

LEGISLATIVE ASSEMBLY DEBATES

WEDNESDAY, 15th AUGUST, 1934

Vol. VII—No. 7

OFFICIAL REPORT



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LEGISLATIVE ASSEMBLY.

Wednesday, 15th August, 1934.

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

QUESTIONS AND ANSWERS.

RECRUITMENT OF ASSISTANTS IN THE RAILWAY BOARD'S OFFICE.

612. *Kumar Gupteshwar Prasad Singh : (a) Will Government be pleased to state if it is a fact that some posts of assistants are being created in the office of the Railway Board ? If so, will Government please state how many posts are being created ?

(b) Is it a fact that it is intended to fill these posts by men to be imported from outside on the plea of *technical qualification* ? If so, will Government please state what are the technical qualifications possessed by those men ?

(c) Will Government please state whether it is a fact that the staff of the office has been totally condemned as a whole, and have not been given an opportunity to show their merits ? If so, why ?

Mr. P. R. Rau : (a) Five of the Assistants' posts, retrenched in 1932, are being revived as a temporary measure for the present.

(b) Actual recruitment to these posts is still under consideration, but it is probable that they will not all be filled from clerks in the Board's office, owing to the number of suitably qualified men being at present insufficient.

(c) No.

RECRUITMENT OF ASSISTANTS IN THE RAILWAY BOARD'S OFFICE.

613. *Kumar Gupteshwar Prasad Singh : (a) Will Government please state what are the technical posts reserved in the Railway Board's office for such staff ?

(b) Will Government please state if the recruitment rules of the Board's office simply lay down the importing of men with technical qualification from Railways and not ordinary men ? If so, will Government please state the rule or rules under which it is now proposed to import men from outside on exorbitant salaries ?

Mr. P. R. Rau : (a) No appointments are specifically reserved, but many of the staff in the Railway Board's office are required to deal with work for which previous experience and training in accounts and finance or of the several operating departments of a railway are essential.

(1503)

(b) The special regulations for recruitment in the Railway Board's office, approved by the Government of India, permit the Railway Board to recruit men of railway experience as may be required. It is not proposed to pay such recruits exorbitant salaries.

RECRUITMENT OF ASSISTANTS IN THE RAILWAY BOARD'S OFFICE.

614. *Kumar Gupteshwar Prasad Singh : (a) Will Government please state if it is a fact that certain staff of the Railway Board represented to the Chief Commissioner of Railways for consideration of their claims for promotion in the forthcoming vacancies of assistants ?

(b) Is it a fact that the Secretary and the Assistant Secretary objected to such representations being addressed to the Chief Commissioner of Railways direct and under threat of dismissal at one month's notice returned or had the representations torn off and they could not reach the destination ? If so, will Government kindly state if it was in accordance with the Classification, Control and Appeal Rules ?

(c) Will Government please state what led to this action of the officers concerned ? Were these officers required to do so by the higher authorities ?

(d) Will Government please state if a similar complaint was raised on the floor of this House in the Budget session of 1933 ? If so, what action was taken by Government in the Railway Department to put a stop to this practice ?

Mr. P. R. Rau : (a) Four representations from members of the staff were addressed to the Secretary, Railway Board, and one to the Chief Commissioner, asking that the applicants might be considered for the vacancies. These were placed by the Secretary before a Member of the Board.

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

(c) Does not arise.

(d) I presume my Honourable friend is referring to starred question No. 1006, put by Mr. Ramakrishna Reddi, on the 28th March, 1933. I then informed the House that Government were not aware of any cases of representations being suppressed by any officer of the Board, and the practice was that the Secretary placed important cases before the Board. This practice was adopted in the present case.

Dr. Ziauddin Ahmad : Am I to understand that these applicants were penalized simply on the ground that they addressed a memorial to the Chief Commissioner of Railways ?

Mr. P. R. Rau : Nobody was penalized, so far as I am aware.

SUBMISSION OF REPRESENTATIONS BY THE RAILWAY BOARD STAFF.

615. *Kumar Gupteshwar Prasad Singh : (a) Will Government please place a copy of the Classification, Control and Appeal Rules under which the staff of the Railway Board's office is supposed to submit their representations, appeals, etc. ?

(b) Is it a fact that the officers are in the habit of disposing of the appeals and representations at their sweet-will ?

(c) Is it a fact that the Secretary has once remarked on the combined representation of the staff that such representations should not be submitted combined and the ink, pen, paper, machine, and time of the office should not be utilised for submitting the representations? If so, will Government please state under what rule or rules the Secretary has issued such orders?

(d) Will Government please state if the above orders had the approval of the Chief Commissioner of Railways? If not, why not? Is the Chief Commissioner Secretary to the Government of India and therefore the controlling officer and appointing officer?

