

7th April, 1934

THE
LEGISLATIVE ASSEMBLY DEBATES
(Official Report)

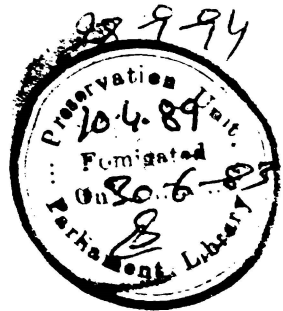
Volume IV, 1934

(2nd April to 14th April, 1934)

SEVENTH SESSION

OF THE

**FOURTH LEGISLATIVE ASSEMBLY,
1934**



NEW DELHI
GOVERNMENT OF INDIA PRESS
1934

Legislative Assembly.

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THE HONOURABLE SIR SHANMUKHAM CHETTY, K.C.I.E.

Deputy President:

MR. ABDUL MATIN CHAUDHURY, M.L.A.

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MIAN MUHAMMAD RAFI, BAR.-AT-LAW.

Assistant of the Secretary:

RAI BAHADUR D. DUTT.

Marshal:

CAPTAIN HAJI SARDAR NUR AHMAD KHAN, M.C., I.O.M., I.A.

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MR. ABDUL MATIN CHAUDHURY, M.L.A., *Chairman.*

MR. K. C. NEOGY, M.L.A.

SIR HARI SINGH GOUR, KT., M.L.A.

MR. T. R. PHOOKUN, M.L.A.

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

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LEGISLATIVE ASSEMBLY.

Saturday, 7th April, 1934.

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

QUESTIONS AND ANSWERS.

REPORT ON THE WORKING OF RULES TO REGULATE THE DISCHARGE AND DISMISSAL OF RAILWAY EMPLOYEES.

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

- (a) whether it is a fact that the Railway Board have issued a Circular to the Agents of the Company-managed Railways, asking them to report on the result of the working of the rules framed by them to regulate the discharge and dismissal of railway employees, and inviting modifications therein;
- (b) whether any reports have been received from the Agents, and, if so, from whom; and
- (c) whether they are prepared to place such reports on the table of this House?

Mr. P. R. Rau: (a) No. Such a circular was addressed to State-managed Railways only. Company-managed Railways were asked for their remarks on certain alterations proposed by the Railway Board to the rules regulating the discharge and dismissal of non-gazetted Government servants.

(b) No reports have yet been received.

(c) The question will be considered in due course when the reports are received.

EXPIRY OF THE CONTRACT OF THE MADRAS AND SOUTHERN MAHRATTA RAILWAY.

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

- (a) when the contract of the Madras and Southern Mahratta Railway expires; and
- (b) if they propose taking it over under State-management on the expiry of the contract?

Mr. P. R. Rau: (a) The present contract expires on the 31st December, 1937.

(b) The question has not been considered yet.

Mr. K. P. Thampan: May I know if there is any notice for termination of the contract?

Mr. P. B. Rau: 12 months.

Mr. K. P. Thampan: Will Government give the House an opportunity to give its opinion on this subject before a final decision is arrived at?

The Honourable Sir Joseph Bhore: We will consider that matter.

ORDER FOR TEAK SCANTLINGS PLACED BY THE AGENT, MADRAS AND SOUTHERN MAHRATTA RAILWAY.

640. ***Mr. K. P. Thampan:** (a) Will Government be pleased to state if it is a fact that in February or March this year, the Agent of the Madras and Southern Mahratta Railway placed a large order for teak scantlings with some outside firms? If so, what are the names of those firms?

(b) Are Government aware that a huge saw mill has recently been erected by the Madras and Southern Mahratta Railway at Perambhur, equipped with all the latest machinery?

(c) What is the cost incurred on the construction of the said saw mill?

(d) Are there any special reasons for placing the orders for teak scantlings with outside contractors?

Mr. P. B. Rau: I have called for the information from the Madras and Southern Mahratta Railway and on receipt will lay it on the table.

SERVICES OF RAILWAY EMPLOYEES PROSECUTED FOR CRIMINAL OFFENCES BUT FOUND NOT GUILTY.

641. ***Mr. K. P. Thampan:** (a) What is the policy of the Railway Board in regard to the services of employees who are prosecuted for criminal offences but found not guilty by competent courts? Will a man honourably acquitted be discharged from service?

(b) Is it a fact that one, S. B. Balasubramanyan, lately store clerk at Arisikarai on the Madras and Southern Mahratta Railway, was prosecuted before a magistrate at Bangalore on a charge of breach of trust in regard to a few engine boiler tubes, and was honourably acquitted as no case was made out?

(c) Is it a fact that in spite of the acquittal the man was discharged from service though he had put in nearly ten years' service?

(d) Is it a fact that when he applied for reinstatement, the Chief Transportation Superintendent and Traffic Manager wrote to him that although he was acquitted, there had been a "miscarriage of justice" in his case?

(e) Do Company-managed Railways follow a different policy in regard to such matters from that laid down by the Railway Board?

Mr. P. B. Rau: (a) The action taken depends on the circumstances of each individual case. Acquittal or discharge in judicial proceedings is not necessarily a bar to departmental action. It may be undesirable to keep a man in Government service even though he has been acquitted on a criminal charge.

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

(e) So far as I am aware, Company-managed Railways also consider the circumstances of each individual case in deciding on the action to be taken.

Mr. K. P. Thampan: With reference to (d), I want to know whether the Government do not consider that if it is said that there is a miscarriage of justice even in such cases where an accused is honourably acquitted by a Court it is tantamount to contempt of Court?

Mr. P. B. Rau: I do not think the Government of India are concerned with that aspect of the case. If there is any contempt of Court, the proper Court would take cognizance of it.

Mr. S. C. Mitra: Will Government please inquire whether there was any application to the High Court for review of that judgment against acquittal, if the railway authorities think that the judgment is wrong?

Mr. P. B. Rau: Even if the persons concerned think that the judgment is wrong it does not follow that they will always take the necessary steps to appeal against it.

Mr. S. C. Mitra: It is said that there has been a miscarriage of justice. Is it not fair that there should be an appeal to the High Court to set aside that judgment?

Mr. P. B. Rau: I have no objection to obtain the information for the Honourable Member.

SELECTION OF SENIOR GRADE OFFICERS FROM THE BOMBAY GRENADIERS, AJMER.

642. **Mr. S. C. Mitra:** (a) Are Government aware that as many as eight candidates appeared before the Unit Advisory Committee of the 11/4th Bombay Grenadiers, Ajmer, held in August, 1933, for selecting four senior grade officers?

(b) Is it a fact that only one vacancy was filled up? If so, why?

(c) Is it a fact that most of the candidates possessed superior qualifications and were of better status in life than the selected candidate?

(d) Can Government give any reasons for selecting this candidate in preference to others?

(e) Are Government aware that the selected candidate is an unemployed relation of one of the members of the Committee?

(f) Will Government be pleased to state what was the criterion on which the selection was based?

(g) Will Government please lay on the table a copy of the report of the Unit Advisory Committee?

(h) Is it a fact that the Committee was influenced in its decision by the consideration that only martial classes should be given preference in the Indian Territorial Force? If so, was it not in contravention of the avowed policy of Government with respect to the admission of the non-martial classes to the Indian Territorial Force?

Mr. G. B. F. Tottenham: With your permission, Sir, I propose to answer questions Nos. 642 to 645 together.

Information has been called for from the local military authorities and a reply will be laid on the table in due course.

SELECTION OF SENIOR GRADE OFFICERS FROM THE BOMBAY GRENADIERS, AJMER.

†643. ***Mr. S. C. Mitra:** (a) Will Government please state how many candidates, and of what class, have been selected in the senior grade of officers in the 11/4th Bombay Grenadiers, Ajmer, since July, 1931?

(b) Will Government please lay on the table a statement showing the names and qualifications of all other candidates who appeared before the Unit Advisory Committee since the above date?

MEMBERSHIP OF MR. GANPATI SINGH OF THE UNIT ADVISORY COMMITTEE OF THE BOMBAY GRENADIERS, AJMER.

†644. ***Mr. S. C. Mitra:** (a) Are Government aware that Mr. Ganpati Singh of Kharwa is continuing to act as a member of the Unit Advisory Committee of the 11/4th Bombay Grenadiers, Ajmer, for the last two or three years, although the regulations provide that the nominations be made annually?

UNIT ADVISORY COMMITTEE OF THE BOMBAY GRENADIERS, AJMER.

†645. ***Mr. S. C. Mitra:** Are Government aware that the representative of the 11/4th Bombay Grenadiers, Ajmer, on its Unit Advisory Committee has always been a junior grade officer and not a senior grade officer? If so, will Government state why a senior grade officer is not nominated on the Committee which sits to elect senior grade officers?

TYPISTS IN THE GOVERNMENT OF INDIA SECRETARIAT.

646. ***Mr. Gaya Prasad Singh:** (a) With reference to the starred question No. 520(ii) on the 12th March, 1930, and the reply given thereto, will Government please state whether the clerks who qualified as "Secretariat Typists" in 1920 and 1921, and who did not hold permanent appointments in the Lower Division when the Third Division was created in June 1924, were given any warning before the examination concerned that they will not be eligible for the scale of pay of Rs. 100—8—300, published for them in the notification containing the conditions of their examination, on creation of the Third Division? If not, why not?

(b) Is it a fact that the condition of possessing the Intermediate Certificate or of equivalent qualifications was imposed on them also in the last qualifying examination held by the Public Service Commission in 1929 and in view of the condition they could not appear at the said examination for qualifying themselves for the Lower Division?

(c) Is it a fact that no condition of educational qualification was imposed on permanent clerks in the Lower Division in the examination referred to in part (b) above, and that men with non-Matric and Matric standards were accepted for admission to the said examination? If so, what are the reasons for this differential treatment?

† For answer to this question, see answer to question No. 642.

(d) What is the number of clerks qualified as "Secretariat Typists" at present working in the Government of India Secretariat and in what grades?

The Honourable Sir Harry Haig: (a) No examination was held for Secretariat typists as such in 1920 or 1921. I understand that this category was introduced at the examination held in 1922. No warning was given as the question of creating a Third Division had not then arisen.

(b) The condition applied to all Third Division clerks in the Secretariat other than those who had, at a previous examination, qualified for the Second Division. No information is readily available whether any of these clerks qualified as Secretariat typists in 1922, and, if so, whether they were affected by the condition or not.

(c) Yes. As under the rules, the Second Division is a normal source of recruitment to the First Division, Second Division clerks were admitted to the qualifying examination held in 1929, irrespective of their educational qualifications. The Third or Routine Division, on the other hand, forms a self-contained branch or section and is not in any sense a training ground for the Second Division. Accordingly Third Division clerks were not ordinarily eligible to appear at the examination in question. An exception was, however, made in favour of such Third Division clerks as had passed the Intermediate Examination, because it was considered unfair to deprive these clerks of the opportunity they had until then possessed of qualifying for the Second Division.

(d) I regret I am unable to undertake to collect the information as the labour involved would be incommensurate with the results.

BRITISH ECONOMIC EXPERTS INVITED BY THE GOVERNMENT OF INDIA.

647. ***Mr. Gaya Prasad Singh:** (a) Will Government please give the names and qualifications of the British economic experts, and of any others who may have been associated with them, who were invited by Government to investigate their statistical methods in an economic survey of India?

(b) What were their terms of reference?

(c) Have they submitted their report, and, if so, when will it be available to this House?

The Honourable Sir George Schuster: I would refer the Honourable Member to the Report of the British Economists which will shortly be published. I am having a copy sent to all Members of the Legislature. The names and qualifications of the British Economists and their Indian associates and their terms of reference are stated in the introductory section of the Report.

Mr. B. Das: May I inquire if the recommendations of these economic experts were placed before the representatives of the Provincial Governments that gathered in Delhi, and if any action has been taken by them on it.

The Honourable Sir George Schuster: I was able to get certain advance copies of the report which I put before the representatives of the Conference which has just terminated. We had a preliminary discussion on

it, but a good many of the recommendations regarding economic inquiries require careful consideration and they will be submitted to the Provincial Governments for their views as soon as possible.

Mr. B. Das: May I also inquire whether the Honourable Member's successor will carry on the policy in this matter after his retirement?

The Honourable Sir George Schuster: Will my Honourable friend tell me what that policy is?

Mr. B. Das: May I inquire whether the successor of my Honourable friend will carry on the economic planning policy of the present Chancellor of the Exchequer?

The Honourable Sir George Schuster: I again ask the Honourable Member to state what that policy is.

Mr. B. Das: Is it not a fact that the Honourable the Finance Member who, at the fag end of his career in this House, has brought about a planned economy for India whereby he thinks that the millenium will be restored and prosperity

Mr. President (The Honourable Sir Shanmukham Chetty): The question does not arise now.

PAY OF THE ASSISTANT CONTROLLERS ON THE NORTH WESTERN RAILWAY.

648. ***Mr. Lalchand Navalrai:** (a) Will Government be pleased to state what pay the Assistant Controllers of the North Western Railway were drawing at the time when they were lately re-confirmed?

(b) Is it a fact that their scale of pay was cut down immediately on their re-confirmation?

(c) Are Government aware that their reconfirmation was ordered after the Railway Board advised the Agent, North Western Railway to do so?

(d) What justification was there for readjusting their salaries and how much loss do they suffer in their salaries and allowances by the introduction of the new scale?

(e) Do Government propose to ask the North Western Railway Agent to reconsider the position and allow them to draw the salary they were drawing at the time of their first confirmation? If not, why not?

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

Mr. Lalchand Navalrai: Will it take time to get that information?

Mr. P. R. Rau: I cannot say.

RENT-FREE QUARTERS, ETC., FOR CERTAIN ASSISTANT CONTROLLERS ON THE NORTH WESTERN RAILWAY.

649. ***Mr. Lalchand Navalrai:** Is it a fact that some of the Assistant Controllers on the North Western Railway who were recruited or transferred prior to the 1st August, 1928, were entitled to the concession of

rent-free quarters or house allowance if the posts to which they were so transferred carried the concession of rent-free quarters, according to the North Western Railway Agent's letter No. 540-E./O., dated the 2nd/3rd October, 1928? If so, is that rule being strictly followed? If not, why not?

Mr. P. R. Rau: The Agent, North Western Railway, reports that those members of the staff who were in service on the 1st August, 1928, and who at any time in the course of their previous service held a post which carried the privilege of rent-free quarters or house allowance in lieu of free quarters either in a substantive or officiating capacity, will continue to enjoy this privilege if in course of their subsequent service on and from the 1st August, 1928, they are transferred or promoted to posts which carried the same concession prior to the 1st August, 1928, and that this ruling is applicable to Assistant Controllers as well as to other staff.

He is unaware of any cases where these rules are not being acted upon as regards Assistant Controllers.

Mr. Lalchand Navalrai: Is it a fact that some Controllers are not being given the quarters rent-free, even though the rule applies to them?

Mr. P. R. Rau: I had better read the last sentence of my reply again: He (the Agent) is unaware of any cases where these rules are not being acted upon as regards Assistant Controllers.

Mr. Lalchand Navalrai: Have no applications been made making a protest?

Mr. P. R. Rau: Apparently not.

ABSENCE OF WAITING ROOMS AT THE RAJGHAT RAILWAY STATION.

650. ***Diwan Bahadur Harbilas Sarda:** (a) Are Government aware that Rajghat Station on the East Indian Railway situated on Aligarh-Bareilly Branch Line (between Aligarh and Chandausi) has no waiting room for first and second class and inter class passengers?

(b) Are Government aware that the Rajghat Railway Station is important inasmuch as thousands of people from surrounding districts visit Rajghat at least twice a month to bathe in the holy waters of the Ganges?

(c) Are Government aware that upper class passengers are put to inconvenience owing to the absence of a waiting room on the Rajghat Station in the Bulandshahr district?

(d) Are Government aware that a bathing fair takes place at Rajghat every year on the Kartik Puranmashi when a large number of people assemble there?

(e) Do Government propose to ask the East Indian Railway authorities to provide waiting rooms for first, second and inter class passengers at Rajghat station?

Mr. P. R. Rau: I would refer the Honourable Member to the information laid on the table of the House, on the 13th February, 1934, in reply to question No. 1088 asked by Rai Bahadur Kunwar Raghbir Singh on the same subject.

RADIO LICENSES IN INDIA.

651. *Kunwar Hajee Ismail Ali Khan: (a) What was the total number of radio licenses in India on 31st December, 1933?

(b) What is the income from customs duty on radio goods?

(c) What is the total net expenditure on broadcasting (i) at Calcutta station (ii) at Bombay station?

(d) For what purpose is the surplus income from customs duty on radio and licence fees used?

(e) What has been the surplus income from the two sources mentioned in part (d) during the last three years?

(f) What measures are Government adopting to catch and punish radio pirates who pay no licensing fees?

The Honourable Sir Frank Noyce: (a) Approximately 10,950.

(b) In 1932-33, the total income from customs duties was Rs. 2,44,000. The budget estimate for 1933-34, is Rs. 2,25,000.

(c) In 1932-33, the net expenditure was:

	Rs.
Calcutta Station	. . . 1,03,903
Bombay Station	. . . 1,10,555
Total	. 2,14,458

(d) The total receipts from these sources are credited to general revenues and the amounts due to "Broadcasting" are allotted to that head. Any unforeseen surplus is retained to the credit of General Revenues.

(e) During 1930-31 and 1931-32, the Service ran at a loss of Rs. 1,65,710 and a loss of Rs. 1,09,506 respectively, but during 1932-33, there was a profit of Rs. 80,649. The accounts for 1933-34, will not be available for some time, but it is expected that there will be a profit.

(f) In pursuance of rules made under the Indian Wireless Telegraphy Act, 1933, Inspectors are being appointed in certain areas whose duties will comprise the detection and prosecution of wireless pirates.

Mr. Amar Nath Dutt: Have Government appointed any Inspectors under the Indian Wireless Telegraphy Rules, 1933, to check the unlicensed possession of wireless instruments in Calcutta?

The Honourable Sir Frank Noyce: I should like to have notice of that question. All I can say is that inspectors are being appointed. Whether the appointments have actually been made or not yet, I cannot say.

Mr. M. Maswood Ahmad: Would it not be better to collect these license fees through the sellers of these instruments?

The Honourable Sir Frank Noyce: License fees are collected through the Posts and Telegraphs Department. Licenses can be obtained and are being obtained from that Department.

Dr. Ziauddin Ahmad: What was the answer to part (c) of the question?

The Honourable Sir Frank Noyce: The answer to part (c) of the question was:

In 1932-33, the net expenditure was :

	Rs.
Calcutta Station	1,03,903
Bombay Station	1,10,555
Total	2,14,458

Mr. M. Maswood Ahmad: Will Government be pleased to state whether they collect these license fees through the purchasers of these instruments or through the sellers of these instruments?

The Honourable Sir Frank Noyce: The purchaser of a wireless set has to obtain a license for it which he can do from the Posts and Telegraphs Department. The dealer in wireless apparatus also has to have a license for selling. I would refer the Honourable Member to the provisions of the Act which was recently passed.

Mr. Lalchand Navalrai: Are there any rules made with regard to the granting of licenses?

