were in the original Bill. Even if these provisions, namely, clauses 2 and 4, remained, clauses 3 and 5 ought to be removed from this Bill.

The Assembly then adjourned till Eleven of the Clock on Thursday, the 5th April, 1934.