(e) Is it a fact that the present Secretary of the Railway Board had formerly stopped the increments of staff without the consent of the Financial Commissioner or the Chief Commissioner of Railways, and has committed other irregularities in the past?

Mr. P. B. Rau : (a) Rules under the Railway Services Classification Rules have not yet been issued. They are under preparation. Meanwhile, if any cases arise, the rules issued by the Home Department, in their Notification No. F-9-19/30, of the 27th February, 1932, would be followed *mutatis mutandis* in the Railway Department Secretariat.

(b) I am not quite clear what is the precise allegation the Honourable Member is making. So far as I am aware, all representations are dealt with according to rules.

(c) In regard to a joint appeal signed by several members of the staff, the Secretary, I understand, suggested that in accordance with the principle recognised in the Appeal Rules, each appellant should submit his own appeal. The Secretary also expressed a hope that the staff would prepare the appeals in their own time and not use the office typewriters for the purpose. These directions were issued by the Secretary who is responsible for procedure and discipline in the Board's office.

(d) It was unnecessary to refer such a matter to the Chief Commissioner. The answer to the last part of the question is in the affirmative, but it does not follow that every minor order on questions of discipline in the office should be referred to him.

(e) Yes. I understand such an order was issued in the middle of November, 1933. Increments were withheld for a month pending an investigation. I am not aware of the irregularities alleged in the last part of the question.

REVERSION TO HIS SUBSTANTIVE POST OF THE SECRETARY OF THE RAILWAY BOARD.

616. *Kumar Gupteshwar Prasad Singh : Will Government please state the name of the railway on which the present Secretary of the Railway Board holds his lien and whether it is proposed to revert him to his substantive post? If not, do Government propose to consider the advisability of transferring him to some other post?

Mr. P. B. Rau : The present Secretary holds a lien on a post on the Madras and Southern Mahratta Railway. Government see no reason to revert him or transfer him to another post.

REDUCTION OF PAY OF RAILWAY BOARD STAFF.

617. *Kumar Gupteshwar Prasad Singh : Will Government please state whether it is a fact that when the pay of the officers was increased on the occasion of the last organisation of the Railway Board's office, the pay of the staff was reduced ? If so, why ?

Mr. P. R. Rau : In the last reorganisation of the Railway Board's office, the pay of the officers remained the same with a single exception where the scale was increased in view of increased responsibilities. The pay of the ministerial staff then in the Board's office was not changed, but a revised scale was introduced for new entrants on a slightly lower basis than that of the ministerial staff in other departments for the following reasons :

- (i) It was desirable to assimilate the pay as far as possible with that obtaining on railways because it was intended to recruit ministerial staff in an increasing measure from railways.
- (ii) It was recognised that the staff in the Railway Board's office had advantages of passes and other travel facilities not enjoyed by the ministerial staff of other departments.

STATUS OF THE RAILWAY BOARD STAFF.

618. *Kumar Gupteshwar Prasad Singh : Is it fact that the status of the staff of the office of the Railway Board is lower than that of their colleagues of the other Departments of the Government of India ? If so, why ?

Mr. P. R. Rau : No.

INSOLVENT AND INDEBTED CLERKS IN THE GOVERNMENT OF INDIA OFFICES.

619. *Kumar Gupteshwar Prasad Singh : (a) Will Government please state the number of clerks in the Government of India and their attached and subordinate offices :

- (i) who are insolvent,
- (ii) whose pay is being attached, and
- (iii) who are heavily in debt and whose pay will remain attached, during the next three years ?

(b) Will Government please state what action has been taken by the respective offices against such staff under the Government Servants' Conduct Rules ?

(c) Will Government please state how many men have been dismissed in each office during the last three years for the above offence ?

(d) Will Government kindly state what action they contemplate taking against such staff ? If no action is desired, will Government please state why the rule in the Government Servants' Conduct Rules was framed ?

The Honourable Sir Henry Craik : (a) to (c). Government regret that the required information is not readily available and cannot be obtained without an undue expenditure of time and labour.

(d) Government have no reason to suppose that action is not taken under Rule 16 of the Government Servants' Conduct Rules when the circumstances are considered to require it.

IMPORTATION OF A RATES ASSISTANT FROM OUTSIDE IN THE RAILWAY BOARD'S OFFICE.

620. *Kumar Gupteshwar Prasad Singh : (a) Will Government please state if it is a fact that it is desired in the office of the Railway Board to import a Rates Assistant from outside ? If so, why ?

(b) Is it a fact that very recently they took over the services of a clerk from another Department of the Government of India for this very purpose ?

(c) Have Government considered that a man can be trained by sending him on a railway and heavy expenditure can be avoided ? Do Government propose to consider the advisability of doing so ?