The Honourable Sir Frank Noyce: Rules have been made. I would refer the Honourable Member to the Indian Wireless Telegraphy Rules, 1933.

Mr. Lalchand Navalrai: Are no rules made for the license fee charges to be obtained from the licensee or those who sell the instruments?

The Honourable Sir Frank Noyce: I shall be glad to place a copy of the Rules in the Library of the House and they will give my Honourable friend all the information he wants.

Kunwar Hajee Ismail Ali Khan: May I know if the Inspectors are appointed in Calcutta only or all over India?

The Honourable Sir Frank Noyce: They are being appointed in the areas for which they seem to be specially required. To the best of my recollection, Calcutta and Bombay have been selected as the venue for their operations in the first instance.

Mr. Amar Nath Dutt: May I know whether in the case of the Inspectors who have been already appointed, their posts were advertised in some of the papers, and whether the posts to which men will in future be appointed will be advertised in the papers?

The Honourable Sir Frank Noyce: I am afraid I must ask for notice of that question.

Sir Darcy Lindsay: Have Government considered the possibility of securing the assistance of, and of entering into arrangements with, the dealers in the matter of the issue of licenses?

The Honourable Sir Frank Noyce: I think so, Sir. The whole idea of the new Act and Rules was to ensure their assistance in these matters.

Mr. Gaya Prasad Singh: Do I understand that these broadcasting stations are now paying their own way after the Act which we passed last time?

The Honourable Sir Frank Noyce: Always provided that the income from customs duties is included. If it is not included, they do not pay their way.

Mr. Amar Nath Dutt: May I know the scales of pay of these Inspectors and the method of their recruitment?

The Honourable Sir Frank Noyce: I must ask for notice of that question. I am afraid I do not know all the details about the appointments of these Inspectors.

Mr. K. P. Thampan: May I know if there is any proposal to improve broadcasting in Madras?

The Honourable Sir Frank Noyce: We are in communication with the Government of Madras. I do not know what proposals they themselves have to make on the point.

ERECTION OF A BROADCASTING STATION IN NORTHERN INDIA.

652. ***Kunwar Hajee Ismail Ali Khan:** (a) When are Government going to take up broadcasting in the same serious spirit as the rest of the civilised nations of the world?

(b) Why is Delhi, the capital of India, without a broadcasting station when every other capital in the world has at least one?

(c) Are Government aware that for more than six months in the year most of the listeners are without any instruction or entertainments on account of the bad reception during that period?

(d) Have Government any intention to establish a broadcasting station in Northern India to meet the popular demand of the public?

(e) Is it a fact that Government received an offer from B.B.C. of a free transmitter for village broadcasting in this country?

(f) If the answer to part (e) be in the affirmative, do Government propose to take up village broadcasting in the near future?

(g) If there is no likelihood of a new broadcasting station being erected in Northern India in the near future, are Government prepared to increase the power of the present existing station by at least twice?

The Honourable Sir Frank Noyce: (a) The question of extending the broadcasting service to various parts of India has been engaging the attention of the Government of India for some time and they are in correspondence with certain Local Governments on the subject.

(b) Hitherto financial considerations have not permitted of the construction and operation of a broadcasting station in Delhi. The details of the installation are, however, now under consideration, and I hope the work of construction will be begun during the current year.

(c) Government are aware that long-distance reception in India suffers from considerable interference during certain portions of the year.

(d) The matter is under consideration, *vide* my reply to part (b) above.

(e) The Government of India have received no such offer.

(f) Does not arise.

(g) Government do not propose to increase the power of the existing broadcasting stations at Calcutta and Bombay. It is probable that reception in parts of India remote from Calcutta and Bombay will be improved by the provision of local broadcasting stations at certain selected places in other provinces, such as Delhi.

Mr. Lalchand Navalrai: May I know if there is any correspondence going on with regard to my place, Karachi, and whether there is any likelihood of there being a broadcasting station in Karachi?

The Honourable Sir Frank Noyce: No, Sir. We have received no proposals or suggestions on that point.

Mr. Lalchand Navalrai: Do Government contemplate having it at Karachi?

The Honourable Sir Frank Noyce: Not at the moment, Sir.

Mr. B. Das: May I inquire if facilities will be given by Government to Honourable Members seeking election to utilise broadcasting at the next elections which are coming shortly?

The Honourable Sir Frank Noyce: No, Sir.

Mr. B. Das: Is it not the practice in England that candidates for election resort to broadcasting to a large extent and are afforded facilities?

The Honourable Sir Frank Noyce: Emphatically no, Sir.

Kunwar Hajee Ismail Ali Khan: May I know if it is not an injustice that persons, living far away from Bombay or Calcutta who cannot thus enjoy the full programme, should be charged the full fee by the Government?

The Honourable Sir Frank Noyce: In the first place, the fee is very small, and, in the second place, the Honourable Member might, I think, realise that the installation of broadcasting in Delhi will improve his position in this respect; at least I hope so.

LEAVE FACILITIES TO CLERKS IN THE RAILWAY AUDIT DEPARTMENT TO PREPARE FOR THE RAILWAY SUBORDINATE AUDIT SERVICE EXAMINATION.

653. ***Mr. M. Maswood Ahmad:** Will Government be pleased to state whether in the Railway Audit Department, they give or propose to give leave facilities to clerks of that Department, if they so desire, to prepare for the Railway Subordinate Audit Service Examination? If not, why not?

The Honourable Sir George Schuster: The rules do not provide for leave to be granted to clerks preparing for the Railway Subordinate Audit Service Examination. Whenever ordinary leave is due, leave facilities are given if the exigencies of the public service permit.

Mr. M. Maswood Ahmad: Are Government aware that although some amount of ordinary leave may be due, still the candidates find a lot of difficulty in getting that leave for preparing for the examination?

The Honourable Sir George Schuster: I have no personal information on the subject.

Mr. M. Maswood Ahmad: Will Government be pleased to inquire into this matter from the Clearing Account Office of the Railways?

The Honourable Sir George Schuster: Yes, I will make inquiries.

TENDERS FOR TREASURY CONTRACTS FOR THE BOMBAY AND POONA POST OFFICES.

654. *Mr. M. Maswood Ahmad: (a) Will Government be pleased to state whether it is a fact that tenders for Post Office Treasury contracts for Bombay and Poona Post Offices for a term of five years commencing from 1st April, 1935, were called for by the Postal authority, Bombay, nearly 15 months before the date on which the contract was to begin?

(b) Is it a fact that ordinarily such tenders are called for at the most six months before the date on which the contract is supposed to run?

(c) Is it a fact that the old contractor made an application to the Postal authority, Bombay, to settle the question of the treasury contract before the Postmaster General's departure as Chairman of the Postal Retrenchment Committee to Delhi on the 28th February, 1934?

(d) Is it also a fact that the Postal authority, Bombay, made a recommendation that the old contractor be given the contract on the old terms, or tenders be called for before his departure?

(e) Is it a fact that tenders were called for and opened by the Postal authority himself on the 27th February, 1934, and no other officer of the Department was allowed to be present?

(f) Is it a fact that on the day following the opening of the tenders the information regarding the amount of tenders leaked out, and that the lowest tenderer brought this fact to the notice of the Postmaster General in writing?

(g) Are Government aware that the lowest tenderer, Mr. B. N. Poojani, lodged a complaint to the effect that the present contractor through his agent approached him to withdraw his tender in return of a substantial amount as compensation?

(h) If the answer to part (g) be in the affirmative, will Government kindly state (i) how the information about the tenders leaked out and (ii) how the present contractor came to know of the name of the lowest bidder?

(i) Do Government propose to institute an enquiry into the allegations made by Mr. B. N. Poojani and call for fresh tenders? If not, why not?

The Honourable Sir Frank Noyce: (a) The fact is substantially as stated.

(b) No. A notice calling for tenders is ordinarily issued not less than a full year before the expiry of the current contract. The head of a circle has, however, discretion to reduce this period if the circumstances of the contract appear to him to warrant his doing so. In special cases, a notice of tender can be issued more than a year in advance of its expiry with the previous approval of the Director-General. This was done in the present case.

(c) and (d). No.

(e) The tenders were opened by the Postmaster-General, Bombay, on the 27th February, 1934, in the presence of an Assistant Postmaster-General and two of the tenderers.

(f) No.

(g) Yes, a complaint was received by the Postmaster-General on the 20th March, 1934.

(h) On an enquiry made by the Postmaster-General, Bombay, the allegation was found to be baseless.

(i) Does not arise in view of the reply to part (h).

Mr. M. Maswood Ahmad: May I know, Sir, how many Assistant Postmasters-General are in Bombay?

The Honourable Sir Frank Noyce: My Honourable friend, the Financial Adviser to the Posts and Telegraphs Department, tells me that there are about six.

Mr. M. Maswood Ahmad: Will the Honourable Member be pleased to state in whose presence the tender was opened in the office of the Postmaster-General?

The Honourable Sir Frank Noyce: I only know that it was opened in the presence of an Assistant Postmaster-General and two of the tenderers. I cannot tell the Honourable Member off-hand who the Assistant Postmaster-General was.

Mr. M. Maswood Ahmad: The question in part (e) runs:

"Is it a fact that tenders were called for and opened by the Postal authority himself on the 27th February, 1934, and no other officer of the Department was allowed to be present?"

My Honourable friend has replied that one Assistant Postmaster-General was present. May I know the name of the Assistant Postmaster-General who was present at the time of the opening of the tender in the office?

The Honourable Sir Frank Noyce: I shall be glad to give my Honourable friend the name of the Assistant Postmaster-General. I have not got it here, but I shall be very glad to place the information in due course on the table of the House.

Mr. M. Maswood Ahmad: Is it a fact that Mr. B. N. Poojani lodged a complaint that some entries in the tender were shown to other contractors?

The Honourable Sir Frank Noyce: I have replied that a complaint was received by the Postmaster-General on the 20th March, 1934. I may explain to the House that I have gone into the facts of the case and that the procedure adopted appears to be perfectly regular.

Mr. M. Maswood Ahmad: The question in part (g) was very clear. It ran:

"Are Government aware that the lowest tenderer, Mr. B. N. Poojani, lodged a complaint to the effect that the present contractor through his agent approached him to withdraw his tender in return of a substantial amount as compensation?"

I want to know what action was taken on this complaint?

The Honourable Sir Frank Noyce: The Honourable Member says that the question in part (g) was perfectly clear and I venture to think that my reply to it was also equally clear. My reply was that a complaint was received by the Postmaster-General on the 20th March, 1934—obviously from Mr. Poojani himself—and that the Postmaster-General made inquiries into that complaint and found that the allegations contained in it were baseless.

Mr. M. Maswood Ahmad: May I know what were the special reasons that this time the tenders were called for 15 months earlier?

The Honourable Sir Frank Noyce: I am afraid I must ask for notice of that question. As I said, it was done with the approval of the Director-General, who, I have no doubt whatever, satisfied himself that the circumstances warranted it.

Dr. Ziauddin Ahmad: May I understand that no compensation was paid to any person who offered a tender as is implied in these questions?

The Honourable Sir Frank Noyce: I am sorry I do not follow my Honourable friend's question. No question of compensation arose.

FUNCTIONS AND STATUS OF THE REFORMS OFFICE.

655. ***Mr. K. P. Thampan:** (a) What are the functions of the Reforms Office and what is its status?

(b) Is it a department of the Government of India or an attached office? If the former, who is the Honourable Member in charge? If the latter, to which department is it attached?

(c) Is it a fact that Sir James Dunnett, the Reforms Commissioner, has been on deputation to the said office? If so, for how long and what is the work on which he is employed and when is he expected back?

The Honourable Sir Brojendra Mitter: (a) and (b). The function of the Reforms Office is to deal with matters relating to constitutional Reform. It has the status of a regular Department of the Government of India, and discharges its duties under His Excellency the Viceroy. The Head of the Office is the Reforms Commissioner with the status of a Secretary to Government.

(c) Sir James Dunnett, was in charge of the Reforms Office from its creation in May, 1930 till May, 1932. He has since been employed on constitutional work in the India Office. No decision has been taken regarding the date of his return.

Mr. K. P. Thampan: May I know how long this Department is likely to be retained?

The Honourable Sir Brojendra Mitter: I cannot give a definite reply, but I suppose it will be kept till the constitutional reforms are ready.

Mr. K. C. Neogy: With reference to part (b), may I know whether His Excellency the Viceroy is technically the Member in charge of this Department?

The Honourable Sir Brojendra Mitter: Yes, Sir. That is the effect of my answer.

Mr. K. C. Neogy: With reference to part (c), may I know the kind of constitutional work on which Sir James Dunnnett is at present engaged?

The Honourable Sir Brojendra Mitter: He is in the India Office, and, as Honourable Members are aware, the Joint Select Committee is still functioning and various questions of detail crop up. Sir James Dunnnett is employed in working out those details in the India Office and in assisting the Secretary of State.

Mr. K. C. Neogy: Is he supposed to be working as the accredited representative and interpreter of the Government of India?

The Honourable Sir Brojendra Mitter: No, Sir. When any question arises, it is cabled to us in India and the Government of India consider the various aspects of it. Sir James Dunnnett has been working on several Sub-Committees which have been appointed to consider various points which have arisen in the course of the Joint Select Committee's deliberations, but he is not the accredited agent of the Government of India in his work there.

Mr. K. C. Neogy: Do I take it that his services have practically been placed at the disposal of the India Office?

The Honourable Sir Brojendra Mitter: That is so.

Mr. K. C. Neogy: Does he continue to draw his salary from the Indian Exchequer?

The Honourable Sir Brojendra Mitter: It must be from the Indian Exchequer, but who pays him and from what fund, I do not know.

Mr. K. C. Neogy: Is it my Honourable friend, Sir George Schuster, who has to find the money or is it the India Office?

The Honourable Sir Brojendra Mitter: I should suppose Sir George Schuster will have to find money eventually.

WHOLE-TIME STENOGRAPHERS FOR THE UNDER SECRETARY AND THE ASSISTANT SECRETARY IN THE INDUSTRIES AND LABOUR DEPARTMENT.

656. ***Mr. K. P. Thampan:** (a) Will Government be pleased to state the designation of officers in the different departments of the Government of India to whom stenographers are attached for their exclusive use?

(b) Is it a fact that in the Department of Industries and Labour junior officers like Under-Secretary and Assistant Secretary have been provided with whole time Secretariat stenographers?

(c) Is there any other department in which an Under-Secretary or an Assistant Secretary has got a stenographer for his exclusive use? If not, why has it been necessary in the case of the Under-Secretary and Assistant Secretary in the Industries and Labour Department?

(d) Is it a fact that all the stenographers in the Secretariat are officially known as personal assistants to the officers to whom they are attached? If so, why?

The Honourable Sir Harry Haig: (a) I lay a statement on the table.

(b) Yes.

(c) The answer to the first part is in the affirmative in so far as it relates to stenographers for Under-Secretaries. No other Department except the Industries and Labour Department (Industries Branch) has a stenographer for the exclusive use of an Assistant Secretary. A stenographer has been considered necessary for this officer, because he is in charge of two regular branches, submits cases direct to the Joint Secretary, and requires a stenographer to economise his time.

(d) No.

Statement showing the designation of officers in the various Departments of the Government of India to whom stenographers are attached for their exclusive use.

Department.	Designation of officers.
Home Department	Home Member, Secretary, Joint Secretary, Deputy Secretary.
Foreign and Political Department	Political Secretary, Foreign Secretary, Joint Secretary, Additional Deputy Secretary.
Finance Department	Finance Member, Secretary, Additional Secretary, Deputy Secretary, Budget Officer, Under Secretary.
Legislative Department	Law Member.
Army Department	His Excellency the Commander-in-Chief, Secretary, Deputy Secretary.
Department of Education, Health and Lands.	Member-in-Charge of the Department, Secretary, Joint Secretary, Educational Commissioner with the Government of India, Deputy Secretary, Additional Deputy Secretary.
Department of Industries and Labour.	Member in charge of the Department, Secretary, Joint Secretary, Deputy Secretary, Under Secretary, Assistant Secretary (Industries Branch).
Department of Commerce.	Member for Commerce and Railways, Secretary Joint Secretary, Deputy Secretary.
Military Finance Department	Financial Adviser, Military Finance.
Legislative Assembly Department	President of the Legislative Assembly, Secretary
Imperial Council of Agricultural Research Department.	Vice-Chairman, Agricultural Expert, Animal Husbandry Expert, Secretary. (The status of the Secretary is that of an Assistant Secretary of a Department of the Government of India).
Reforms Office	Reforms Commissioner and Deputy Secretary.
Railway Department* (Railway Board).	(1) Chief Commissioner of Railways, (2) Financial Commissioner of Railways, (3) Member, Railway Board, (4) Controller of Central Standardisation, (5) Director of Traffic, (6) Director of Civil Engineering, (7) Director of Finance, (8) Director of Establishment, (9) Secretary, (10) Deputy Director, Traffic (Commercial), (11) Deputy Director, Traffic (Transportation), (12) Deputy Director, Establishment, (13) Deputy Director, Finance, (14) Deputy Director, Mechanical Engineering.

* The status of officers mentioned at Nos. (1) to (3), (4) to (9) and (10) to (14) corresponds respectively to that of a Secretary, Deputy Secretary and Under Secretary in a Department of the Government of India.

Mr. B. Das: May I inquire if some of the stenographers are lady clerks or is it only the privilege of the Army Secretary's Department to have lady stenographers?

The Honourable Sir Harry Haig: I am afraid I am not in a position to answer for all the Departments of the Government of India.

UNSTARRED QUESTIONS AND ANSWERS.

PROMOTION OF ROUTINE CLERKS OF THE RAILWAY CLEARING ACCOUNTS OFFICE.

310. Mr. S. C. Mitra: (a) Is it a fact that all the routine clerks of the compilation branch, in the office of the Chief Accounts Officer, North Western Railway, Lahore, have been promoted to the grade of clerks class III?

(b) Is it a fact that the majority of the routine clerks of the Railway Clearing Accounts Office have rendered more than seven years efficient and approved service and are still awaiting promotion to the grade of clerks class III?

(c) Are Government aware that the general order of the Controller of Railway Accounts applies only to the routine clerks of the Chief Accounts Officer, North Western Railway, Lahore, and not to the routine clerks of the Railway Clearing Accounts Office? If so, why?

(d) Is it a fact that the present Controller of Railway Accounts was the Director of the Railway Clearing Accounts Office when the rules for promotions of the routine clerks were framed?

(e) Is it a fact that twice memorials were submitted by the routine clerks of the Railway Clearing Accounts Office, setting forth their real grievances, and that both times the Controller of Railway Accounts rejected all the memorials and did not at all forward them to the Financial Commissioner, Railways, to whom the memorials were addressed?

(f) Is it a fact that the Controller of Railway Accounts rejected the memorials of the routine clerks of the above office?

(g) Do Government propose to look especially into the case of the suffering routine clerks of the Railway Clearing Accounts Office, Delhi, and to order their promotion to the grade of the clerks class III as soon as the waiting list of class C men is exhausted?

Mr. P. R. Rau: (a) No.

(b) 40 out of 76 punchers and dak distributors have rendered more than seven years' service. Four of them are at present officiating as clerk Class III. It cannot be said that the remainder are all fit for promotion.

(c) It is not clear to what general orders of the Controller of Railway Accounts my Honourable friend is referring. If the reference is to certain promotions made in the compilation branch of the Chief Accounts Officer, North Western Railway, I may state for information that certain men transferred to the accounts office from the agency along with the work were given the promotions admissible under the rules applicable to them.

(d) Yes.

(e) and (f). I would refer my Honourable friend to the reply I gave on the 3rd April, 1934, to part (a) of question No. 283 asked by Mr. S. G. Jog. The memorials were disposed of finally by the Controller of Railway Accounts.

(g) The rules already provide for promotion of deserving routine clerks to higher clerical grades and I have no doubt the cases of deserving men will receive attention.

DELAY IN THE DELIVERY OF A BAG CONTAINING AIR MAIL LETTERS AT THE AERODROME IN DELHI.

311. **Mr. Badri Lal Rastogi:** (a) Is it a fact that a bag containing air mail letters was handed over by the Postmaster, Delhi, to certain Town Inspectors on the 29th October, 1933, for delivery to the officer in charge of the aerodrome, and that this bag was not included with the air mail despatched on that date thus causing its detention by one week? If so, who was responsible for this and how did it happen?

(b) If so, what action, if any, has been taken against the officials concerned?

(c) Has the matter been brought to the notice of the Postmaster General, Lahore?

The Honourable Sir Frank Noyce: (a) 14 air mail letters (not a bag), which were handed over to a Town Inspector of the Delhi Head Office to be conveyed to the New Delhi post office and handed over to the Inspector there for despatch by air mail, were not handed over owing to the carelessness of an Inspector of the Delhi Head Office. The letters were later despatched by train to Calcutta for onward transmission to destinations by the next available means of mail communication.

(b) The officials concerned have been warned.

(c) No; but a copy of the question and of this reply is being sent to the Postmaster-General.

BONUS ON POSTAL INSURANCE POLICIES.

312. **Mr. Badri Lal Rastogi:** When do Government propose to declare the bonus on Postal Insurance Policies for the quinquennium 1927—1932? What is the cause of so much delay?

The Honourable Sir Frank Noyce: The bonus on Postal Insurance Policies for the quinquennium 1927—32 will be declared shortly. The bonus is declared after the quinquennial valuation of the Fund. The Government Actuary on whom devolves the preparation of the quinquennial valuation report and who is also charged with the supervision of insurance companies in India has at his disposal a comparatively small staff. The preparation of the valuation report of the Post Office Insurance Fund is a very heavy item of work and with the small staff at the disposal of the Actuary it must inevitably take a considerable time for its completion.

**COMMUNAL COMPOSITION OF CLERKS OF THE CHIEF AUDITOR'S OFFICE,
RAILWAY CLEARING ACCOUNTS, DELHI.**

313. **Mr. M. Maswood Ahmad:** Will Government be pleased to state the communal composition of the clerks of the Chief Auditor's Office, Railway Clearing Accounts, Delhi, as it stood on the 1st May, 1929, and 1st April, 1930, 1931, 1932, 1933 and 1934?

The Honourable Sir George Schuster: With your permission, Sir, I will deal with questions Nos. 313 to 317 together.

I would refer the Honourable Member to the reply given on the 24th of February, 1934, to Mr. Muhammad Anwar-ul-Azim's unstarred question No. 84.

**COMMUNAL COMPOSITION OF CLERKS AND AUDITORS IN THE OFFICE OF THE
DIRECTOR OF RAILWAY AUDIT.**

†314. **Mr. M. Maswood Ahmad:** Will Government be pleased to state the communal composition of the clerks and auditors (junior and senior) of the Director of Railway Audit, New Delhi, as it stood on the 1st April, 1928, 1929, 1930, 1931, 1932, 1933 and 1934?

**COMMUNAL COMPOSITION OF THE ESTABLISHMENT OF THE AUDITOR
GENERAL'S OFFICE.**

†315. **Mr. M. Maswood Ahmad:** Will Government be pleased to state the communal composition of the establishment of the Office of the Auditor General in India, with monthly salary in each case, as it stood on the 1st April, 1928, 1929, 1930, 1931, 1932, 1933 and 1934?

**COMMUNAL COMPOSITION OF AUDITORS IN THE RAILWAY AUDIT
DEPARTMENT.**

†316. **Mr. M. Maswood Ahmad:** Will Government be pleased to state the communal composition, as well as the total number, of auditors (junior and senior) employed by the Railway Audit Department under the control of the Director of Railway Audit, New Delhi?

**COMMUNAL COMPOSITION OF AUDITORS IN THE RAILWAY AUDIT
DEPARTMENT.**

†317. **Mr. M. Maswood Ahmad:** Will Government be pleased to state the communal composition of the auditors (clerks of the Railway Audit Department who have passed the Part II Examination of the Railway Subordinate Audit Service) on the waiting list?

TRANSFERS OF TELEGRAPHISTS AND TELEGRAPH MASTERS.

318. **Mr. M. Maswood Ahmad:** (a) Is it a fact that the term "the interest of service" when used in relation to a transfer is intended to distinguish it from a transfer ordered at an official's own request or in consequence of his misconduct?

(b) Is it a fact that a transfer roster is maintained in all Departmental Telegraph Offices to regulate transfers of Telegraphists and Telegraph Masters according to the length of stay of each official in that particular telegraph office?

† For answer to this question, see answer to question No. 313.

(a) Is it also a fact that when ordering transfers, in the interest of service, the heads of the circle are not permitted to depart from the procedure laid down in rule 65 of the Post and Telegraph Manual, Volume IV?

The Honourable Sir Frank Noyce: (a) Yes.

(b) Yes.

(c) No. The Honourable Member is referred to rule 64 of the Manual mentioned by him.

RETENTION OF THE INVESTIGATING INSPECTOR OF THE PUNJAB CIRCLE OFFICE FOR MORE THAN FIVE YEARS.

319. **Mr. M. Maswood Ahmad:** (a) Is it a fact that according to the rules of the Department and the longstanding practice in vogue in the Punjab Postal Circle, the Inspectors of Post Offices, etc., are not allowed to stay at a locality for more than three years and are liable to transfer at the expiry of that period?

(b) Is it a fact that investigating Inspector of the Punjab Circle office is being retained for more than five years? If so, will Government please state why the official is allowed to exceed the limit?

The Honourable Sir Frank Noyce: (a) According to the Departmental rules certain classes of officers, viz., Superintendents of Post Offices and of the Railway Mail Service, Inspectors of Post Offices, and of the Railway Mail Service and Head Clerks to Superintendents of Post Offices are liable to be transferred after holding the same post for three years, and Investigating Inspectors in Circle offices after holding the same post for five years. But on account of the existing financial stringency, these rules have temporarily been held in suspense and transfers are being made only in the cases in which they are considered by the Head of the Circle to be specially desirable.

(b) Government have no information. The Honourable Member will, however, see from the reply to part (a) above, that the limit may be exceeded at the discretion of the Head of the Circle.

LOSS OF AN INSURED PARCEL IN THE LAHORE GENERAL POST OFFICE.

320. **Mr. M. Maswood Ahmad:** (a) Is it a fact that an insured parcel worth Rs. 1,400 was lost while in the custody of a Sikh clerk of Lahore General Post Office in September, 1933?

(b) Is it a fact that three Muslim officials of Lahore General Post Office were handed over to the police as suspects in the above case?

(c) Is it a fact that the above-mentioned Sikh official from whose custody and through whose negligence the loss occurred and who was the sole responsible custodian of the insured article in question was not handed over to the police? If so, will Government please state why no police or departmental enquiries were made against the official who was directly concerned and responsible for the loss?

The Honourable Sir Frank Noyce: I shall deal with both the questions together as they relate to the same incident.

The facts of the case are that a parcel insured for Rs. 1,400 was received in the Lahore General Post Office on the 1st August, 1933, and

was made over under receipt to the Parcel Delivery clerk who was a Sikh official. During his temporary absence on some other work, the parcel disappeared, the clerk having carelessly left it in an open shelf instead of locking it up securely. The loss was immediately reported to the Deputy Postmaster and to the Police and both departmental as well as Police enquiries were started.

During the course of investigation the police made enquiries from three Muslim officials, namely, Mohamed Shafi, clerk, Mohamed Hussain, clerk, and Ghulam Mohamed, packer. Neither of the clerks was arrested or detained by the police and they were not absent from duty. Ghulam Mohamed, the packer, however, was arrested on the 9th August, 1933, and was discharged from police custody on the 23rd August, 1933. The police finally reported the case as untraced. As Ghulam Mohamed was detained by the police for purposes of investigation no question of compensation arises.

As the result of departmental enquiries the amount of loss suffered by the department was ordered to be recovered from the Sikh official owing to whose negligence the article was lost.

LOSS OF AN INSURED PARCEL IN THE LAHORE GENERAL POST OFFICE.

†321. **Mr. M. Maswood Ahmad:** (a) Is it a fact that a loss of an insured article worth Rs. 1,400 occurred in the Lahore General Post Office in which certain Muslim officials were handed over to the police?

(b) Will Government please state the names and the period for which these officials remained in the police custody and the period of their absence from duty?

(c) Is it a fact that all of them were acquitted by the police? If so, will Government please state how they propose to compensate them for the unnecessary harassment, mental and physical, and financial worries, both their own and of their families during their detention by the police?

RECRUITMENT OF MUSLIMS IN THE STAFF A BRANCH OF THE PUNJAB POSTAL CIRCLE OFFICE.

322. **Mr. M. Maswood Ahmad:** (a) Is it a fact that in the Staff A branch of the Punjab and N. W. F. Circle office, the entire staff detailed below is non-Muslim?

- (1) Head clerk,
- (2) Assistant Head clerk,
- (3) Clerk dealing with the transfer, leave, etc., of the entire R.M.S. branch of the Punjab postal circle,
- (4) Clerk dealing with the transfer, etc., of the Engineering branch,
- (5) Clerk dealing with the transfer, etc., cases of selection grade officials.
- (6) Clerk dealing with the transfer, etc., cases of Inspectors of post offices,
- (7) Clerk dealing with the entire retrenchment,
- (8) Recruitment clerk,
- (9) Appeal clerk,

† For answer to this question, see answer to question No. 320.

- (10) Circle appointment clerk,
- (11) Assistant Postmaster General incharge,
- (12) Deputy Postmaster General incharge,
- (13) Postmaster General.

(b) If the reply to part (a) be in the affirmative, are Government prepared to consider the desirability of taking immediate steps to replace some of the officers holding the above named appointments by Muslims to safeguard the interests of the minority community?

The Honourable Sir Frank Noyce: (a) Government regret that the information necessary for a complete reply to this question is not readily available, nor do they propose to call for it since the posts in question are not filled on communal considerations.

(b) Government do not propose to take the action suggested since, as explained, in the reply to part (a) of the question, the posts are not filled on communal considerations. The Honourable Member's attention is also invited to the reply given by the Honourable Sir James Crerar to Mr. Muhammad Anwar-ul-Azim's starred question No. 340, in the Legislative Assembly on the 16th September, 1931.

PREPONDERANCE OF NON-MUSLIMS IN CERTAIN APPOINTMENTS IN THE LYALLPUR AND KASHMIR POSTAL DIVISIONS.

323. Mr. M. Maswood Ahmad: Is it a fact that the permanent Superintendent of the Post Office, Lyallpur and Kashmir Divisions, all the inspectors of post offices, selection grade, postmasters and sub-postmasters attached to those divisions are all non-Muslims? If so, do Government propose to remove the preponderance of officers of one community in these divisions?

The Honourable Sir Frank Noyce: Government have no information and do not propose to call for it as the posts in question are on a circle cadre and the postings are not made on communal grounds.

LOWER AND UPPER SELECTION GRADE POSTS HELD BY EACH COMMUNITY IN THE PUNJAB POSTAL CIRCLE BEFORE AND AFTER RETRENCHMENT.

324. Mr. M. Maswood Ahmad: (a) Is it a fact that for purposes of retrenchment in the postal department, Government have laid down that the existing ratio of each community already in service should be strictly maintained?

(b) If so, will Government be pleased to furnish a statement showing the total number of lower and upper selection grade posts held by each community separately, in the Punjab postal circle prior to retrenchment, say on the 1st July 1931 and after retrenchment say, on the 1st November 1933?

The Honourable Sir Frank Noyce: (a) No. The orders of Government are that in making retrenchment the communal ratios existing at the time the retrenchment campaign began should be maintained to the nearest practicable figure.

(b) Information has been called for and a reply will be placed on the table in due course.

GRIEVANCES OF TELEPHONE OPERATORS.

325. Mr. M. Maswood Ahmad: (a) Has the attention of Government been drawn to the letter entitled "Telephone Operators' Grievances" published in the *Amrita Bazar Patrika* of the 11th April, 1933? If so, do Government propose to consider their cases favourably?

(b) Is it a fact that telephone operators appointed on or after the 1st March, 1933, have been denied the pensionable status enjoyed by those who were in substantive and permanent appointments before that date? If so, what are the reasons for the change?

(c) Is it not a fact that the telephone system has extended far and wide within the last few years and that it yields revenue quite sufficient to ensure grant of pensionable status to telephone operators?

(d) Do Government propose to review the case of the telephone operators and make provision for their maintenance after retirement by grant of either pension or gratuity? If not, what is the justification therefor?

The Honourable Sir Frank Noyce: (a) Government have seen the letter. Of the five grievances stated therein, two have already been considered by Government in connection with petitions submitted by the officials concerned, and the remaining three will be examined.

(b), (c) and (d). The attention of the Honourable Member is invited to parts (a), (g), (k), (n) and (o) of the statement laid on the table of the House, on the 8th December, 1933, in reply to starred question No. 966 asked by Mr. S. G. Jog, on the 16th September, 1933.

MUSLIMS RECRUITED IN THE LEH AND GILGIT POSTAL SUB-DIVISIONS IN THE KASHMIR STATE.

326. Mr. M. Maswood Ahmad: Will Government please lay on the table a statement showing:

- (i) the number of postmen and packers, according to communities, who have been confirmed during the last three years in the Leh and Gilgit subdivisions in Kashmir State;
- (ii) the names of such candidates, if any, together with dates of their enlistment, whose fathers and near relatives have been serving the department in Kashmir State for the last 15 years; and
- (iii) the number of posts that have been allotted to Muslims under the third vacancy rule together with the number of candidates who are officiating at present under this system?

The Honourable Sir Frank Noyce: (i) and (iii). Information has been called for and a reply will be placed on the table of the House in due course.

(ii) Government regret that they are unable to furnish the information as its collection would involve an undue expenditure of time and labour.

NON-OBSERVANCE OF THE THIRD VACANCY RULE IN THE RAWALPINDI ENGINEERING DIVISION.

327. Mr. M. Maswood Ahmad: (a) Is it a fact that the third vacancy rule is not being strictly observed in the Rawalpindi Engineering Division?

(b) Is it a fact that a senior Muslim candidate in that Division was discharged in November last, whereas the Hindu candidate much more junior to the Muslim official thus discharged, was allowed to continue?

(c) If the reply to part (b) above be in the affirmative, will Government please state special reasons for this differential treatment and also what action they propose to take against the officials responsible for this disregard of Government's orders regarding recruitment of the members of the minority community?

The Honourable Sir Frank Noyce: (a) to (c). Information has been called for and a reply will be laid on the table of the House, in due course.

ALLEGATIONS AGAINST MR. D'ECA WHEN HE WAS ASSISTANT CONTROLLER IN THE CENTRAL PRINTING OFFICE.

328. **Mr. D. K. Lahiri Chaudhury:** (a) Will Government be pleased to state if it is a fact that Mr. d'Eca used to keep one office cycle at his residence when he was Assistant Controller in the Central Printing Office for the use of his servants for going to bazar, etc.?

(b) Will Government be pleased to state if it is a fact that inconvenience was often felt in the Central Printing Office and Government work suffered due to the absence of cycles in the office?

(c) Will Government be pleased to state if Government officers are allowed to keep office cycles at their residences for the use of their private servants?

The Honourable Sir Frank Noyce: With your permission, Sir, I propose to answer questions Nos. 328, 329, 330 and 332 together. These contain a number of assertions of misconduct on the part of a particular officer, some of the assertions relating to alleged incidents several years ago. Government had no information on any of the points raised, but as two of the assertions were particularly specific and gave dates and details, these have been investigated. The result of the inquiries into the allegations in parts (d) and (e), of question 329, show that they are without foundation. Calls were made by the officer mentioned on the dates given; the number is in one case incorrect. In both cases the officer paid for the calls and the sums were duly credited to Government. In the circumstances, Government do not propose to pursue the other allegations unless the Honourable Member is prepared to produce the evidence on the basis of which he has made himself responsible for the assertions.

ALLEGATIONS AGAINST MR. D'ECA WHEN HE WAS ASSISTANT CONTROLLER IN THE CENTRAL PRINTING OFFICE.

†329. **Mr. D. K. Lahiri Chaudhury:** (a) Will Government be pleased to state if they are aware that Mr. d'Eca has made several private telephone trunk calls at the expense of Government?

(b) Will Government be pleased to state the total amount spent by them on telephone trunk calls between the Camp Office of the Central Printing Office and the Headquarters Office in Delhi during the summer season of 1980 when Mr. d'Eca officiated as Deputy Controller, Printing.

† For answer to this question, see answer to question No. 328.

and Mr. Gregory as Assistant Controller, Printing and Stationery, at the Headquarters Office, and the amounts spent on such trunk calls between these two offices during each of the previous years?

(c) Will Government be pleased to state if they are aware that Mr. J. R. Asari, the late Assistant Controller of Printing and Stationery, had mentioned to some clerks of the Central Printing Office that no necessity had ever arisen in the past for any telephone trunk call between the Camp Office of the Central Printing Office and the Headquarters Office and that the heavy number of calls during the year 1930 was entirely due to Messrs. d'Eca and Gregory, who are relatives, making private calls on each other at Government expense?

(d) Will Government be pleased to state if it is a fact that a private telephone trunk call was made by Mr. d'Eca on the 29th April, 1932, to telephone No. 3820, at Government expense?

(e) Will Government be pleased to state if it is a fact that a private telephone trunk call was made by Mr. d'Eca on the 20th April, 1932, to telephone No. 47 at Government expense?

(f) If the replies to parts (d) and (e) above be in the negative, will Government be pleased to state the name of the officers who made the telephone calls in question, and the nature of Government business?

(g) Will Government be pleased to state if Government officers are allowed to make private telephone trunk calls at Government expense?

(h) If the reply to part (g) be in the negative, will Government be pleased to state what disciplinary action they propose to take against Messrs. d'Eca and Gregory for making private telephone trunk calls at Government expense?

ALLEGATIONS AGAINST MR. D'ECA WHEN HE WAS ASSISTANT CONTROLLER IN THE CENTRAL PRINTING OFFICE.

†330. **Mr. D. K. Lahiri Chaudhuri:** (a) Will Government be pleased to state if they are aware that the Central Printing Office dak bag for the Camp Office in Simla was often utilised by Mr. d'Eca for sending private parcels to Simla?