(d) Do Government propose to consider the advisability of getting a lower paid staff to help the present man from any railway and avoid the heavy expenditure ?

Mr. P. R. Rau : (a) Yes ; the post requires considerable practical experience of rates work and no person with that experience was available in the office.

(b) A clerk was recruited seven years ago for a similar purpose.

(c) Government do not consider that the suggestion will meet the needs of the present situation. A clerk with long experience is urgently required to replace an Assistant who is retiring.

(d) The Railway Administrations who were consulted were unable to recommend any suitable man who could be spared.

Dr. Ziauddin Ahmad : In view of the fact that the question of rate concessions has presumably been handed over to the Agents, is a special officer required in the Railway Board for the purpose ?

Mr. P. R. Rau : It is not a special officer but a clerk who deals with the question of rates.

Dr. Ziauddin Ahmad : Although the whole subject has presumably been transferred to the Agents and to the Rates Advisory Committee ?

Mr. P. R. Rau : The whole subject of rates has not been transferred to the Agents and to the Rates Advisory Committee : there are a large number of questions dealt with up here.

TRANSFER OF SEVERAL BENGALI STATE PRISONERS TO THE NASIK JAIL.

621. *Mr. S. C. Mitra : Is it a fact that several Bengali State prisoners have recently been transferred to the Nasik Jail ? If so, will Government please state their names and the reasons for their transfer ?

The Honourable Sir Henry Craik : The answer to the first part of the question is in the negative. The second part does not arise.

Mr. S. C. Mitra : May I take it that instead of it being Nasik, it may be somewhere near Nasik, some central jail near about there ?

The Honourable Sir Henry Craik : What was the Honourable Member's question ?

Mr. S. C. Mitra : Have these State Prisoners been transferred to any jail near about Nasik where all the State Prisoners are being brought together ?

The Honourable Sir Henry Craik : I think four State Prisoners have been transferred to a jail in Bombay.

Mr. S. C. Mitra : Near Nasik ?

The Honourable Sir Henry Craik : To the Arthur Road Jail, Bombay.

PERMISSION TO MR. SAILENDRA NATH GHOSH TO RETURN TO INDIA.

622. ***Mr. S. C. Mitra :** (a) Will Government please state the objections for not permitting Mr. Sailendra Nath Ghosh to come back to India from America ?

(b) Are Government aware that the present condition of his health is very precarious and that he is anxious to come back to his native land ?

(c) Are Government aware that Mr. Ghosh is agreeable to give an undertaking that he will not take part in any undesirable political agitation in India ? If not, are Government prepared to enquire into these facts ?

(d) Are Government aware that Mr. Ghosh has recently written to his friends in India, requesting them to secure permission from Government for his return on any reasonable condition ?

The Honourable Sir Henry Craik : (a) to (c). I would invite the Honourable Member's attention to the replies given by my predecessor on the 20th March, 1933, and 12th September, 1933, respectively, to Mr. Gaya Prasad Singh's question No. 788, and Mr. Bhuput Singh's question No. 874, and to the supplementary questions and answers in connection therewith, to which I have nothing to add.

(b) I am aware of Mr. Ghose's desire to return to India. I have no information as to his present state of health, but last February he stated that he had tuberculosis.

(d) I have no information, beyond the fact that Mr. Ghose addressed a letter to the Honourable Member himself last year which appeared in the Press.

Mr. Gaya Prasad Singh : What is the objection to granting permission to this gentleman to come back to India ?

The Honourable Sir Henry Craik : The objection is that he is accused of a serious offence in India, and if he comes back, he will be tried. He has asked to be granted an amnesty, and that the Government of India are not prepared to agree to.

Mr. Gaya Prasad Singh : If this gentleman comes to India and if he is prepared to stand his trial for any charge that may be brought against him, what objection can there be to his being allowed to return ?

The Honourable Sir Henry Craik : I have no reason to think that he is prepared to stand his trial.

Mr. Gaya Prasad Singh : Has he applied for permission to come to India ? If so, is it not open to the Government of India to tell him that if he comes here he will have to stand his trial ?

The Honourable Sir Henry Craik : No, Sir, he has not applied to return to India unconditionally. I understand that he has only applied to be allowed to return to India provided he is granted an amnesty.

Diwan Bahadur A. Ramaswami Mudaliar : Supposing he applies for an unconditional return, are the Government prepared to consider his case favourably ?

The Honourable Sir Henry Craik : That, Sir, is a hypothetical question.

Mr. S. C. Mitra : May I take it that the Government have no objection to his coming back to India ?

The Honourable Sir Henry Craik : Certainly not. Government have every objection to his return to India.

Mr. S. C. Mitra : What are the reasons for raising objection to his return to India, especially when he is agreeable to stand trial if Government desire to put him on trial ?

The Honourable Sir Henry Craik : I have already explained that he is not agreeable to stand a trial, so far as I am aware. He has only asked to be allowed to return to India provided he is granted an amnesty.

Diwan Bahadur A. Ramaswami Mudaliar : It is not a question of the willingness of an accused person to stand for a trial. The moment he returns to India, can he not be proceeded against by Government if they so wish to do ?

The Honourable Sir Henry Craik : He would not return on those conditions.

Diwan Bahadur A. Ramaswami Mudaliar : He has asked for permission to return, and why should it not be given ?

The Honourable Sir Henry Craik : Let him try for it for himself.

Mr. Gaya Prasad Singh : Do I understand from the Honourable Member that Mr. Ghosh has applied to the Government of India for permission to come to India on the condition of his obtaining an amnesty ?

The Honourable Sir Henry Craik : Yes, Sir, that is broadly the position.

Mr. Gaya Prasad Singh : In that case, why should not the Government of India write to him to say that no amnesty can be granted to him ? And if, on these terms, he is prepared to come, let him come. He can then be hauled up for trial.

The Honourable Sir Henry Craik : Actually, Sir, I think he understands that perfectly well. But the permission to allow him to return to India rests with the Secretary of State. He could only get his passport with the agreement of the Secretary of State.

Mr. Vidya Sagar Pandya : May I ask, Sir, what would be the position if Mr. Ghosh comes to a French port, say Pondicherry, and then enters British India as Mr. Horniman once actually did ?

The Honourable Sir Henry Craik : If he arrives in India without a passport, he would probably be prosecuted for entering India without a passport.

Mr. Vidya Sagar Pandya : In that case, he does not require the permission of the Government of India. As he is prepared to stand a trial, he can enter British India through one of the French ports ?

The Honourable Sir Henry Craik : The Honourable Member has misunderstood me. So far as I know, he is not prepared to stand his trial.

Mr. D. K. Lahiri Chaudhury : What objection can there be to his return, if he is prepared to stand his trial ?

The Honourable Sir Henry Craik : I have already explained that, so far as I am aware, he is not prepared to return to India unless he is granted an amnesty.

POLITICAL PRISONERS SENT TO THE ANDAMANS.

628. ***Mr. S. C. Mitra :** Is it a fact that a batch of political prisoners was sent to the Andamans on the 30th June, 1934 ? If so, how many prisoners were sent in the batch and what is the total number of political prisoners now in the Cellular Jail ?

The Honourable Sir Henry Craik : I presume the Honourable Member refers to terrorist prisoners. A batch of 14 such prisoners was sent to the Andamans on the 1st July, 1934. The total number of terrorist prisoners now in the Cellular Jail, Port Blair, is 190.

Mr. S. C. Mitra : Is it correct to say that it is only the convicted persons who are sent to the Andamans and not the detenus or State Prisoners ?

The Honourable Sir Henry Craik : Yes, Sir, that is correct.

ILLNESS OF MR. SUSHIL DAS GUPTA, A POLITICAL PRISONER IN THE ANDAMANS.

624. ***Mr. S. C. Mitra :** (a) Is it a fact that Sj. Sushil Das Gupta, a political prisoner in the Cellular Jail, Andamans, has been suffering from malaria for the last few months ? If so, for how many months has he been suffering and what is the condition of his present health and when had he his last attack of fever ?

(b) What was his weight on the 7th April, the 7th May, the 7th June, and the 7th July, 1934 ?

(c) Do Government contemplate sending Sj. Das Gupta to a jail in Bengal for proper medical treatment ? If not, are Government prepared to permit his brother, Mr. B. K. Das Gupta, who was once refused an interview, to see him in the Cellular Jail ?

The Honourable Sir Henry Craik : (a) This prisoner suffered from clinical malaria from the 6th to 9th May, 1933 and 24th to 29th March, 1934. His present condition is fit.

(b) His weight was 92 lbs. in April and May and 89 lbs. in June and July, 1934.

(c) As regards the first part of the question I am not aware of any such proposal. In regard to the second part, I would refer the Honourable

Member to the reply given by my predecessor on the 16th July last to the Honourable Member's question No. 44.

TRANSFER OF MR. NIKHIL GUHA ROY, A POLITICAL PRISONER, FROM THE CELLULAR JAIL, ANDAMANS.

625. *Mr. S. C. Mitra : (a) Is it a fact that Sj. Nikhil Guha Roy a political prisoner has been transferred from the Cellular Jail, Andamans? If so, when and where?

(b) Will Government also please state the reason for his transfer?

(c) Is it a fact that Sj. Guha Roy has been suffering from tuberculosis? If so, for how many months, and what is the present condition of his health?