(b) Are Government aware that on the 6th July, 1931, a parcel of fruits was sent by Mr. d'Eca in the dak bag from the Central Printing Office, Delhi, addressed to Mr. Ram Rakhamal of the Camp Office for delivery to Mrs. d'Eca in Simla?

(c) Are Government aware that on the 16th July, 1931, two packets were sent by Mr. d'Eca in the dak bag from the Central Printing Office, Delhi, addressed to Mr. Ram Rakhamal of the Camp Office for delivery to Mrs. d'Eca in Simla?

(d) Are Government aware that on the 17th July, 1931, two packets, one of which contained two hockey sticks, were sent by Mr. d'Eca in the dak bag from the Central Printing Office, Delhi, addressed to Mr. Ram Rakhamal of the Camp Office for delivery to Mrs. d'Eca in Simla?

(e) Will Government be pleased to state if it is a fact that entries in regard to Mr. d'Eca's sending private packets to Simla in the dak bag have appeared in the Central Printing Office challans?

(f) Will Government be pleased to state if Government officers are allowed to use office dak bags for sending private parcels?

(g) If the reply to part (f) be in the negative, will Government be pleased to state what disciplinary action they propose to take against Mr. d'Eca?

AMOUNT SPENT ON THE OVERHAULING OF THE CENTRAL PRINTING OFFICE VANS.

331. Mr. D. K. Lahiri Chaudhury: (a) Will Government be pleased to state if it is a fact that abnormally heavy amounts have been spent every year in the past on the overhauling of the Central Printing Office vans?

(b) Will Government be pleased to state the amount spent on the repairs of the Central Printing Office vans each year in the past?

(c) Will Government be pleased to state if it is a fact that Mr. Letton, recently pointed out that overhauling the van every year was unnecessary and that since then this practice was stopped?

(d) Will Government be pleased to state the name of the officer who is responsible?

The Honourable Sir Frank Noyce: (a) I must leave the Honourable Member to judge in view of the answer to part (b).

(b) The figures for the last three financial years are:

	Rs. a. p.
1931-32	126 1 0
1932-33	274 0 6
1933-34	209 6 0

(c) and (d). Observations to this effect were made by Mr. Letton in 1931, but the subsequent items of expenditure were regarded as necessary by him.

ALLEGATIONS AGAINST MR. D'ECA WHEN HE WAS ASSISTANT CONTROLLER IN THE CENTRAL PRINTING OFFICE.

†332. **Mr. D. K. Lahiri Chaudhury:** (a) Are Government aware that when Mr. d'Eca was in the Central Printing Office, he used to make use of the office van very frequently for his private work through Messrs. Charan Das and Yamin Khan?

(b) Are Government aware that whenever the van was used by Mr. d'Eca, the press clerk used to be instructed by the former to tell the press that it had gone out of order?

(c) Will Government be pleased to state if it is a fact that the press and the Secretariat Departments often felt great inconvenience, and delay occurred in the delivery of printed copies due to the van being frequently used by Mr. d'Eca?

(d) Will Government be pleased to state if it is a fact that Mr. Carter, Manager, Government of India Press, Delhi, himself complained several times over the telephone when the van was absent from the press for hours together and was being used for Mr. d'Eca's private work?

(e) Will Government be pleased to state if it is a fact that the van was used on several occasions by Mr. d'Eca even for bringing firewood from the city?

(f) Will Government be pleased to state if it is a fact that Mr. d'Eca had permitted the use of the van by the clerks of the Central Printing Office for seeing a cricket match in the Roshanara Gardens in the winter season of 1930, when he was officiating as Deputy Controller, Printing?

(g) Will Government be pleased to state if it is a fact that when Mr. Charan Das was in the Central Printing Office, he used to go in the motor van very frequently to do Mr. d'Eca's private work?

(h) Will Government be pleased to state if it is a fact that the favourable treatment accorded to Mr. Charan Das in the Central Publication Branch is due to his having done Mr. d'Eca's private work in the past?

(i) Will Government be pleased to state if Government officers are allowed to use the office van for their private work and to permit its use for seeing cricket matches?

(j) If the reply to part (i) be in the negative, will Government be pleased to state what disciplinary action they propose to take against Mr. d'Eca?

SUPERSESSION OF TWO INDIAN ASSISTANTS BY AN ANGLO-INDIAN ASSISTANT IN THE CENTRAL PUBLICATION BRANCH.

333. **Mr. D. K. Lahiri Chaudhury:** (a) Will Government be pleased to state if it is a fact that two Indian assistants, *viz.*, Messrs. A. T. Bromo and B. M. Roy, have been superseded by an Anglo-Indian assistant Mr. A. A. Whitley?

(b) Will Government be pleased to state if it is a fact that Messrs. A. T. Bromo and B. M. Roy have been superseded by an Anglo-Indian due to the policy of racial discrimination? Who is responsible for this discrimination?

(c) Will Government be pleased to state if it is a fact that both Messrs. Bromo and Roy have officiated as superintendents after Mr. Whitley was provided with a superintendent's post (officiating)?

(d) If the reply to the above parts be in the affirmative, will Government be pleased to state why Messrs. Bromo and Roy were considered fit to officiate as superintendents after Mr. Whitley was provided with a superintendent's post (officiating) and not before?

The Honourable Sir Frank Noyce: (a) Mr. Whitley was appointed in 1926, in view of the orders received from my Department. These orders specified the qualifications which were necessary and the other two officers mentioned were not qualified.

(b) The answer to the first part is in the negative and the second part does not arise.

(c) I have no information.

(d) Does not arise.

PRINTING OF EXTRAVAGANT FORMS.

334. **Mr. D. K. Lahiri Chaudhury:** Will Government be pleased to state if it is a fact that several cases of extravagant forms of printing have come to the notice of the Joint Secretary, Industries and Labour Department, since Mr. Gregory has been officiating as Assistant Controller, Printing?

The Honourable Sir Frank Noyce: No.

MAINTENANCE OF SANCTION REGISTER OF PRINTING WORK IN THE CENTRAL PRINTING OFFICE.

335. **Mr. D. K. Lahiri Chaudhury:** Will Government be pleased to state if it is a fact that it has come to the notice of the Joint Secretary that the sanction register of printing work in the Central Printing Office was very badly maintained?

The Honourable Sir Frank Noyce: No.

QUALIFICATIONS OF MR. D'ECA, MANAGER OF PUBLICATIONS.

336. **Mr. D. K. Lahiri Chaudhury:** (a) Will Government be pleased to state (i) what qualifications Mr. d'Eca possesses for the post of Manager, Central Publication Branch, and (ii) what qualifications are necessary for the above post?

(b) Will Government be pleased to state the qualifications of each gazetted officer and the qualifications necessary for the respective gazetted appointments, giving reasons in each case?

The Honourable Sir Frank Noyce: (a) The main qualification is administrative ability: Mr. d'Eca was selected on account of his previous work and experience.

(b) I assume that the Honourable Member is referring to technical qualifications. The only gazetted posts for which these are essential are those of Managers of Presses, who must have had a thorough training in printing, and the Store Examiner, who must be a qualified chemist. The necessity arises out of the nature of the duties and the officers holding the posts have the requisite qualifications.

ARTICLE IN THE TELEGRAPH REVIEW UNDER THE CAPTION "THE WORKING HOURS".

337. **Rai Bahadur Lala Brij Kishore:** Has the attention of Government been drawn to the article which appeared on page 436 of the *Telegraph Review* of September 1933 under the caption "The Working Hours"?

The Honourable Sir Frank Noyce: Government have seen the article referred to.

STATEMENTS LAID ON THE TABLE.

The Honourable Sir Joseph Bhore (Member for Commerce and Railways): Sir, I lay on the table the information promised in reply to parts (b) to (e) of starred question No. 34 asked by Mr. Lalchand Navalrai on the 29th January, 1934.

**ALLEGED SECRET AGREEMENT BETWEEN THE BURMA OIL COMPANY AND THE
STANDARD OIL COMPANY.**

*34. (b) It is understood that there is no arrangement between the Burma Oil Company and the Standard Oil Company for supplies of kerosene from the former to the latter.

(c) A statement is attached showing the imports of kerosene oil from foreign countries by sea and coastwise imports from Burma and also the amounts of the Import and Excise duties realised.

(d) As regards the first part, separate statistics relating to the imports of kerosene oil by individual companies from different countries are not maintained but it is understood that the Standard Oil Company import their oil not only from America but also from other countries such as Russia and Java. With regard to the second part, the decrease in the imports of foreign oil has affected the imports from all countries and not only those from the United States of America.

(e) Government believe that the decrease in the imports of kerosene oil from foreign countries is mainly due to the decrease in the total consumption of that commodity in India owing to the general economic depression, and no special enquiry with regard to the decrease in imports from the United States of America appears to be necessary.

Statement showing the imports of kerosene oil by sea from abroad into British India, coastwise exports from Burma into India import duty realised on kerosene and excise duty collected.

Year.	Total imports from abroad into British India.	Coastwise exports from Burma to India.	Import duty on kerosene.	Excise duty on kerosene.
	Gals.	Gals.	Rs.	Rs.
1930-31	98,893,330	113,728,346	1,50,25,318	1,24,72,980
1931-32	85,689,920	120,414,305	1,79,95,637	2,11,17,212
1932-33	59,493,915	126,397,036	1,45,35,466	2,33,28,454
1933-34 (9 months only) .	41,671,740	92,858,217	93,12,000	1,80,59,621

The Honourable Sir Frank Noyce (Member for Industries and Labour):

Sir, I lay on the table:

- (i) the information promised in reply to starred question No. 162 asked by Pandit Satyendra Nath Sen on the 19th February, 1934;
- (ii) the information promised in reply to starred question No. 276 asked by Mr. D. K. Lahiri Chaudhury on the 26th February, 1934;
- (iii) the information promised in reply to starred question No. 435 asked by Mr. Nabakumar Sing Dudhoria on the 10th March, 1934; and
- (iv) the information promised in reply to unstarred question No. 161 asked by Mr. S. C. Mitra on the 10th March, 1934.

CONSTRUCTION OF "B" TYPE QUARTERS ON THE LADY HARDINGE ROAD, NEW DELHI.

*162. The height of the proposed wall will be 8 feet. It will be a continuous wall about 350 feet long.

CONVERSION OF THE NOAKHALI HEAD POST OFFICE INTO A SUB-POST OFFICE.

*276. (a) Noakhali and Cooch Behar head post offices were converted into sub-post offices with effect from the 1st October, 1932 and 1st January 1933 respectively.

(b) Yes, the status was raised again for special reasons.

(c) Rapid erosion of the river at Noakhali required adoption of emergent measures resulting in the conversion of the head post office into a sub post office and its removal to a smaller building located on a safer site. The question of the future status of the Noakhali post office has been held in abeyance pending the decision of the Government of Bengal on the future location of the headquarters of the Noakhali District.

(d) The reply to the first part of the question is in the affirmative. The reply to the second part of the question has been given to the reply to part (c) above.

EARTHQUAKES IN INDIA AND ESTABLISHMENT OF SEISMOLOGICAL STATIONS.

*435. (a) Records for the last 36 years are available.

(b) The compilation of the information would entail time and labour altogether disproportionate to the result and Government do not, therefore, propose to collect it.

(c) No.

(d) Yes.

(e) There are at least six stations, viz., at Calcutta, Agra, Bombay, Kodaikanal, Dehra Dun and Hyderabad.

(f) and (g). Yes.

(h) It is understood the Government of Bihar and Orissa have under consideration the question of establishing a seismological observatory at Patna.

(i) The Government of India have no such intention at present.

(j) Extensive gravity surveys have already been carried out and further surveys will be carried out, if necessary.

(k) and (l). Yes.

(m) Government have no such proposal under consideration at present.

RETIREMENTS IN CERTAIN CADRES OF THE POSTS AND TELEGRAPHS DEPARTMENT.

16L

	(a) Number of voluntary retirements.	(b) Number of compulsory retirements.
(i) In Post Office and Railway Mail Service Branches .	2,435	2,151
(ii) In offices of Postmasters-General (including Dead Letter Offices and the office of the Director, Sind and Baluchistan).	98	84
(iii) In Telegraph Traffic Branch	404	323

The Honourable Sir Harry Haig (Home Member): Sir, I lay on the table the information promised in reply to short notice question asked by Mr. Muhammad Azhar Ali on the 29th March, 1934.

BAKR-ID RIOT AT AJODHYA.

Two old faqirs were murdered in a mosque and a woman killed in another place while 8 other Muhammadans received minor injuries in Ajodhya and the total number of Muhammadan houses burnt there is 18.

At short time before Bakr-Id, it became known that Muhammadans of Shahjehanpur in isolated hamlets between Fyzabad and Ajodhya intended to sacrifice a cow. As there was no official record of such a sacrifice having taken place in Shahjehanpur, the Sub-divisional Officer passed orders under section 107 against both Hindus and Muhammadans. Hindus found sureties while the Muhammadans were committed to prison in default and the sacrifice in Shahjehanpur was prohibited under section 144.

Permission was, however, given to sacrifice on March, 27, in the slaughter house at Jalpanala where slaughter houses were constructed after the 1912 riots for use in Bakr-Id by Mussalmans of Ajodhya.

On March 26, the first and main day of Id passed off peacefully. On the morning of March 27, Muhammadans of Shahjehanpore sacrificed at Jalpanala under police protection, the Deputy Commissioner being present. Soon after the withdrawal of the party from Jalpanala, a crowd of Hindus mostly Bairagis came out of Ajodhya, demolished and set fire to the slaughter houses and went on to Shahjehanpur where they set fires to some isolated huts. Here they were met by the Sub-Divisional Officer and police and were dispersed by the latter in the direction of Ajodhya.

In Ajodhya, other Bairagis were attacking isolated Muhammadan houses on the outskirts. The police and Deputy Collector in charge of Ajodhya pursued them but on each occasion they dispersed as soon as the police approached.

Then a large crowd of Bairagis attacked two small mosques and a large mosque called Babri Mosque close to the temple of Hanuman Garhi, but in an isolated position well away from the main road. It was some time before the Deputy Collector had heard of the attacks on mosques and it was only after a good deal of damage had been done, that he could collect sufficient police to disperse the mob. Police pickets were put out and a company of British infantry marched down to bivouac between Fyzabad and Ajodhya, while curfew orders were issued for both the places.

No further trouble has since been reported.

Mr. G. R. F. Tottenham (Army Secretary): Sir, I lay on the table:

- (i) the information promised in reply to unstarred question No. 77, asked by Sardar Sant Singh, on the 21st February, 1934;
- (ii) the information promised in reply to unstarred questions Nos. 114 and 118, asked by Khan Bahadur Haji Wajihuddin on the 3rd March, 1934; and
- (iii) the information promised in reply to unstarred question No. 180, asked by Mr. S. G. Jog on the 10th March, 1934.

DISABILITY PENSION TO MILITARY EMPLOYEES INVALIDED DURING THE GREAT WAR.

77. (a) It is true that in isolated cases delays of very considerable length have occurred, but there are always special reasons for such delays.

(b) None. Orders were issued on the 15th February, last including the grant of arrears from the original date of application.

(c) The fact that a deceased soldier left old parents and minor children makes no difference to the principle followed by Government which is that every pension claim is to be investigated with the least possible delay.

(d) Does not arise.

BYE-LAWS ABOUT CONSTRUCTION OF BUNGALOWS IN CERTAIN CANTONMENTS.

114. (a) and (c). Government understand that the Officer Commanding-in-Chief, Northern Command, did not direct the Cantonment Authority to frame bye-laws, but directed the consideration by the Cantonment Board of the following proposals :

That the following bye-laws be framed under section 186 (b), of the Cantonments Act, in order to prevent over-crowding in the Cantonments and to ensure that bungalows erected are suitable for the residence of a military officer :

Bye-Law.

(1) No additional building or buildings, shall be allowed to be erected in the following areas unless—

(a) the site is more than two acres in extent and provided the additional building or buildings, are at no place within 150 feet from the existing building or buildings, on the site or on adjacent sites;

(b) the building or buildings, are erected in accordance with standard plans and specifications of types of bungalows suitable for the residence of military officers.

These standard plans and specifications will be prepared by the Military Engineer Services, and will be kept at the Cantonment Board Office for sale to the public after having been approved by the Cantonment Board.

Explanation :—The following shall not be considered to be additional buildings for the purpose of this bye-law :

(a) Minor additions or alterations to existing buildings.

(b) The erection of a garage or stables for not more than two motor cars or two horses, respectively

The Areas referred to—

* * * * *

(2) No second or more storeys shall be allowed to be erected in the following areas :

* * * * *

The bye-laws are published under section 284 of the Cantonments Act, 1924. The proper remedy for any person questioning the validity of a bye-law proposed to be made by a Cantonment authority is to put in an objection during the period of previous publication. Any objections put in will be duly considered by the local Government when the bye-laws come before them for confirmation.

(b) The Cantonment Authority, Rawalpindi have framed such bye-laws. It is understood that the Cantonment Authority, Ambala, have under consideration the question of doing so.

(d) and (k). The bye-laws as briefly explained above, are intended to provide safeguards against the overcrowding of residential areas in the Cantonment to the detriment of the health of the Garrison. Cantonments in India are places intended primarily for the residence of the troops, and it is the duty of a Cantonment Authority to ensure the preservation of such amenities as are essential for the welfare of the troops. The interest of the troops and not those of the house-owners must, therefore, predominate.

(e) The adequacy of the provisions of section 181 is not in question. The general position is explained above.

(f) and (g). The answer is in the negative.

**BYE-LAWS PROHIBITING THE CONSTRUCTION OF UPPER STOREYS IN HOUSES
IN CERTAIN AREAS IN THE CANTONMENTS.**

118. (a), (b) and (c). Attention is invited to the replies to parts (a), (b) and (c) of unstarred question No. 114, asked on the 3rd March, 1934.

(d), (e) and (f). The answer is in the negative.

**DISABILITY PENSION TO MILITARY EMPLOYEES INVALIDED DURING THE GREAT
WAR.**

190. (a) As fully explained to the Pensions Committee, a medical officer gives a decision as to the cause of death only. As regards attributability to military service, he merely expresses an opinion. He may not be aware of all the circumstances of the case; and his opinion is, therefore, liable to be overruled by Government.

(b) Yes, but the Controller can always submit to the Government of India cases regarding which he is in doubt.

(c) It depends on the circumstances of each case.

(d) A reply was laid on the table on the 2nd April, 1934.

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

(i) the information promised in reply to starred question No. 553, asked by Mr. Gaya Prasad Singh on the 4th September, 1933; and

(ii) the information promised in reply to starred questions Nos. 835 and 836, asked by Pandit Satyendra Nath Sen on the 12th September, 1933.

**EMPLOYMENT OF TWO SPECIAL SQUADS OF SPECIAL TICKET EXAMINERS ON THE
EAST INDIAN RAILWAY.**

*553. (a) Yes; Auxiliary travelling gangs were appointed temporarily for 3 months to assist in preventing illicit travelling on the East Indian Railway.

(b) The reply to the first part is in the affirmative.