(d) Is it a fact that Sj. Guha Roy's health was perfectly sound before his transfer to the Andamans?

The Honourable Sir Henry Craik : (a) and (b). The prisoner was returned to Calcutta on the advice of the Medical Board on the 5th April, 1934, as he was suffering from asthma complicated with chronic bronchitis.

(c) He was not suffering from tuberculosis while in the Andamans. Government have no information as to the present conditions of his health.

(d) He was declared fit for transfer to the Andamans before his deportation.

ATTACK OF TUBERCULOSIS OF POLITICAL PRISONERS IN THE ANDAMANS.

626. *Mr. S. C. Mitra : (a) Will Government please state how many of the political prisoners sent to the Andamans since 1932 have been attacked with tuberculosis?

(b) Have Government made proper enquiries about the reasons of the attack of tuberculosis of so many prisoners in the Cellular Jail in a short period of two years only? If so, with what result?

The Honourable Sir Henry Craik : (a) Since 1932, three terrorist prisoners showed signs of tuberculosis. They were returned to Bengal in accordance with the standing instructions which require that prisoners suffering from tuberculosis should be removed from the Andamans as early as possible. I might add that in the case of two of these three prisoners signs of tuberculosis appeared after a hunger-strike.

(b) Government do not consider that the disease is in any way due to the confinement of these prisoners in the Cellular Jail. The incidence of tuberculosis is not higher in the Cellular Jail, Port Blair, than in jails in many other Provinces in India.

PUNISHMENT INFLICTED ON DR. NARAIN ROY, A POLITICAL PRISONER IN THE ANDAMANS.

627. *Mr. S. C. Mitra : (a) Is it a fact that Mr. Thakur Das Roy had an interview with his brother Dr. Narain Roy, a political prisoner in the Cellular Jail, on the 11th July last?

(b) Is it also a fact that Dr. Narain Roy was under punishment during the second week of July ? If so, why and for how many days ? What is the nature of punishment inflicted on Dr. Roy ?

(c) Has this any connection with the incident of the 7th July as referred to in the Home Member's statement of the 26th July in this House ?

The Honourable Sir Henry Craik : (a), (b) and (c). Yes. The interview with his brother was allowed, though Narain Roy, who was one of the ring-leaders of the incident of the 9th July last, had been awarded punishment which involved the loss of certain privileges which are subject to good behaviour, such as interviews, writing letters, etc. The punishments were withdrawn a few days later on the prisoners offering apologies for their participation in the incident. The interview was allowed as his brother had started from Calcutta before the incident occurred and before the punishment was inflicted.

PUNISHMENTS GIVEN TO CERTAIN POLITICAL PRISONERS IN THE ANDAMANS.

628. ***Mr. S. C. Mitra :** (a) Is it a fact that several political prisoners in the Andamans have been flogged recently ? If so, who were the victims and what is the reason for such punishment ?

(b) Is it a fact that Sjs. Ananta Singh of Chittagong armoury raid and Jogen Sukul of Matihari Conspiracy Case are also under punishment ? If so, why ?

(c) How many of the political prisoners in the Andamans have been recently given solitary cell punishment ?

(d) Is it also a fact that under the above circumstances, a hunger-strike by the political prisoners in the Andamans is still apprehended ?

The Honourable Sir Henry Craik : (a) The Honourable Member presumably refers to terrorist prisoners in the Andamans. There is no truth whatever in the allegation contained in this question ; no terrorist prisoner has been whipped up to date.

(b) Prisoners Ananta Singh and Jogan Sukul were punished, by being deprived of some of their privileges, as they took part in the incident of the 9th July last. Their punishments were suspended, when they apologised for their participation in the incident and the punishments are no longer in force.

(c) There is also no truth in this allegation.

(d) There are no grounds for apprehending a hunger-strike by terrorist prisoners. On the contrary, everything in the Cellular Jail is absolutely normal at present.

LOWER CLASS ACCOMMODATION ALLOTTED TO THE GOVERNMENT OF INDIA STAFF IN NEW DELHI.

629. ***Mr. S. C. Mitra :** (a) Is it a fact that large number of ' E ' type quarters on Minto and Circular Roads, New Delhi, have been allotted to the staff of the various offices of the Government of India, who under the rules are entitled to a higher class of quarters ?

(b) Is it the intention of Government to deprive the staff of the Delhi allowances by allotting a lower class accommodation against the allotment rules ?

(c) Will Government please state whether the acceptance or the surrender of this lower class accommodation by the staff who are entitled to higher class accommodation will forfeit their claims for the Delhi allowances, if sanctioned ? If so, why ?