They were not provided with free furnished quarters and were given consolidated pay, including travelling allowance, of Rs. 75 per month. The expenditure on this temporary establishment was approximately Rs. 2,400 per month.

(c) Ordinarily T. T. E.'s are given pay and consolidated allowance as follows:

Grade I.—Pay Rs. 70—5—95 plus consolidated T. A. Rs. 20 per month.

Grade II.—Pay Rs. 55—3—64 plus consolidated T. A. Rs. 15 per month.

In July, 1931, a general cut of 12½ per cent., was made in certain allowances which included the consolidated T. A. drawn by these T. T. Es.

T. T. E.'s are not entitled to rent-free quarters or house allowance in lieu thereof.

(d) No.

(e) Does not arise.

FORMATION OF SQUADS FOR TICKET CHECKING ON THE EAST INDIAN RAILWAY.

* 835. (a) Auxiliary travelling gangs under the Watch and Ward Department were appointed on the East Indian Railway temporarily for 3 months to assist in preventing illicit travelling on the East Indian Railway.

18 T. T. Es. were appointed temporarily for this purpose, 14 of whom were Anglo-Indians and 4 of whom were Europeans.

(b) These were a small number of temporary promotions made from men already in the service who were temporarily surplus to requirements. They were posted to this work for a period of 3 months, in connection with a special experimental scheme.

The Railway considered that the men selected were the most suitable for this trial and that the question of racial discrimination did not arise as this was not a case of appointing new men to the railway.

(c) No. The Administration considered that a shorter period was adequate for the requirements of these special temporary squads.

(d) One or two complaints have been received by the Railway Administration and dealt with. Such complaints are particularly incidental to this branch of railway working.

(e) Yes.

(f) No. It is admissible for a passenger, when detected without a ticket at Belur, to pay the fare and penalty at Belur and buy a ticket. If he however, elects to go to Chandernagore without a ticket, he must pay the fare and penalty for the distance he has travelled without ticket. The Agent, East Indian Railway, reports that no complaints on this subject have been received by him.

(g) Does not arise.

FORMATION OF SQUADS FOR TICKET CHECKING ON THE EAST INDIAN RAILWAY.

*836. (a) As the posts were temporary for 3 months only they were not advertised and the selection was made from men already in service, who were temporarily surplus to requirements.

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

(d) A reference is invited to the replies to parts (b) and (c), of question No. 835.

ELECTION OF MEMBERS FOR THE CENTRAL ADVISORY COUNCIL FOR RAILWAYS.

The Honourable Sir Joseph Bhore (Member for Commerce and Railways): Sir, I beg to move:

"That this Assembly do proceed to elect in such manner, as may be approved by the Honourable the President, six non-official Members from the Assembly who shall be required to serve on the Central Advisory Council for Railways."

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

"That this Assembly do proceed to elect in such manner, as may be approved by the Honourable the President, six non-official Members from the Assembly who shall be required to serve on the Central Advisory Council for Railways."

Mr. B. Das (Orissa Division: Non-Muhammadyan): May I know whether this Central Advisory Council for Railways is functioning at all, and how many times it met during the last year?

The Honourable Sir Joseph Bhore: It functions very effectively. It is our endeavour to hold at least two meetings every year, and last year the Council certainly held two meetings, and I hope the same will happen this year as well.

Mr. B. Das: I have not seen the report of the Committee so far. What was the nature of the effective work that my Honourable friends performed in that Committee?

The Honourable Sir Joseph Bhore: I believe that reports of the meetings of the Committee are in the Library of the House and if my Honourable friend has not seen it, I shall be happy to furnish him with a copy.

Mr. B. Das: It ought to be circulated to every Member just as the reports of the Local Advisory Committees of Railways are circulated. This report has not been circulated so far.

The Honourable Sir Joseph Bhore: I shall certainly have it followed in this particular case.

Dr. Ziauddin Ahmad (United Provinces Southern Divisions: Muhammadan Rural): May I enquire whether the deliberations of this Committee have any force? What is the nature of the discussion? Do their decisions take the shape of Resolutions?

The Honourable Sir Joseph Bhore: The nature is indicated by the fact that the Committee is an Advisory Committee.

Dr. Ziauddin Ahmad: Are they allowed to pass Resolutions?

The Honourable Sir Joseph Bhore: They are allowed to discuss questions and to express their views.

Mr. M. Maswood Ahmad (Patna and Chota Nagpur *cum* Orissa: Muhammadan): Sir, I want to suggest three things in connection with this matter. The first is that it will be found that the Local Advisory Committees also hold many meetings though their area is very restricted. The Central Advisory Committee has a very large scope and it has to deal with the policy regarding all the State-managed Railways. Therefore, if you hold only two meetings, it is quite insufficient and I hope my Honourable friend will consider this point that at least two meetings must be held very Session. The second point is about the agenda of its meetings. It is better that the agenda is fixed at the meeting itself. Notice of Resolutions may be placed before the Central Advisory Committee and in that Committee it will be decided which items should be included for the next meeting. Therefore chances should be given to the different members to bring forward their suggestions before the Central Advisory Committee, and only one Member should not be given the monopoly of all the Resolutions for the Central Advisory Committee. Another point is that the Members of the Central Advisory Committee make only speeches and they do not come to any particular conclusion. I think the Honourable Member must consider this point that some Resolution must be passed as to what is the opinion of the Committee on a particular item. One Member stands up and says that this item should be passed, another Member says there are some difficulties in passing this item and a third Member brings some other difficulties and in this way the whole thing is passed over and we do not formulate any Resolution. What is the use of hearing these suggestions only? If it is a question of mere suggestions, Honourable Members can communicate their suggestions by means of a letter if it is only this purpose that we have to serve. We want that particular Resolutions should be passed by the Committee so that the Government might know what is the opinion of the Advisory Committee on that particular question.

Mr. Lalchand Navalrai (Sind: Non-Muhammadan Rural): Sir, I am conscious of the fact that this Committee is an advisory body, but I think its functions are such that its voice is not being heard at all. Many suggestions and advices that are made by the members of the Committee are simply turned down.

Mr. R. S. Sarma (Nominated Non-Official): How do you make out the statement that the suggestion made and the advice tendered has been turned down.

Mr. Lalchand Navalrai: I have been reading their reports carefully. I also know what other small Advisory Committees in the Divisions have been doing. I know they are simply made to sit at a meeting to make some speeches and tender some advice, but no notice is taken of the advice given. Much of the advice is simply turned down. I submit that the original idea must have been that this Advisory Committee will remain advisory for sometime until the rules are made by which some definite function is assigned to these Advisory Committees. For instance, if questions like the selection of vendors of foodstuffs at the railway platform and such other connected questions are assigned to these Advisory Committees, they would render very great assistance to the railways. I submit that time has now come when some definite function should be assigned to these Advisory Committees.

Mr. Gaya Prasad Singh (Muzaffarpur *cum* Champaran: Non-Muhammadan): Sir, I do not want to say more than just a word. I agree with the suggestion made by my Honourable friend, Mr. Maswood Ahmad, when he said that more meetings of this Advisory Committee may be held, and that would not entail any additional expenditure on the part of Government, because these meetings could be held during the time the Legislative Assembly sits. I have never been a Member of this Central Advisory Committee, nor do I aspire to be one. I do not know the exact functions which this Committee is discharging. With regard to the suggestion of my Honourable friend, Mr. Navalrai, this Advisory Committee, by the very constitution of things, is an advisory body, and you cannot expect the decision of the advisory committee to be binding upon Government so long as the constitution is not changed. The Resolutions which we pass in the Legislative Assembly are also merely recommendatory, that is advisory and Government are not bound by these Resolutions. They may have a moral effect, but they are not of a mandatory character for Government. So, with regard to the nature and composition of the Advisory Committee, I have no fault to find but the complaint is legitimate that more meetings of this Committee should be held in order to give the members of the Committee an opportunity of studying the facts and of being useful members of the Committee. As regards the complaint of my Honourable friend, Mr. Maswood Ahmad, that one particular gentleman monopolises the time and attention of the Committee—I do not know to whom my Honourable friend is referring—I think it is quite open to other Members to bring in their suggestions. With regard to the complaint itself I was going to submit that my Honourable friend, Mr. Maswood Ahmad, should be the last person to complain about this monopoly, because in the questions which are put in the Assembly, I think my Honourable friend takes a lion's share. Although it is a pride to me coming as he does from Bihar, I think he should be the last person to complain about other persons monopolising questions and Resolutions, and so on. But I would earnestly request the Honourable Member in charge to

see whether it is possible to hold a few more meetings of the Advisory Committee during the time the Legislative Assembly is in Session, so that, without imposing any additional burden, the legitimate grievances of the members may be redressed.

Mr. N. M. Joshi (Nominated Non-Official): Sir, during the discussion on the Railway Budget, I had stated that the Government of India had not made much use of the Central Advisory Committee. The Honourable Member in charge of the Railways at that time said that the Advisory Committee had met twice as we find now.

Sir, I had based my complaint at that time upon the want of information in the last Administration Report on the Indian Railways. I found no mention of the work done by the Central Advisory Committee in the last Administration Report. So my complaint was based upon that want of information. I now find that the Honourable Member for Railways did hold two meetings of the Central Advisory Committee and he had placed the reports of these two meetings in the Library. I am sorry, Sir, the placing of the reports did not come to my knowledge and I apologise to the Honourable Member for not having seen all the books in the Library in order to find out the reports of the meetings of the Central Advisory Committee.

Sir, when the Railway Accounts were separated from the General Budget, I was a Member of the Legislative Assembly, and if anything had induced me to approve of the separation of the two Budgets, it was the establishment of the Central Advisory Committee. I felt that as the Legislature does not find sufficient time to discuss the details of the Railway administration, there should be a body representative of this Legislature which should be in a position to go into the details of the Railway administration and the influence of the Legislature should thus be brought to bear more fully upon the administration of the Railways. Unfortunately, as I stated in my speech on the Railway Budget, the Government of India have turned this Central Advisory Committee practically into a farce. Perhaps last year and the year before there was not much work done, because there was no mention in the Administration Report. This year they held two meetings. Now, Sir, may I ask whether the Government of India can really take into consultation a body which is representative of this Legislature in two days on the administration of the Railways whose Budget comes to about 100 crores of rupees? I feel, Sir, that the Government of India are not doing what they should do in this matter. They owe a duty to this Legislature and they owe a duty to the public of this country and they should consult the Central Advisory Committee in almost everything that they do in the matter of policy as regards our Railways. I should like some member of the Central Advisory Committee to stand up in his seat and tell us which matters of policy were discussed with them by the Government of India. Did the Government of India discuss with them the question of Railway rates? If so, I should like some Member to tell me whether the questions of rates and fares were discussed with them. May I ask whether the Government of India consulted the Central Advisory Committee as regards their policy on railway stores? The question of railway industries was raised in this Legislature. I should like to know whether the Government of India had ever discussed this question of establishing railway industries with the Central Advisory Committee. May I ask also whether the condition of the railway employees was ever discussed with the Central Advisory Committee? Did they ever discuss in full as to what they have been doing to improve the facilities for the travelling public? I feel, Sir, that the Government of India have not made use of this Committee and I

[Mr. N. M. Joshi.]

also complain that our representatives on the Central Advisory Committee have not sufficiently placed their complaints about Government not consulting them. I hope some Member will get up in his seat and tell us what this Central Advisory Committee has done.

Dr. Ziauddin Ahmad: Sir, I did not intend to take part in the discussion but for the demand from my distinguished friend, Mr. Joshi. I have not been a member of the Advisory Committee for a long time, but I was a member last year and attended one meeting only, because the first meeting was held at a time when I was not in India. My complaint about that meeting is that the Advisory Committee should be permitted to pass certain Resolutions. Let them have a discussion, but after the discussion let them record their opinion. The opinion of the Committee as a whole is never recorded. The opinion of the individuals is recorded, and, therefore, I do not see that we can call it a committee at all if the opinion of the committee as a whole is not recorded.

The second thing is that this is really an instrument which the Government or the Railway Board for their own advantage can make much use of. No doubt there are certain problems in which railwaymen are the final authorities and the travelling public have nothing to do with them. But there are certain questions in which the travelling public is really more entitled to express an opinion than railway experts; and these are questions of refreshment, of vendors and the supply of food-stuffs at the railway stations. This is a standing complaint. The different railways adopt different practices and no uniform practice exists, and this really is a question which requires serious consideration. And if the Railway Board may do nothing else, but decide this question, so that the travelling public may obtain food, good in quality and reasonable in price, they will do a great service in encouraging travelling by train. And I think the question of road and rail competition will be very much solved if even this one problem can be satisfactorily tackled by the Railway Board. So I suggest that the Railway Board should make more use of this Committee,—and not on one problem only, but on all problems.

Pandit Satyendra Nath Sen (Presidency Division: Non-Muhammadan Rural): Sir, I may inform Honourable Members that in one of the meetings of the Central Advisory Committee last year there was a discussion regarding the supervision and control of vendors at stations. I find that the recommendations have been scrupulously disregarded. The general recommendation was that vending contracts should be given to local contractors. Whereas, this year, in one of the Divisions, namely, Dinapore, the local contractors who are many in number have been replaced by only two contractors who are not local men. The number of vendors is at least 50 or 60 or more, and the recommendation of the Local Advisory Council was that one contract should be given for 25 to 30 miles of area. This matter was brought to the notice of my Honourable friend, Mr. P. R. Rau, as well as of the Agent of the East Indian Railway. The Agent was good enough to send a telegraphic message to the Divisional Superintendent, but on receipt of his letter the trend of which was that it was practically too late and he could not back out now, the Agent has changed his views. So the question is practically closed. The answer given by my Honourable friend, Mr. P. R. Rau, the other day, when

I put several questions, was not at all satisfactory. I think the Central Advisory Council cannot do any practical business. I, therefore, ask the Honourable Member in charge to see that the members of this Council have a real voice in some important matters, otherwise this motion is of no use.

The Honourable Sir Joseph Bhore: Sir, I think the House will not expect me to go into all the individual points that have been raised by certain Honourable Members: for instance, the point which was raised by my Honourable friend, Pandit Sen, just now. Obviously I cannot be expected to be acquainted with the details of such cases, and I am certainly not in a position to reply off-hand to such points. But I would take up certain general points that have been made by certain Honourable Members during the course of this morning's discussion. I certainly have no objection to holding more than two meetings. The real difficulty, as my Honourable friend, Mr. Maswood Ahmad, well knows, is to find time to suit every member of this very large Committee. He knows that on more than one occasion we have had to try and manipulate the time of the meeting in order to suit the convenience of this member or that member; but I have no objection at all to consider whether we may not have at least two meetings during each Session if it is at all possible to do so.

Then, I think my Honourable friend will bear me out when I say that I have introduced an innovation which I think should be of great value to the members of the Advisory Committee and also to Government. I think a year ago I opened the door to members of the Committee themselves suggesting subjects for discussion; the result, as my Honourable friend, Mr. Maswood Ahmad, pointed out, was that one or two members put in so large a number of suggestions that the other members had no chance whatever of advancing proposals that they wanted to discuss. However, I hope that we have overcome that difficulty by an arrangement to limit the number of suggestions which it is open to each member to make. So far as the proposal in regard to Resolutions is concerned, I personally do not see any serious objection, and certainly we shall consider that matter at our next meeting. As regards the agenda, my Honourable friend will realise, when a large number of suggestions are made by individual members, it would be impossible to allow the Committee to settle the agenda, and I am afraid that that must be left in my hands. I can assure my Honourable friend that I will try to be as catholic in my selection of subjects as I possibly can. I would ask the House to remember that there are a very large number of Local Advisory Committees, so that it is not perhaps quite so necessary for the Central Advisory Committee to cast its net so widely as it is inclined to do. At the same time, as I say, I do not wish unnecessarily to limit the purview of the Central Committee and I shall do my best in making my choice of subjects for the agenda to see that all reasonable suggestions of members receive due consideration.

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

"That this Assembly do proceed to elect in such manner, as may be approved by the Honourable the President, six non-official Members from the Assembly who shall be required to serve on the Central Advisory Council for Railways."

The motion was adopted.

Mr. President (The Honourable Sir Shanmukham Chetty): I may inform Honourable Members that for the purpose of election of members to the Central Advisory Council for Railways, the Assembly Office will be open to receive nominations upto 12 Noon on Monday, the 9th April, and that the election, if necessary, will, as usual, be held in the Secretary's Room on Wednesday, the 11th April, 1934. The election will be conducted in accordance with the principle of proportional representation by means of the single transferable vote.

THE INDIAN STATES (PROTECTION) BILL.

Mr. President (The Honourable Sir Shanmukham Chetty): The House will now resume consideration of the Indian States (Protection) Bill.

The question is:

"That clause 2 stand part of the Bill."

Sardar Sant Singh (West Punjab: Sikh): Sir, I move:

"That clause 2 of the Bill be omitted."

Clause 2 of the Bill reads:

"Whoever, within or without British India, conspires to overawe, by means of criminal force or the show of criminal force, the Administration of any State in India, shall be punished with imprisonment which may extend to seven years, to which fine may be added."

This clause is a modified reproduction of section 121A of the Penal Code; that section reads:

"Whoever, within or without British India, conspires to commit any of the offences punishable by section 121, or to deprive the Queen of the sovereignty of British India or of any part thereof, or conspires to overawe, by means of criminal force or the show of criminal force, the Government of India or any Local Government, shall be punished, etc., etc."

Honourable Members will find, in the drafting of this clause certain elements, defined by section 121A, namely, to commit an offence punishable by section 121, or to deprive the Queen of the sovereignty of British India or of any part thereof, have been omitted. While the remaining portion "conspires to overawe by means of criminal force or the show of criminal force the Government of India or any Local Government" has been retained, only with the change that for the words "the Government of India or any Local Government" the expression "administration of any State in India" has been substituted.

I shall deal with this clause purely on legal grounds. So far as the principle underlying this clause is concerned, I shall keep it for later arguments; but at this stage I only want to show that this clause, as drafted, is absolutely meaningless and is quite unworkable. In order to appreciate my argument on this point, I will draw the attention of Honourable Members to the several elements mentioned in this clause which go to constitute the offence under this clause as it stands now.

The first element is the element of conspiracy. The second is, the object of that conspiracy should be to overawe the administration of any State in India. The third element is, in order to carry this object to

completion the use should be the use of criminal force. These are the elements which are intended to constitute an offence under clause 2 of this Bill. Referring to the definition of conspiracy as given in the Indian Penal Code in section 120A, it is stated:

“When two or more persons agree to do, or cause to be done,—

(1) an illegal act, or

(2) an act which is not illegal by illegal means, such an agreement is designated a criminal conspiracy :

Provided that no agreement except an agreement to commit an offence shall amount to a criminal conspiracy unless some act besides the agreement is done by one or more parties to such agreement in pursuance thereof.

Explanation.—It is immaterial whether the illegal act is the ultimate object of such agreement, or is merely incidental to that object.”