The Honourable Sir Frank Noyce : (a) Sixty-five E class quarters are surplus to the requirements of officers in that class for the winter season of 1934-35. Thirty-nine of these quarters have been offered, under the Allotment Rules, to migratory officers entitled to C and D class accommodation.

(b) and (c). Orders were issued in 1929 to the effect that refusal by officers or members of the staff of the Government of India Secretariat and Attached Offices of quarters of the class to which they are entitled, or of a class next above or next below their own, will render them ineligible for the grant of any Delhi allowances that may be sanctioned. I may point out that "out of class allotments" are permitted under the rules.

PERIODICAL TEST OF GUARDS ON THE NORTH WESTERN RAILWAY.

630. ***Mr. Gaya Prasad Singh** (on behalf of Mr. Lalchand Navalrai) : (a) Will Government be pleased to state whether it is a fact that the guards employed on the North Western Railway are put to an examination in the railway rules after every three years up to the age of 45, and then annually ?

(b) Is any other class of staff on the North Western Railway put to a similar test periodically ? If so, will Government please state the names of these classes of staff ? If not, why have guards alone been picked up for such a periodical test ?

(c) Is it a fact that if a guard fails to satisfy the examining officer in the periodical test, he is re-called and the period between the date of his first failure and eventual passing of the test is treated as leave ?

(d) If the reply to part (c) above be in the affirmative, are other classes of staff, going for refresher courses, treated similarly and their period treated as leave ? If not, why is differential treatment accorded to guards ?

Mr. P. E. Bau : I have called for certain information and will lay a reply on the table of the House in due course.

PROPOSED VISIT OF AN ITALIAN TRADE DELEGATION TO INDIA.

546. ***Mr. Gaya Prasad Singh :** Is there any proposal of an Italian trade delegation visiting India in the near future ? If so, when is it expected, and with what object ?

The Honourable Sir Frank Noyce : Yes, Sir. The Government of India understand that the Italian Government are desirous of entering into discussions with the Government of India on the subject of the trade relations of India and Italy. The negotiations may begin about October next if that is convenient to both Governments.

EXPENSES BORNE BY THE INDIAN EXCHEQUER IN CONNECTION WITH THE VISIT OF THE JAPANESE TRADE DELEGATION.

547. ***Mr. Gaya Prasad Singh** : Was any expense borne by the Indian exchequer in connection with the visit in India of the Japanese trade delegation ? If so, how much ?

The Honourable Sir Frank Noyce : Yes, Sir. Expenditure of about Rs. 18,250 was incurred on account of the Japanese Official Delegation and about Rs. 15,900 on account of travelling allowances and other charges for the un-Official Advisers to the Indian Delegation.

PROPOSALS TO SUPPLEMENT THE OTTAWA AGREEMENT RELATING TO INDIAN PROTECTIVE DUTIES.

548. ***Mr. Gaya Prasad Singh** : Will Government kindly state if there are proposals to supplement the Ottawa agreement, relating to Indian protection duties ? If so, do Government propose to make a statement on the subject, and state whether this House will be given an opportunity of discussing the same before a final decision is reached ?

The Honourable Sir Frank Noyce : Yes, Sir. The negotiations are now in progress and it is too early to make a statement on the subject. Honourable Members will have an opportunity to discuss any agreement arrived at, as a result of these negotiations.

Mr. H. P. Mody : Will a non-official Indian Delegation be associated as in the case of the Indo-Japanese negotiations ?

The Honourable Sir Frank Noyce : The Honourable Member will understand that I have answered this question on behalf of my Honourable colleague, the Commerce Member, and I would, therefore, suggest that he might put down a question on the point that he has now raised.

Mr. B. Das : Will the Honourable Member bear in mind Mr. Mody's suggestion as he played such an important part in the negotiations with the Japanese Delegation ?

STEPS TAKEN TO ENCOURAGE THE EXPORT OF INDIAN RAW MATERIALS TO FOREIGN COUNTRIES.

564. ***Mr. Sitakanta Mahapatra** : (a) How far have the Indian Trade Commissioners in foreign countries found out markets for Indian manufactured articles, and what new markets have they explored for India ?

(b) What is the total export of the Indian manufactured articles to different foreign countries where there are Indian Trade Commissioners ?

(c) Have the Trade Commissioners in foreign countries submitted any schemes, explaining the requirements of the foreign countries from India, which would help to develop the Indian industries ? If not, what are the activities of the Trade Commissioners barring their activities of encouraging the export of raw material to foreign countries ?

The Honourable Sir Frank Noyce : The Honourable Member is referred to the quarterly and annual reports on the work of the Indian Trade Commissioners, London and Hamburg, and the Sea-borne Trade Accounts of British India. The quarterly reports are published

in the *Indian Trade Journal*, copies of which are in the Library of the House. Copies of the annual reports and of the Sea-borne Trade Accounts are also to be found in the Library. I would also invite the attention of the Honourable Member to the reply to the Honourable Kumar Nripendra Narayan Sinha's question in the Council of State on the 20th September, 1932.