Now, criminal conspiracy is practically an agreement between two or more persons to do an illegal act or to do a legal act by illegal means. Conspiracy or such agreement can be either within British India or without British India. So naturally this offence makes people liable for conspiracy whether they are living in British India or out of British India or whether one person is living in British India and another is living outside British India. After this conspiracy has been made, the object of that conspiracy should be to overawe by use of criminal force. Now, let us see what is the definition of “force” and “criminal force”. “Force” is defined in section 349 of the Indian Penal Code thus :

“A person is said to use force to another if he causes motion, change of motion, or cessation of motion to that other as brings that substance into contact with any part of that other's body : or with anything which that other is wearing or carrying Provided that the person causing the motion, or change of motion or cessation of motion, causes that motion, change of motion or cessation of motion in one of the three ways hereinafter described—

First—By his own bodily power.

Secondly—By disposing any substance in such a manner that the motion or change or cessation of motion takes place without any further act on his part, or on the part of any other person.

Thirdly, by inducing any animal to move, to change its motion, or to cease to move.”

These are the ways by which the effect can be produced.

Now, what is the definition in section 350 of “criminal force”? This is how it is defined:

“Whoever intentionally uses force to any person, without that person's consent, in order to the committing of any offence, or intending by the use of such force to cause, or knowing it to be likely that by the use of such force he will cause injury, fear or annoyance to the person to whom the force is used, is said to use criminal force to that other.”

Now, this definition of “criminal force” implies that the force shall be used against another person without that person's consent and the object of the use of that force should be the committing of an offence. Now, this takes us back to what is an offence. The word “offence” is defined in section 40 of the Indian Penal Code thus:

“Except in the Chapter and sections mentioned in clauses 2 and 3 of this section, the word ‘offence’ denotes a thing made punishable by this Code.

In Chapter IV (Chapter VA) and in the following sections, namely, sections 64, 66, 347, 348, 388, 389 and 445, the word ‘offence’ denotes a thing punishable under this Code, or under any special or local law as hereinafter defined

[Sardar Sant Singh.]

Clause 2 reads—“And in sections 141, 176, 177, 201, 202, 212, 216 and 441, the word ‘offence’ has the same meaning when the thing punishable under the special or local law is punishable under such law with imprisonment for a term of six months, or upwards whether with or without fine.”

This is the definition of “offence” given in the Indian Penal Code. Honourable Members will remember that there is no particular definition of “offence” in this Act, nor is there any particular definition of “offence” in the local law, or you may call it, special law. . . .

The Honourable Sir Brojendra Mitter (Law Member): May I draw my Honourable friend’s attention to the definition given in the General Clauses Act, and there, the word “offence” is defined clearly. Honourable Members will find that the word “offence” is defined in the General Clauses Act as follows:

“(3) offence shall mean any act or omission made punishable by any law for the time being in force.”

Sardar Sant Singh: I am thankful to the Honourable the Law Member for reading the definition of the word “offence” from the General Clauses Act which I myself intended to read in this connection.

Now, I am trying to make it clear that the word “offence” is not defined in this Code, and we have got to take the aid of the General Clauses Act to find out the definition of the word “offence” and apply it to this offence as it is made punishable in this clause. I submit that the object of the conspiracy is the use of criminal force, use of force with the intention of committing an offence, against whom? Against the administration of any State in India. And again, “administration of any State in India” is not defined anywhere. Now, I shall revert to the section of which this is a reproduction in a modified form. This is what section 121A of the Indian Penal Code says:

“Whoever, within or without British India, conspires to commit any of the offences punishable by section 121, or to deprive the Queen of the sovereignty of British India or any part thereof, or conspires to overawe, by means of criminal force or the show of criminal force, the Government of India or any Local Government, shall be punished with transportation for life” and so on.

Now, the “Government of India” is defined again as constituting the Governor General in Council or the Governor General. Similarly, the “Local Government” is defined as constituting the Governor or the Governor in Council. My point is, you want to make the use of criminal force punishable—against whom? Against the administration. Now, what is the administration? That is not defined. Whether “administration of a State” means the ruler of the State or its Ministers. . . .

An Honourable Member: Or the Government of the State.

Sardar Sant Singh: What is the Government of the State? So far as the Penal Code is concerned, the Legislature has clearly defined against whom this force is to be used. It is to be used against the Governor General or the Governor General in Council, meaning thereby Members of the Governor General’s Council, but in the case of the administration of a State, there is absolutely no indication as to what the Legislature intends by the phrase “administration of a State”. As I pointed out by reading the various definitions from the Indian Penal Code, the use of

criminal force means using force without the consent of that person. Well, what is the person without whose consent this use of force is going to be made punishable? That is the point. I will make my position still clearer. If you will read this section after what I have submitted to the House, the absurdity of the drafting of this section will be clear.

"Whoever, within or without British India, conspires to overawe by means of criminal force or the show of criminal force, the Administration of any State in India, shall be punished with imprisonment which may extend to seven years, etc."

Now, criminal force means use of force without the consent of the person: Who is the person whose consent is necessary? Of course, every use of force is not criminal. The use of force becomes criminal in certain circumstances, and those circumstances are that the force shall be used against a person without his consent. Now, what is that person without whose consent force is to be used? There is no such person. As I pointed out, while making my speech on the general consideration stage of this Bill, there should be some definition of the administration of a State which this Legislature wants to protect. There is no such definition. Raja Bahadur Krishnamachariar tried to meet my point by saying that a ruler of a State can issue a *firman*, and that *firman* is the law of the State.

An Honourable Member: Is the administration of the State.

Raja Bahadur G. Krishnamachariar (Tanjore *cum* Trichinopoly: Non-Muhammadan Rural): I said the law of the State.

Sardar Sant Singh: Yes, the law of the State, and I pointed out a very apt illustration in the person of the ruler of the Alwar State. Here the ruler, by some act of the Government of India in the Political Department, was asked to leave the State, and he left the State. He can issue a *firman* to the effect that the particular administration which is being carried on at Alwar at this time is an illegal administration. Will the Government of India allow it? The anomaly is quite clear. You want to punish conspiracies against the administration of a State, but the administration of a State may mean one thing today and another thing tomorrow. How is the Court, which will have to administer this law, going to judge what is meant by the administration of a State? May I ask if the Government of India will do this,—to prosecute the Foreign or Political Secretary for conspiring to overawe the administration of a State by use of criminal force and if the administration of a State means the person for the time being the ruler of the State—will he be punishable under this section, or is there any section in favour of the Foreign and Political Department?

Sir Muhammad Yakub (Rohilkund and Kumaon Divisions: Muhammadan Rural): If he becomes a member of a *jatha*.

Sardar Sant Singh: No. Supposing there is a conspiracy between the Foreign Secretary and his assistant in the office—I am talking of conspiracies, conspiracy means an agreement between two or more persons.

Sir Muhammad Yakub: To commit some offence.

Sardar Sant-Singh: And what is the offence? The use of criminal force. And what is criminal force? Use of force without the consent of the person, and if the consent of the person means the consent of the ruler, then the Foreign Secretary or Political Secretary comes within the grip of this law. If you look at the Indian Penal Code, there is a big Chapter containing several *Exceptions*. Where a Sessions Judge or a High Court Judge orders a person to be hanged, they find protection under the proviso that judicial acts are exempted. But is there anything in this measure, where that kind of exemption is granted to the Foreign and Political Department. I am only illustrating my case. I am not saying anything against the integrity of the Foreign and Political Department. For the purpose of illustration, I am putting it before those who are responsible for the drafting of this section, whether such an act of the Foreign and Political Department will not fall within the definition of this clause. I will wait till the Honourable the Law Member gives his opinion on this clause, because I quite recognise that he is an expert in this branch of interpretation of legal Statutes.

The Honourable Sir Brojendra Mitter: Not expert in conspiracies.

Sir Muhammad Yakub: He will soon become one when he reverts to Bengal!

Sardar Sant Singh: Coming to the principle underlying this clause as it stands, I am opposed to the principle which underlies this offence. One can understand and can enforce an allegiance from the subject of a State to the State itself, I mean to the Government itself of which he is a subject. But how can you show allegiance to an administration of which you are not the subject, whose protection you do not seek, to whom you do not pay any taxes, or to whom you do not owe any allegiance? Why should we punish conspiracies against the administration of that State so long as that conspiracy does not fall within the definition or the offence in British India? If the agreement arrived at between certain persons is to do an act which amounts to an offence within the provisions of the Indian Penal Code or of any local or special law, I can understand if that conspiracy is to be punished, and it is already made punishable under section 120B of the Indian Penal Code. But I cannot understand how it can be made punishable if I conspire to overawe a State to which I do not owe any allegiance. So long as I confine myself within the law in force where I am living, where I am residing, I do not see why I should be punished for making a conspiracy against a State to whom I do not owe any allegiance. On this point I want to quote the opinion of Mr. Justice Niamatullah of the Allahabad High Court, page 9 of Opinions, No. 6. He says:

"It is not fair to State subjects to be deprived of the right to criticise the State administrations even in British India. Section 121-A of the Indian Penal Code which is to be applied to the States is far reaching in its scope. State administrations which are very sensitive will constantly clamour for action being taken against alleged offenders. The demand for prosecutions will be far greater than there is at present by the British Indian administration who are far more judicious.

I am against the proposed legislation unless the States agree to a certain amount of reciprocity."

With these words, I move my amendment.

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

"That clause 2 of the Bill be omitted."

The Honourable Sir Brojendra Mitter: My Honourable friend, Sardar Sant Singh, has referred to several definitions in the Indian Penal Code, for instance, the definition of force, the definition of criminal force, the definition of offence, and so on. But I wish to make it perfectly clear at this early stage that the definitions of the Indian Penal Code will not apply to this measure at all. The Bill when introduced sought to amend the Indian Penal Code. If the Bill were an amendment of the Indian Penal Code, then, no doubt, all the definitions contained in the Indian Penal Code would have been attracted to the measure, but now it is a self-contained measure. That being so, you cannot refer to the definitions in the Indian Penal Code. Then, the next question is, if you cannot get the definitions from the Indian Penal Code, how are you to interpret a particular section. My answer is this. You have to turn to the General Clauses Act and to see if any of the terms used in this Bill are defined there. If so, well and good. If not, then we fall back upon the ordinary legal sense, that is to say, the ordinary dictionary meaning of the terms. Take this term conspiracy. Conspiracy is defined in the Indian Penal Code. Now, that definition is not available to us. Therefore, what are you to do? It is not in the General Clauses Act. Turn to any authoritative book on criminal law and find out what is understood by the word "conspiracy" in criminal law. When my friend was putting his point of view, I turned up Russell and I found the meaning of the word "conspiracy" there. Well, if you find the meaning of the "conspiracy" in an authoritative book like Russell, every Court will accept it. Supposing it were not in any book, then you turn to the ordinary dictionary meaning. The rule of interpretation is that, in the absence of any technical meaning attached to a word, you have to turn to the ordinary dictionary. There is no difficulty in it. Where there is a definition in the General Clauses Act, that definition will hold good. Where there is no such definition in the General Clauses Act, the text books may help. If the text books are silent, then the ordinary dictionary will help. Therefore, there is no difficulty.

The next point that my friend made was that the administration of a State was liable to change from time to time. If I understood him correctly, I hope he will correct me if I am wrong, I understood him to say "Here is an administration existing at the present moment. It may be that tomorrow the Government of India will change the character of that administration, will put an administrator of their own in the place of the ruling prince. Are the Government of India guilty of the offence of conspiracy in overawing that administration?" I say No, because, in the relation between the Government of India and the States, it is inherent that in certain contingencies the Government of India may intervene and take over the administration or alter the nature of the administration. It is inherent in the relationship. Call it Suzerainty, Paramountcy or what you will. That being so, changes in the administration will not involve an illegal act if that change is brought about by the Government of India on the happening of contingencies warranting intervention. If there be no illegal act, there would be no conspiracy. I do not see where the difficulty comes in.

Sardar Sant Singh: May I interrupt my Honourable friend for a minute? On the 1st of May, a conspiracy is hatched and the man is prosecuted. On the 5th of May, the administration changes hands and the prosecution is pending in a Court. By the inherent right of the Government of India, the administration of the State was replaced by a Government of India administrator. Will that conspiracy be punishable under this Act?

Sir Abdur Rahim (Calcutta and Suburbs: Muhammadan Urban): May I put a question . . .

The Honourable Sir Brojendra Mitter: Let me first answer Mr. Sant Singh's question. As I understand it, the question is this. On the 1st of May, a particular administration is established in a State. A prosecution is started against some people who conspired to overawe that administration. When the trial comes on, that administration had been changed by the Government of India and a different administration had come into existence. Will that prosecution stand? That is a practical question and take a practical view. If the Government were about to change the administration and if there was also a conspiracy to have that administration changed by show of criminal force, is it likely that, on the eve of the change, the Government of India will at all launch a prosecution? Assuming it did launch a prosecution. Assuming that at the time of the trial it transpired that the administration had changed by Government action which it was the object of the conspiracy to bring about, then the prosecution will be withdrawn. That is all. Where is the practical difficulty? I do not see.

Mr. B. E. Puri (West Punjab: Non-Muhammadan): If it is not withdrawn, what will be the position? The offence is there. It was committed at the time when a particular administration is in force and the question is whether it is an offence or not. That is to be judged with reference to the conditions which are in existence at the moment when the offence is alleged to have been committed. There is no difficulty in answering that. The only thing is, if the administration has since changed hands, when we come to the question of the sentence, that might go towards the mitigation of the sentence unless the Government of India in the meantime choose to withdraw the prosecution itself.

The Honourable Sir Brojendra Mitter: I quite follow that. There is no doubt that technically the offence was committed on the 1st of May.

Mr. B. E. Puri: In the light of the incidents which happened later, the nature of the offence has not changed.

Sardar Sant Singh: Might I, with your permission, answer my friend, Mr. Puri. He is absolutely ignoring the most healthy provision in the General Clauses Act and that it is not the date of the commission of the offence that makes the offence punishable. It should be an offence on the date of the conviction. If, at the date of the conviction, it ceases to be an offence, no Court can punish a man for that. I draw my friend's attention to the provisions of the General Clauses Act.

The Honourable Sir Brojendra Mitter: If at the time of the launching of the prosecution there was an offence, but if at the time of the trial circumstances had so changed that it would not have been an offence, then

ipso facto the prosecution must collapse. That collapse may be brought about by withdrawing the prosecution or by not adducing evidence, as Mr. Puri knows very well. There are so many ways in which you can drop a prosecution. These are academic questions; there won't be any practical difficulty.

Sir Abdur Rahim: May I now ask my question? It is this. In clause 2, the words "Administration of any State in India" occur. The words "established by law" occur in the Indian Penal Code both with reference to the Government of India and Local Governments. Have the Government advisedly dropped or omitted this phrase? If so, may I ask why that phrase "established by law" has been dropped?

The Honourable Sir Brojendra Mitter: If my learned friend will excuse me, there are certain amendments for the introduction of the words "established by law". Would it not be more convenient that this question should be discussed at that time? I have got my answer, but it will be more convenient to discuss it at that stage, I think.

Sir Abdur Rahim: I have another question. As regards the meaning of these words "conspiracy" and "criminal force", my Honourable and learned friend said that the definition given in the Indian Penal Code will not apply. Technically it will not apply, but was it intended that they should not be applied, or it is a mere omission?

The Honourable Sir Brojendra Mitter: Sir, when the Bill was introduced, as I explained, it was intended that the definitions in the Penal Code should be attracted by this clause, but when we changed the form of the Bill, well, we did not—and Sir Abdur Rahim was on the Select Committee—we did not apply our minds to that question at all. But it creates no practical difficulty for the reason that the meaning of the word "conspiracy" is exactly the same in Russell, in the dictionary and in the Indian Penal Code. Therefore, whether you attract the Indian Penal Code or you attract the legal concept of it, as given in the text-books, comes to the same thing, but I frankly confess that at that time we did not apply our mind to this specific question.

Sir Abdur Rahim: What about the words "criminal force"?

The Honourable Sir Brojendra Mitter: That would be the same. Criminal force is force used with a criminal intent or knowledge,—that is the ordinary meaning. This ordinary dictionary meaning is the same as the definition in the Indian Penal Code. In all these matters, I find that the definitions in the Penal Code are really very little different from the ordinary legal meaning.

Mr. Jagan Nath Aggarwal (Jullundar Division: Non-Muhammadan): The Honourable the Law Member was pleased to tell us that if the Penal Code definition will not apply, then the definition in Russell or the ordinary dictionary meaning will apply, but my answer to that is that this conspiracy section was added to the Penal Code in 1913 to bring the law into conformity with the English law, and obviously it meant that the English law was not applicable. If this is so, and if the Penal Code definition is inapplicable, my point would be that the dictionary definition or the English law definition would not be of any use.

The Honourable Sir Brojendra Mitter: No, Sir. I do not agree with my learned friend, Mr. Aggarwal, when he says that the word "conspiracy" was defined in the Penal Code to avoid the meaning of the term as in English law. The reason is this. The Penal Code is a self-contained Act and the Penal Code contains a large number of definitions. When a new offence was created by section 120A, it was necessary that having regard to the structure of the Penal Code a new definition should be inserted there,—not because the meaning was any different from the English law. In this Bill, we are not defining the ordinary legal terms. Therefore, we have to fall back upon the General Clauses Act, upon text-books and dictionary meaning. Sir, my substantial point is that there is no difference between the definitions in the Penal Code and the ordinary legal concepts as found in the text-books, or, for the matter of that, the ordinary meaning as found in the dictionaries.

Mr. B. Das (Orissa Division: Non-Muhammadian): Sir, I rise to support the motion moved by my Honourable friend Sardar Sant Singh. Not being a member of the learned profession of wig and gown, I could not follow very much the little interludes that my legal friends created by addressing each other as "my learned friend" on the floor of this House. Our tradition is to address each other as "my Honourable friend", and not only that, but I know that although members of the learned profession of the legal fraternity fight with each other like Kilkenny cats, yet they address each other as "my learned friend". Sir, I do not like that in this Legislature, which makes laws and lays down the law for these legal gentlemen for them to fight in the High Courts or for these High Courts to interpret the law which we make, our legal friends should bring in an atmosphere of the law Courts into this Honourable House and bring in the names of Acts and laws which we have never heard of and do not want to hear of. Now, the lawyer gentlemen seemed to have made some points, and the Honourable the Law Member—I won't say the learned Law Member—butted in, but in what he spoke from that side which I found was not at all greeted as convincing by the legal luminaries on this side and was rejected by them—he could not convince any learned Member on this side of the House.

Mr. B. E. Puri: I supported the view of the learned Law Member.

Mr. P. Das: Well, Sir, as a layman, as an ordinary man of the world, as a common sense man, I feel a doubt whether I am not a conspirator under the interpretation of this law. I have not got sufficient money to engage my Honourable friend, Mr. Bhagat Ram Puri, or my Honourable friend, Sardar Sant Singh, to fight my cause in the law Courts to prove that I am not a conspirator.

The Honourable Sir Brojendra Mitter: I won't prosecute you.

Mr. B. Das: You will not prosecute me, but you will be in another place and by that time this Bill will be in operation and the Honourable Sir Harry Haig will see that B. Das is prosecuted. Sir, what happened this morning?

Mr. S. G. Jog (Berar Representative): The Honourable the Law Member means that he will defend you.

Sir Muhammad Yakub: Without charging any fee.

Mr. B. Das: Sir, I received a dozen visitors. What I understand from my legal friends is that if five gentlemen meet outside, they will constitute an unlawful assembly. That, I understand, will be so even if they meet inside. Now, these dozen gentlemen came to see me recently, because I have become the champion of the fallen and of the downtrodden (Hear, hear), and so naturally the people of the Indian States always come to me to represent their case, so that I can ventilate it on the floor of the House. Sir, what will happen? After a year since this Bill becomes an Act, these Indian States people will come to me to ask whether this Act could be amended

Sir Muhammad Yakub: Is it an invitation to them to do so,—from the floor of the House?

Mr. B. Das: Then, will the Honourable the Home Member ask his police satellites to arrest me as I was conspiring against some petty State such as Kapurthala, Patiala, etc?

An Honourable Member: They are petty States? Kapurthala and Patiala are not petty States.

Mr. B. Das: Well, I mean they are all petty, because their manners are so petty,—that is the point which is agitating me. One point that struck me very much in the speech of my Honourable friend, Mr. Glancy—and I take this opportunity to congratulate him on that very lucid speech of his—was that my Honourable friend did not show his temper and he did not even reveal his mind or his hands. He did not reveal the cloven hoof nor the mailed fist that is concealed behind the sweet smile of the Honourable Mr. Glancy, the head of the Political Department.

Mr. S. G. Jog: That is the trait of the Political Department never to show temper.

Mr. B. Das: He made a statement that rather pleased me. He stated what was the function of his Department and what was the function of the Government of India and their Political Agents regarding the administration of the States and towards the States. On the 5th February, he made the following statement on page 530:

“As regards the function of the Government of India, various Honourable Members have expressed widely divergent views as to what the practice of the Government of India ought to be. I do not propose to argue about 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 serious mis-government prevails in an Indian State, the Government of India do regard themselves as under an obligation to intervene. That has been made plain in many pronouncements, and I hope I am betraying no secret when I say that ordinarily, where intervention becomes necessary, it takes the form in the first instance of advice and persuasion. If that advice is heeded, the public, unless somebody is indiscreet, hears nothing further of what has occurred. It is only when the advice passes unnoticed that recourse is had to more extreme measures. The Government of India are fully alive to their responsibilities and do their best to fulfil them.”

Sir, this statement in spite of certain “ifs” and “buts” rather gave the Magna Charta to the Indian States people for whom I have pleaded on the floor of the House. The Honourable the Home Member also stated that the Indian States people had the right of a representation to the Government and to the Honourable the Political Secretary and his subordinates, namely,

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the Political Agents. But, Sir, in practice we find that this is not the case. Sir, this morning the representatives of the Patiala people stated the case to me. They have approached the Political Secretary and they have also approached the Political Agent of the Punjab States, but they have not been given a hearing. I will just quote a few lines of that statement. I am not laying any charge against the princes. That is not my intention, because it is of no use. I want to create goodwill between the princes and the people of the princes. I find that it is not the princes that are standing against the people, but it is because that my Honourable friend, Mr. Glancy, is not exercising his proper jurisdiction and is not compelling the princes to do their duty that they are evading their responsibilities towards their people. The statement says:

"About 125 Patiala subjects waited at the door of the Secretariat for a reply on 5th February, 1934, and were arrested while sitting in a lawn outside the Secretariat. They were released on the 6th February, as they were found to have committed no offence. The Deputy Commissioner of Delhi and the Resident Magistrate, New Delhi, assured the prisoners that the Political Secretary will receive a deputation on their behalf. Seven names of the proposed deputationists were given to the Deputy Commissioner who took down the names and about an hour after the Resident Magistrate, under the direction of the Deputy Commissioner, confirmed the arrangement. The Political Secretary, however, refused to give a hearing and did not even permit Mr. Amrit Lal Seth, the General Secretary, Indian States Peoples Conference, to wait upon him. He directed Sardars Bidha Singh and Katar Singh to present the Patiala peoples case to the Honourable the Agent to the Governor General at Lahore and assured them that the Agent would give them a hearing. Number of written requests were made for a direction in writing, but without any result. A deputation consisting of the Secretary and one member of the Executive Committee of the Patiala Riasti Parja Mandal proceeded to Lahore and requested for an interview but their letters and telegrams were not even replied to. The deputationists had to return disappointed after waiting for more than 10 days at Lahore. This is a sample of the response paid to the grievances of the subjects of the States against the misrules of the princes who are sought to be protected by the Princes (Protection) Bill now before the Legislative Assembly."

This is signed by "Jagir Singh Phagoosinghwal, Secretary, Parja Mandal Patiala, Gurdwara Sis Gunj, Delhi".

Dr. Ziauddin Ahmad (United Provinces Southern Divisions: Muhammadan Rural): Are these facts correct?

Mr. B. Das: These facts were published in the *Hindustan Times* and also in the *National Call*, and in other nationalist papers. Then, Sir, the Honourable the Home Member, the mighty representative of the Government of India for law and order, made a pronouncement. He said that the Indian States people whenever they wanted to approach the representatives of the Government of India in the Political Department would be given a hearing. Sir, while we were considering the Indian States (Protection) Bill, the Political Secretary must have been busy here, but these poor people were arrested in the North Block or the South Block of the Secretariat and responsible Government officials like the Deputy Commissioner of Delhi gave them an assurance. And yet they did not get a hearing from my Honourable friend nor from the mighty Agent of the Governor General in the Punjab States. This illustrates the type of grievances I have in my mind. My first point, as I tried to make it out, is whether, if these people bring their grievances to me after this Bill becomes law, do I become a conspirator, and whether I conspire with these people to subvert the throne of Patiala or Kashmir or Bhopal or any other State? That is a point to

which I want a specific reply. If I know that I will be arrested and will be charged with conspiracy, I will not be able to function properly as a legislator and as a Member of this House in future, because I would be in constant fear as I go out of this Legislative Chamber of being arrested by the police under the orders of my Honourable friend, Sir Harry Haig. The police will arrest me and take me to the Delhi prison where my old friend, Mr. Patel, was imprisoned for a few days. That is my first point.

My second point is whether the assurances given by responsible heads of Government like the Honourable the Home Member and the Political Secretary who, at times, is mightier than even the Honourable the Home Member, because the Home Member has only the command of the police and can order the arrest of a few politicians and send them to the jail, but my Honourable friend, the Political Secretary, when he presides over the phalanx of gilded and be-jewelled princes, feels that he is translated to the mediaeval age and thinks that he is a Roman Emperor or something of that kind. My Honourable friend, the Home Member, yet faces the reality, but my Honourable friend, the Political Secretary, is always translated to that mediaeval and barbaric atmosphere surrounded by be-jewelled princes. But let me tell him that sometimes these jewels are not real ones; they are faked jewels and pastes. My Honourable friend, Mr. Glancy, may feel that he is the Roman Emperor Nero and he is there to order about not only these princes but do as Nero did something when the people of Rome suffered. My Honourable friend, Mr. Glancy, in his anxiety to satisfy these satellites, who sit round him, these Indian princes, has seldom time to think of the people of the Indian States and their grievances. That is my main grievance, and that is why I urge that this clause should be omitted.

For whom is this conspiracy clause put in? The clause is not for the protection of the people of the Indian States and I just now quoted the passage from the speech of the Honourable the Political Secretary wherein he states that pronouncements had been made in the past to give protection to the people of Indian States. I make a serious accusation and ask what about the pronouncement of Lord Irwin and what happened to it? Lord Irwin issued a circular letter through, of course, the predecessor of the present Political Secretary, I mean Sir Charles Watson, that these princes should concede certain elementary rights to the States people. Did these princes respond to that circular? I read line by line and through the line, and I did not find reference to one reply that my Honourable friend received from any prince of an assurance that the princes will deal fairly and squarely with their State subjects. What is the use of telling us that that has been made plain in many pronouncements? When a new Finance Member comes, he repudiates the policy of his predecessor. So also when a new Government comes, it repudiates the policy of the predecessor Government. So, I ask, why should not the present Political Secretary repudiate the policy of his predecessor's pronouncements? Lord Irwin, the much beloved Viceroy of India, with a pure and simple heart, wanted to allay the feelings and excitement of the people of the Indian States, and so he issued that well-known circular letter to all the princes. My Honourable friend, the Roman Emperor Nero of the Political Department,—I do not mean anything personal to the Political Secretary, but the Political Secretary is more powerful than even the Viceroy of India and more powerful than any Roman Emperor had ever been—did my Honourable friend, the Political Secretary, exact from every prince a letter of assurance? Did my Honourable friend take the trouble of going to that Chamber of Horrors, I mean the Chamber of

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Princes, did my Honourable friend tell the princes when they came to deliberate in that Chamber, that "you have not replied to the Viceroy's circular letter, you have not taken any steps to redress the wrongs and grievances of your States people". I submit, nothing was done. Then, this idea of Federation came in. We have had to swallow this idea of Federation, we have to swallow elephants, why not swallow the little gnats of princes? They can only sting in our stomach, after all they are our brothers and we have to tolerate them, we have to overlook their faults and their mistakes. I shall ask the Political Secretary one question. In page 535 of the Assembly Debates, my Honourable friend was talking of the other Princes (Protection) Act which was thrown out by this House but which was certified at the instance of a predecessor of my Honourable friend by the then Viceroy, Lord Reading, and my Honourable friend said:

"To all intents and purposes, that piece of legislation fell *still born* from the Statute-book".

That is a splendid confession. So whether it was made still born by the mad orgies of the Indian princes or whether the draftsmen of the Legislative Department could not draft it properly or whether all the weapons of torture and repression that were designed to be administered against the poor Indian editors in British India did not take effect, I do not know. But I would like my Honourable friend to read a few funeral orations about that still born child which was born in 1923 and yet the Political Secretary in his reply stated that three editors of the Indian press have been prosecuted at the instance of the princes. Sir, what do the princes want, every one of them wants mediaeval and barbaric rule, they do not want civilised law, civilised justice. What the Indian princes want is that these British Indian editors should be taken to States like Patiala, Bhopal, or Hyderabad or Mysore, and that summary justice should be done to them there. They will be taken to prison houses and there their heads will be chopped off. That is what the princes asked of the Political Secretary. Unfortunately, when we legislate, we cannot anticipate the legal subtleties of my Honourable friends, the lawyers, who belong to the learned profession of the Honourable the Law Member. These gentlemen use all their legal brains and subtleties in Courts of law, and I do not know how justice is helped by the profession of the legal fraternity, because I always find one lawyer advancing the cause of one side and the other lawyer advancing the cause of the other side. I submit that one side must be right and the other wrong, and how is the poor Judge to decide which is right and which is wrong?

The Honourable Sir Brojendra Mitter: There is all the difference in the world between law and justice.

Mr. B. Das: That has thrown much light. That means that lawyers can talk lies, and justice and the course of justice will still go on. What is the intention of the Political Secretary? Does the Honourable the Political Secretary intend that this new child also should be still born, this new child which is fathered by two gentlemen, the Honourable Sir Harry Haig and Mr. Glancy? Is this also going to be a still born child, or whether the legal luminaries inside this House and outside in the country will not make it impossible for the High Court Judges to interpret it in the same way as the Roman Emperor Nero of the Political Department wants it to be interpreted? These Indian princes, if I can interpret their minds, want to prosecute every Indian editor. I have met some of these editors who have been prosecuted

under that still born Act, the Indian States (Protection) Act. A case has been going on against my friend Sardar Dewan Singh, of *Riyasat*, for the last four years. Either the British system of administration of justice is a farce or there is no case against this gentleman or that British sense of justice means persecution for years and years, so that, although no punishment is meted out to the man, the man is put under the heavy shackles of legal machinery and he is obliged to borrow money and engage lawyers on fat fees and continue the fight in the law Courts with the result that the man eventually dies of starvation. This is how the mighty opponents, the Indian princes, tire out poor editors of Indian newspapers. The princes have got ample resources. If the Government of India want to administer justice, it is justice between the small editor and the mighty Indian prince who uses not only all the mighty resources at his disposal, but also the personal influence which he can exercise over the Political Secretary. It came out recently in one case which was filed by the Inspector General of Bhopal against this very editor

Sir Muhammad Yakub: Is the Honourable Member entitled to refer to a case which is *sub judice*?

Mr. B. Das: I am not referring to any case which is pending in the law Courts under the States (Protection) Act. If my Honourable friend had the patience, he would have found out what I was referring to. I asked a series of questions, and my Honourable friend was probably busy in connection with the Reserve Bank and the Statutory Railway Board Enquiry in England. I asked a series of questions quoting from the judgments of the Additional District Magistrate of Delhi and the Judge of Delhi and the High Court Judge of Lahore. Sir, these facts are all common knowledge. But what happens? My Honourable friend, Mr. Metcalfe, replied that they had no knowledge that the Bhopal police came to search any houses in Delhi. Such is the power of these princes that they enter British India and search houses and carry on investigations completely without the knowledge of the Indian police and the Government of India.

Mr. S. C. Mitra (Chittagong and Rajshahi Divisions: Non-Muhammadan Rural): How was that possible?

Mr. B. Das: It is quite possible. If my friend wants, I will hand over the whole judgment to him. Sir, the princes seek protection, but we British Indians seek protection from these princes, from the inroads of their vile administration. I do not want that the Delhi Province administration should be corrupted by the inroad of a few police from Bhopal State or any other State. I may assure Sir Muhammad Yakub, who is an old friend of mine, that I do not mean anything against any particular State. It is the principle that I am dealing with here. When I speak again on Monday, my friend will know the whole facts, and I will read out judgment after judgment which Justice Tek Chand delivered in the Lahore High Court and some Magistrates delivered in the Delhi Courts.

The main thing is that I am frightened to read the contents of this Bill as it has come out of the Select Committee. My Leader Mr. Neogy was a member of that Select Committee; the revered Leader of the Opposition, Sir Abdur Rahim, was a member of that Committee. I feel frightened

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how these legal luminaries forgot the common sense point of view and were a party to some of the phrases. Of course, with one part of the Bill, I agree. With regard to these *jathas*, I feel that Government have made out a case. The Honourable the Home Member wanted to know at the Simla Session what was my view on *jathas*. I have not expressed any views on that matter, but today I say that Government have convinced the Select Committee that certain legislation must take place about *jathas*. I agree with that; but as to the other matters, I could not understand, not being a lawyer, how my Honourable friends, Sir Abdur Rahim and Mr. Neogy, were parties to clause 2 as it has been drafted. Sir, I was saying that what we British Indians seek today is protection from these princes. A prince, with his large resources, with his dinners, polo, tennis and banquets and other things will go and tell any District Magistrate, even in my own district of Cuttack, that this B. Das is a rascal who is conspiring against all the petty 26 Orissa States that live on the hills of Orissa. They will say that this B. Das is conspiring against the administration of these petty Indian States. There is no administration, except a few honourable exceptions, in these Orissa States. In Orissa, there is a particular State, called the Patiala of Orissa,—I think Mr. Glancy knows it or he may refresh his memory, and that particular State takes pride in doing horrible things which are only suited to the Chamber of Horrors in London. Sir, I seek your protection; you have to protect our rights and liberties. Today we British Indians ask for protection from the horrors of this Bill, so that these princes may not influence the Government to harass public men who do their public duty to the Indian nation, both subjects of British India and of the Indian States. I listened to the speech of the Home Member on the second stage and when he replied. He did not say one word except what was said by Mr. Glancy last Session. He did not say that certain elementary rights will be conceded to the Indian States people, and, as I said before, they are the blood of my blood and the flesh of my flesh, and how can I keep quiet? My Honourable friend, the Home Member, says that legitimate criticism will not be prevented; but who is to judge legitimate criticism? Legal gentlemen will argue it out before the law Court, but I have no money to pay the Law Member who kindly suggested that he will defend me if I am prosecuted under this particular Act.

The Honourable Sir Brojendra Mitter: I will not charge any fee.

Mr. B. Das: Thank you; then you please ask your colleague on your right to give you a chance to defend me. Sir, we the British Indians, whether we are public men or editors of newspapers, will always be prosecuted. We will always be under the terror of being under the control and judgment of District Magistrates. Whenever an Indian prince will enter the District Magistrate's house and will dine at night and have evening carousals in the European Club in our small towns, we public men will be under the dread of some conspiracy being hatched, and I may be summoned for conspiring against the State of Patiala or Dhenkanal or any other State in Orissa. Sir, how long will this Government go on camouflaging things? I am not a lover of Federation,—I have made that clear. I am not a lover of the Dalhousie policy even. If I am asked to make a pronouncement as to my views about these Indian States, I will say they should be

pensioned off; keep them as State pensioners and make the whole of the territories that are under Indian States part of British India. That will solve the problem once for all. Millions of people should not be sacrificed for a few potentates who live in mediaeval barbaric glamour and glory. This Bill does nothing; it wants to perpetuate misrule and maladministration and it will not bring those redresses for which the Indian States people are clamouring since 1929 when the Butler Committee came into existence. At the same time, it is putting fetters round the necks and hands and legs of British Indians, those of us who not only fight for our own freedom, but fight for the freedom of these Indian States people. Sir, we British Indians have even the pleasure and the privilege of fighting for the freedom of humanity, but these Indian States people are today denied that. At the same time, they are denied the sympathy and the co-operation which we British Indians have extended to them so far.

These are the main objections, but I will not be a party to this measure as it is bringing fetters against my own brethren in British India. The Members of this House are facing an election in the month of November, and they are also hearing the tinkles of the bells which announce the advent of the Swaraj Party, the dawn of Congress coming to this House as was the case in those glorious days of 1923—27. This will be a feature next year. If my Honourable friend had, instead of getting this Bill through this year, introduced it next year, it would have been thrown out in the first stage, and I challenge every elected Member, if he is an Indian, if he feels for his own rights and privileges, and if he feels that he has certain rights of citizenship in British India, to deny similar things to States people. However sympathetic my friend, Mr. Ranga Iyer,—whose seat I find is occupied at the moment by my Honourable friend from Bombay, Mr. Mody—may be towards the Indian States, however sympathetic my friend, Mr. Dumasia, may be towards these potentates, let them confine their sympathies to the princes and the subjects of these princes who are enslaved by them. They are privileged to do it; but let them also realise that they should not barter away the rights and liberties which we possess and make us suffer, because a few princes will go on perpetuating their barbaric orgies for a few days or few years more till Nemesis comes down upon them when there will be no princes in India, and, I would like to see the space of the whole of India painted red, and not yellow or white.