ESTABLISHMENT OF INDIAN CONCERNS IN FOREIGN COUNTRIES FOR THE BUSINESS OF INDIAN PRODUCTS.

565. ***Mr. Sitakanta Mahapatra** : Have Government done anything to encourage and establish Indian concerns in foreign countries for the business of Indian products in those foreign countries, if necessary, with State aid financially, as the other nations have done to develop their trade in India ? If so, how many concerns have thus been started with the help of Government aid in countries like Germany, Italy, France and England ?

The Honourable Sir Frank Noyce : The Government of India have no information as to the means adopted by other countries to develop their trade in India by State aid, but the Honourable Member is referred to the Resolution adopted by the Council of State on the 13th February, 1928, as a result of which the Government of India inaugurated a scheme for the appointment of Indian Trade Commissioners abroad with a view to promote India's export trade with foreign countries. For information as to the activities of Indian Trade Commissioners, the Honourable Member is referred to the annual reports on the work of these officers, copies of which are to be found in the Library of the House.

APPOINTMENT OF INDIANS IN THE OFFICES OF THE TRADE COMMISSIONERS.

566. ***Mr. Sitakanta Mahapatra** : (a) Will Government be pleased to state whether the staff employed in the offices of the Trade Commissioners in foreign countries are Indians sent from India ? If not, why not ?

(b) Are Government aware that a large number of Indians would be prepared to go to foreign countries in the offices of the Trade Commissioners and Agents outside India ?

The Honourable Sir Frank Noyce : (a) There is one Indian in the office of the Indian Trade Commissioner, London, who was sent direct from India. The other Indians employed in that office were recruited in London. Persons possessing the requisite qualifications are generally available there and it is not considered justifiable to incur unnecessary expenditure on passages from India.

(b) The Honourable Member's suggestion may be correct.

RATIFICATION OF THE RUBBER RESTRICTION SCHEME.

608. ***Mr. K. P. Thampan** : (a) Will Government be pleased to state whether it is proposed to take any legislative measure to ratify the rubber restriction scheme ?

(b) What was the genesis of the scheme and who represented the Government of India and the rubber growers of India at the settlement ?

(c) What is the quota for this country and on what basis was it decided ?

(d) In calculating the export from India in 1929, was the rubber shipped from the Indian States ports taken into account ?

(e) Was any allowance made in fixing the quota for the area reaching maturity between 1929 and 1934 ?

(f) Was such allowance made in respect of other countries, such as Indo-China, Siam, North Borneo, Sarawak, etc. ?

(g) Is it a fact that it is in respect of India alone that the quota is the export quantity of 1929, while for Indo-China and Siam, it is three times, Sarawak two times, North Borneo one and three quarters times, the 1929 export. If so, why ?

(h) What steps do Government propose to take to remedy this anomaly ?

The Honourable Sir Frank Noyce : (a) Yes.

(b) The attention of the Honourable Member is invited to the preamble to the Rubber Producers' Agreement and the Inter-Governmental Agreement relating to the regulation of the production and export of rubber, copies of which are in the Library. The interests of rubber producers in India were looked after by the Rubber Growers' Association, London, during the negotiations and the High Commissioner for India signed the Inter-Governmental Agreement on behalf of the Government of India.

(c) The basic quotas allotted to India and Burma are specified in Article 4 of the Inter-Governmental Agreement. These quotas represent the average exports during the four years, 1929 to 1932, with the addition of an *ex gratia* allowance and an allowance for young areas.

(d) Exports from ports in Indian States were not taken into account in determining the basic quota for India, but an *ex gratia* addition, considerably in excess of such exports, was made to the total Indian quota.

(e) An allowance was made for areas planted since the beginning of 1925.

(f) Yes.

(g) The Honourable Member's assumption that the basic quotas of the contracting countries have been fixed in relation to their exports in 1929 is incorrect. The Government of India understand that the basis on which the quotas were calculated in each case was the average exports in the years 1929 to 1932 inclusive, with allowances on a uniform scale for areas which were not fully mature in those years but which would be in partial or full bearing during the period of regulation.

(h) Does not arise.

Mr. F. E. James : May I have your permission to have this question (No. 609) postponed till the arrival of the Honourable the Commerce Member, because I may have to put some supplementary questions, and I do not know whether the Honourable Member for Industries and

Labour, who is going to answer this question on behalf of the Commerce Member, will be able to give answers to those supplementary questions ?