Diwan Bahadur A. Ramaswami Mudaliar (Madras City: Non-Muhamadan Urban): Mr. President, I shall not keep the House long over this amendment. I merely wish to state that there is some force in the contention of my friend, Sardar Sant Singh, that the definition of an administration of an Indian State is not given anywhere, either in the Bill or elsewhere. My Honourable friend, the Law Member, suggested there will be no practical difficulty with reference to a prosecution as the Government can at any time withdraw a prosecution. But I wish to point out that there is a curious defect in this Bill. Under the similar section of the Indian Penal Code, section 121A, on which this is modelled. Honourable Members will note that the whole class or category of offences under Chapter VI cannot be proceeded against, and a person charged with them cannot be proceeded against without the previous sanction, either of the Governor General in Council or of a Local Government. In this case clause 2 comes into operation at once; there is no question of

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even a notification of the Local Government or of the Governor General with reference to an area where certain provisions of this Bill are necessary for keeping the peace. That comes so far as the later preventive clauses of this Bill are concerned. This is a substantive clause which penalises the thing and there is punishment for an offence of this kind. If in the Indian Penal Code under section 121A an offence of a far more serious nature against the Governor General in Council or His Majesty the King or against a Local Government can only be proceeded against with the previous sanction of the Governor General in Council or of a Local Government, I venture to submit that it is only reasonable for an offence of this character against an administration which is an inchoate thing, of which people are not quite aware in many States, especially during the transitional stage, that there must be necessarily the previous sanction, and I suggest that the previous sanction of the Governor General in Council is necessary for an offence being prosecuted under this clause. There are many

Mr. President (The Honourable Sir Shanmukham Chetty): Probably it will save time if it is mentioned that the Chair has just got notice of an amendment to the effect that no Court shall take cognizance of an offence punishable under section 2, unless on complaint made by order of, or under authority from, the Governor General in Council or a Local Government, and the Chair understands that the Government are accepting the amendment.

Diwan Bahadur A. Ramaswami Mudaliar: I am very glad that that amendment is going to be accepted, and I do not, therefore, want to prolong the controversy. I was just going to point out the difficulties which might arise if there was no such amendment, as anybody cannot really, under the provisions of the Penal Code, proceed against a delinquent.

The Honourable Sir Harry Haig (Home Member): Sir, with reference to the point which has just been raised by my Honourable friend, Diwan Bahadur Ramaswami Mudaliar, and the amendment which you, Sir, have mentioned, the provision requiring sanction of the Governor General in Council or a Local Government was, I think, omitted by an oversight from our redraft of the Bill when we took it out of the form of the Penal Code. As originally drafted, the provisions of the Criminal Procedure Code would have applied and sanction would have been necessary, but provision for this was not made when we substituted a different form in the Select Committee. So far as the Government are concerned, when the time comes, we shall certainly be very glad to accept that amendment.

The other Honourable Members who have spoken on this amendment have raised points of a general character. My Honourable friend, Sardar Sant Singh, was, I understand, in the main giving Government a piece of friendly advice that they should not enact a provision which was not effective and which did not really carry out their intentions. I think my Honourable friend, the Law Member—at any rate I hope—has satisfied my Honourable friend opposite that in fact the provision will be effective and will carry out our intentions. . . .

Sardar Sant Singh: With very great respect to his legal training, I must say that I am not satisfied with the explanation of the Honourable the Law Member.

The Honourable Sir Harry Haig: The only thing I have to add is that this clause, as amended, did undergo the scrutiny of the Select Committee which contained a number of distinguished members of the Honourable Member's own profession, and I think they are generally satisfied that it carries out our intentions.

My Honourable friend, Mr. Das, has given us a long speech which at times sounded to me as if by some accident it had failed to be delivered on the second reading of this measure, or perhaps by some accident had anticipated the speech which he would have, otherwise delivered on the third reading. Apart from his general reflections on the Bill, it appeared to me that the Honourable Member—I am sorry he is not here at the moment—was suffering from a certain state of morbidity, that his conscience was in some way overdeveloped, that he felt that he had more than the usual allowance of original sin, a view of his conduct and character which I am sure none of his friends would share—and that he might somehow find himself committing the sin of conspiracy. I would only remind him that though the term "conspiracy" is not defined in this Bill, it has a quite definite meaning as my Honourable friend, the Law Member, has already pointed out, and that it would be necessary before anybody can be held guilty of conspiracy, that he should commit an illegal act or should commit an act which is not illegal by illegal means, and I am confident that my Honourable friend will not fall into such actions by any inadvertence and that he will certainly not fall into them by intention. Therefore, I think his conscience might be allowed to sleep and he need no longer exaggerate the possible iniquity of his intentions, as he has exaggerated, I am afraid, the iniquity of the character of my Honourable friend, the Political Secretary. I do not think really there is anything substantial for me to add. I understand that my Honourable friends, Sardar Sant Singh and Mr. B. Das, both objected to the principle of this clause. In that objection I do not think that they will carry with them much support in this House, because though there are provisions in this Bill to which objection is taken generally on the opposite side, I think this particular provision is not one which will generally be opposed. It is, in fact, in our view, a very reasonable provision that persons in British India should not be allowed to conspire to overthrow the administrations of Indian States. Sir, I oppose the amendment.

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

"That clause 2 of the Bill be omitted."

The motion was negatived.

Sardar Sant Singh: Sir, I move:

"That for clause 2 of the Bill the following be substituted :

"2 Whoever, within British India, commits any overt act and thereby subverts or tends to subvert the Administration of any State in India, shall be punished with imprisonment which may extend to two years or fine or both."

Sir, my object in moving this amendment is twofold. My first object is to point out that the word "conspiracy" is very wide, and absolutely innocent persons can be brought into this if this phrase is allowed to stand in the Bill. While moving the omission of clause 2, I tried to

[Sardar Sant Singh.]

point out that this clause, as it stands, would be ineffective and will make the administration of the law very difficult for the Courts who are responsible for the administration of the law. In reply to that, the Honourable the Law Member found himself in a difficult position, because the Bill, when originally drafted, intended an amendment to be made in the Penal Code, and hence all the words which are employed in this clause are intended to convey the meanings which are given to these phrases in the Penal Code itself. But now when he saw this difficulty, he turned round and stated that all these phrases were left undefined, and, therefore, according to the ordinary laws of interpretation, we should look to the General Clauses Act, and if there is no definition in the General Clauses Act, we should take the ordinary dictionary meaning. My difficulty about this objection is that in interpreting certain words which are not defined, if we have to look for a further definition to the dictionary itself, we will find ourselves to be in a hopeless position. I shall try to explain my point.

Now, the word "conspiracy" is defined in the Indian Penal Code. The evidence to prove that conspiracy is admitted under the Indian Evidence Act. Section 10 of the Indian Evidence Act lays down certain provisions by which the conspiracy to commit an offence can be proved. If the definition of conspiracy is not to be found in the special law, if we are not to look to the Indian Penal Code for the definition of the word "conspiracy" and that we have to look to the dictionary for its meaning, then, may I ask the Law Member whether section 10 of the Indian Evidence Act will cover the position and will make those facts admissible, which are made admissible by section 10 of the Indian Evidence Act? The Indian Evidence Act lays down that if a person is a member of a conspiracy, whether he knows or not the acts of another member that certain acts are being done in pursuance of committing a conspiracy, the evidence of that intentional act of another person, a member of the conspiracy, is admissible to prove the conspiracy against him,—whether the use of section 10 of the Evidence Act will cover the acts of intention to prove it. If it is so, then we will find ourselves in great difficulty. If the conspiracy is not defined in the special Act and we are not to look for its definition to the Indian Penal Code or to the General Clauses Act, the difficulty will come in applying the Evidence Act to cover acts which will go to prove that a person is a conspirator. Probably, my Honourable friend did not look to that difficulty.

Then, again, there is the question of administration of a State. "Administration" is not defined in this Bill, nor is it defined in the General Clauses Act. Therefore, we have naturally to go to the dictionary for its meaning. I just now sent for the "Webster's Dictionary" to find out the meaning of "administration", and I think this is a dictionary of some authority on this point, and this is the meaning given in it. No less than one full column meaning has been given in it, and various meanings have been given to the word "administration". Some of them mean the persons who are to carry on the executive Government of a particular State. Another definition given is the management of public affairs, the conduct or carrying on the details of Government. Now, certainly, a *chaprassi* in the office of an Executive Councillor is performing some duties; if not a *chaprassi*, at any rate a clerk in an office is performing some duty. Will he be included in the definition of any State? . . .

The Honourable Sir Brojendra Mitter: May I interrupt my Honourable friend? The meaning which my friend just now read out, is the conducting or carrying out of the details of Government. Immediately after that, he will find in the Oxford Dictionary "hence sometimes used for Government".

Sardar Sant Singh: I have got it. I did not read it, because that was a matter for inference, and it was not a matter of meaning. I will just read out the meaning as it is given:

"The management of public affairs, the conducting or carrying on of the details of Government, hence sometimes used for Government."

Sometimes used for Government—there is an inference from the dictionary meaning of the word "administration". It is not the meaning of the word "administration", and according to the rules of interpretation laid down by the Law Member, the administration means any person who is responsible for carrying out the details of the administration. Of course, it means the Government as a whole, but it also means a person who is given by that Government power to perform any of the functions of an Executive Government. Take, for instance, the Deputy Commissioner of a district. He is one of the most important parts of the machinery of the Government, and probably he carries out some of the most important works of the Executive Government. Will the conspiracy against him be punishable under clause 2 as it stands? I think, the Honourable the Law Member will agree with me that the clause is not intended for that purpose. The intention of the Legislature is to make punishable acts or the use of criminal force against the chief executive authority of the State, to put the most charitable interpretation of this clause. Here the administration of a State is not defined. We are to find out who will be affected by this conspiracy. The person affected would be the chief executive authority constituting that administration. The words, as they are in the Bill do not limit its application to the chief executive authority. Take the corresponding definition given in section 121A of the Indian Penal Code of which this clause is a reproduction. The words used there are, "overawe by force or by show of criminal force the Government of India or the Local Government". The "Government of India" is defined as the Governor General in Council or the Governor General alone. One can understand it. As the chief executive authority, he is responsible for the maintenance of law and order in a particular Government, but what about the administration of a State? There is no limit placed there. Therefore, the rule of interpretation given by the Honourable the Law Member is not correct and will be ineffective if this clause is put in force in any case. My position is that the administration of a State should be defined, and, as I have suggested in a later case, it should be defined as administration established by law. I will come to that when I move my amendment to clause 3. But here I want to point out that the dictionary meaning would not help anybody when interpreting this clause. The second point made is that practically it would not make any difference, because it is the Government which will institute the proceedings and it is for the Executive Government to find out whether action in a particular case is desirable or is not desirable.

Mr. President (The Honourable Sir Shanmukham Chetty): The Honourable Member must now confine himself to his own amendment. He uses the words "administration of a State" in his own amendment.

Sardar Sant Singh: This is an alternative amendment. I am coming to that. But I am just dealing with the rule given by the Honourable the Law Member. My submission is that so far as the taking of action is concerned, we are not concerned with it. That is for the consideration of the Executive Government. A lawyer or a judicial officer is not concerned with the motives of the Government as to why a particular case is instituted against a particular person and why it is not. Faced with these difficulties as we are, I suggest that conspiracy should be cut out entirely and that action should be taken only against those persons who are actually guilty of an overt act in pursuance of a conspiracy to subvert or tending to subvert the Government or administration of a State. The words "administration of a State" will have a meaning when we use them in collaboration with the words "subverting or tending to subvert". Everybody can understand what is subverting the administration of a State, but nobody can understand what is the using of criminal force against the administration of a State. Therefore, I am perfectly justified in using the words "administration of a State" when I use them in connection with subverting or tending to subvert the administration of a State in India. A Government may be subverted, but a conspiracy to overawe by use of force or criminal force cannot be entered into against an indefinite term like, the administration of a State. Therefore, I move my amendment.

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

"That for clause 2 of the Bill the following be substituted :

"2. Whoever, within British India, commits any overt act and thereby subverts or tends to subvert the Administration of any State in India, shall be punished with imprisonment which may extend to two years or fine or both."

Mr. B. V. Jadhav (Bombay Central Division: Non-Muhammadan Rural): Sir, I rise to support this amendment. I wanted to speak in favour of the first amendment moved by my Honourable friend, Sardar Sant Singh, that clause 2 be omitted

Mr. President (The Honourable Sir Shanmukham Chetty): The Honourable Member wants to speak in favour of that, first?

Mr. B. V. Jadhav: I wanted to, but I did not get an opportunity, and so, as a lesser evil, I accept this amendment, and shall say something in support of it.

It is well known that Indian States are secured against external and internal aggression by the mighty Indian Government supported by the British Government. The Government of India maintain a very big army complete in all its arms, infantry, cavalry, artillery and air force, and there is also some naval force, and if occasion requires, the whole strength of the British Empire is at the back of the Government of India, in other words, at the back of the administration, as it is called, of any Indian State. Any person who will dare to conspire against the administration of an Indian State or who will dare to overawe by means of criminal force, etc., cannot be very sound in his mind. One ought to have pity for his mental condition, and if he is for the safety of himself to be kept in a safe place, the mental asylum is the only place suitable for him.

I do not think that he should be sent to jail and tried, because a man of sense ought to know that the success of such a venture is beyond all possibility. There is no chance of his succeeding in his attempt. Therefore, such a person who conspires and those who join him in the conspiracy ought to be pitied rather than proceeded against, and, therefore, the original clause, as drafted, is not at all wanted. For this reason it ought to be omitted. But if Government do not wish to omit it, it will be better to have it in this milder form. I need not take up the time of the House in speaking further. I merely want to impress upon the House that the offence intended under this section is a very improbable one, because the conditions are so very much against any conspiracy of this sort, the odds are so very great that one cannot even conceive of any occasion when a conspiracy to overawe, etc., will be made by any sound persons. I, therefore, support this amendment.

Mr. Lalchand Navalrai (Sind: Non-Muhammadan Rural): With regard to this amendment, I have to say a few words. In clause 2 of the Bill, the words are, "Whoever, within or without British India, conspires to overawe, by means of criminal force or the show of criminal force, the Administration of any State in India . . ." Now, the amendment wants to delete the words "without British India". I think the anomaly is quite plain. The difficulty will arise, and I will give an instance. Supposing certain people in the Indian States conspire to overawe the administration. Can they be tried in British India or not? The reply will be, yes. That means, if a person were to do a certain thing in an Indian State in order to disturb the administration there, the British Courts have jurisdiction against them to try them here in British India. That is an absurd position altogether. This is not my own meaning. I also find it in the report of one of the District Magistrates. It is the District Magistrate of my own town, the District Magistrate of Larkana. What he says, while commenting on clause 3, applies to this clause also, because there the same question is tackled. He says:

"Clause 3 of the Bill is open to objection in that it appears to make it possible for a British Court to take cognizance of offences committed against the Administration of a State within the State itself. It should be made clear that British Courts should deal with offences against the Administrations of Indian States only if the offences are committed outside the boundaries of the State concerned."

Mr. President (The Honourable Sir Shanmukham Chetty): This point has been dealt with elaborately by a ruling given by the Chair. In the case of an offence committed outside British India, the person committing the offence must be a British subject, and then only the British Indian Court will have jurisdiction, but if the subject of an Indian State commits an offence in an Indian State territory, then the British Court has no jurisdiction.

Mr. Lalchand Navalrai: I was not present when that ruling was given.

Mr. President (The Honourable Sir Shanmukham Chetty): This is only interpreting the actual provisions of the Penal Code where the words "whoever within or without British India" occur. It is a clearly well understood principle of the Penal Code.

Mr. Amar Nath Dutt (Burdwan Division: Non-Muhammadan Rural): Is the interpretation of the Speaker binding upon the High Courts?

The Honourable Sir Brojendra Mitter: That is not the interpretation of the Chair. It is the interpretation of Courts and it is the clear language of Statutes.

Mr. President (The Honourable Sir Shanmukham Chetty): In its ruling, the Chair only pointed out this clear interpretation which has long been placed upon the Penal Code. It was not the original interpretation of the Chair.

Mr. Amar Nath Dutt: Is there no possibility of another view being taken by the High Courts?

Mr. Gaya Prasad Singh (Muzaffarpur *cum* Champaran: Non-Muhammadan): Sir, in section 121-A of the Indian Penal Code also, it is stated "whoever, within or without British India, conspires to commit any of the offences punishable by section 121", and so on.

Mr. Lalchand Navalrai: There have been instances in which I have myself seen Magistrates and Judges say that the interpretation is left to them. I do understand that, so far as the House is concerned, it is made quite clear. Certain Courts might say that we will follow that interpretation, and the other Courts may not. I am, therefore, submitting that, as we are legislating, the words "without British India" might be eliminated. Therefore, it is that that amendment is made. I have nothing more to say with regard to that.

Then, as regards the second point, in the words "to overawe by means of criminal force or show of criminal force", it is only a conspiracy to overawe. This would be very vague, and there will be no certainty of proof with regard to conspiracy to overawe, but if it is a conspiracy, and, in consequence of it, a certain overt act has been done, then there is something definite, and I would, therefore, accept the words that the Honourable the Mover of the amendment has used that it should be an overt act which subverts or tends to subvert the administration of any State. These words would be more definite and would not leave any doubt. With these words, I support the amendment.

The Honourable Sir Harry Haig: I understand that the main object of this amendment is to substitute for the provision in the Bill, which is the provision constituting an offence of conspiracy, to substitute for that a different offence—to take away altogether the idea of conspiracy and merely to punish certain overt acts. I need hardly say that any such amendment is entirely unacceptable to Government as it strikes at the root of the provision which they had intended should be inserted in the Bill. The Honourable Member is probably aware that if his amendment were accepted, it would be exceedingly difficult ever to proceed to a prosecution under it, for in the cases which we are considering the overt acts, if any, would to a large extent be committed in the States, and, therefore, we should not be able to take the preventive action that is required. The conspiracy would normally take place in British India and the overt act in the State. Therefore, I submit that the provisions suggested by the Honourable Member would really be of little or no effect.

The Honourable Member enlarged on the question of the meaning of the word "administration", but, I am not sure, in accordance with your ruling, Sir, whether it is necessary for me to give any answer on that point. I have the answer if it is raised at a later stage. Then, the Honourable Member proposes that instead of the words which we have suggested, namely, "conspires to overawe by means of criminal force or show of criminal force" the word "subvert" should be substituted, and my Honourable friend, Mr. Jadhav, developing that point said, if I understood him aright, that the offence of seeking to overawe an administration was such an improbable one that this Legislature need not take any precautions against it. Nevertheless he is prepared to make provision against what, I submit, is a more improbable and more difficult act, namely, to subvert the State, which is really going much further.

Mr. Jagan Nath Aggarwal: If a State is actually subverted, would that be punishable under this clause, bearing in mind that a successful rebellion is no rebellion?

The Honourable Sir Harry Haig: Certainly. I do not think there need be any doubt that this would be punishable, but if the Honourable Member is in any doubt on that point, and would put down an amendment to add the word "subvert", I do not think the Government would have any particular objection. In fact, I think that was a suggestion that was at one time considered in the Select Committee. I think, Sir, that deals with all the points that have been raised and I must oppose the amendment.

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

"That for clause 2 of the Bill the following be substituted :

'2. Whoever, within British India, commits any overt act and thereby subverts or tends to subvert the Administration of any State in India, shall be punished with imprisonment which may extend to two years or fine or both.'

The motion was negatived.

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

"That clause 2 stand part of the Bill."

The motion was adopted.

Clause 2 was added to the Bill.

The Assembly then adjourned till Eleven of the Clock on Monday, the 9th April, 1934.