The Honourable Sir Frank Noyce : I think my answer to the question, if I may be allowed to read it, will give as much information to the Honourable Member as we are in a position to give.

ABOLITION OF SURTAX ON TEA EXPORTED FROM INDIA TO NEW ZEALAND.

(09. ***Mr. F. E. James :** (a) Are Government aware that a Bill has recently been passed by the Legislature of New Zealand, revising the tariffs of that country ?

(b) Have Government any information whether the surtax on tea exported from India to New Zealand has been abolished as a result of this legislation ?

(c) Had Government made any representation to the Government of New Zealand, when they had their Tariff Bill under consideration, with a view to the abolition of the surtax on Indian tea ? If not, why do Government not take the opportunity, which was afforded them when the New Zealand tariff was under consideration, of pressing for the removal of a handicap to Indian trade ?

The Honourable Sir Frank Noyce : (a) Yes, Sir.

(b) No, Sir.

(c) The Government of India have been in communication with the Government of New Zealand, regarding a trade agreement and that Government intimated in December last that their tariff was to be revised as a result of the investigations of a Commission after which they would be in a position to communicate further with the Government of India. This communication is awaited.

Mr. E. Studd : Are Government aware that whereas the exports of Indian tea to New Zealand from the 1st April to the 7th August, 1933, amounted to just under 800,000 lbs., for the same period this year they have fallen to just under 15,000 lbs. ?

The Honourable Sir Frank Noyce : I am prepared to take that information from my Honourable friend.

Mr. F. E. James : Do I understand that the position of the Government is that they do not propose to make any representation in regard to this particular matter until the whole field of the new trade agreement with this country and New Zealand has been explored ? If so, how do they reconcile themselves to the injury which is being done to Indian tea *vis-a-vis* Ceylon tea on which there is no surtax in New Zealand ?

The Honourable Sir Frank Noyce : I can only say that I am not in a position to add any further information to that which I have already given.

Mr. F. E. James : Is the Honourable Member aware that he has practically given us no information whatsoever ?

The Honourable Sir Frank Noyce : I shall be glad to pass on that view to my Honourable colleague, the Commerce Member.

Mr. B. Das : Are the Government of India negotiating a trade agreement with New Zealand alone or with the other Dominions such as South Africa ?

The Honourable Sir Frank Noyce : Each Dominion is being dealt with separately.

Mr. B. Das : I do not want any trade agreement with South Africa.

The Honourable Sir Frank Noyce : I am not aware that South Africa has asked for a trade agreement. My Honourable friend, Mr. Bajpai, is perhaps in a better position to answer that than I am.

Mr. B. Das : Will the Honourable the Secretary for the Department of Education, Health and Lands say whether the Government of India are negotiating any trade agreement with South Africa ?

Mr. G. S. Bajpai : The Government of India in the Department of Education, Health and Lands have not entered nor do they contemplate to enter into any trade agreement with South Africa.

Diwan Bahadur A. Ramaswami Mudaliar : Or with any other Department ?

Mr. G. S. Bajpai : No, Sir.

Diwan Bahadur A. Ramaswami Mudaliar : Are Government aware that a special representative of the South African Government has come to Calcutta with a view to considering the possibilities of a trade agreement between South Africa and India ?

Mr. G. S. Bajpai : The consideration of possibility is, I presume, a condition precedent to the actual entering into negotiations.

Diwan Bahadur A. Ramaswami Mudaliar : Is there any possibility on the part of Government of saying whether they are willing ?

Mr. G. S. Bajpai : The Government of India cannot say anything as regards their willingness or unwillingness until they have the proposition from the Government of South Africa.

Dr. Ziauddin Ahmad : Have the Government of India received any letter from the gentleman who is now in Calcutta representing the South African Government seeking an interview with the Government of India ?

Mr. G. S. Bajpai : No, Sir.

UNSTARRED QUESTIONS AND ANSWERS.

ASSISTANTS-IN-CHARGE OF BRANCHES IN THE GOVERNMENT OF INDIA SECRETARIAT.

56. **Mr. S. G. Jog :** (a) Is it a fact that in some Departments of the Secretariat of the Government of India first division assistants are employed as Assistants-in-Charge of Branches or Sections ?

(b) If the answer to part (a) above is in the affirmative, will Government be pleased to state whether first Division Assistants when so employed are granted any special pay in addition to their grade pay ? If so, will Government be pleased to state the principle which governs the grant of such special pay ?

(c) Will Government be pleased to state the names of the Departments of the Secretariat of the Government of India in which first division assistants are employed as Assistants-in-Charge of Branches or Sections in the following tabular form :

Name of Deptt.	Branches in-charge of 1st Dn. Assistants.	Whether the Assistant-in-charge is in receipt of special pay or not.	If in receipt of special pay, the rate p. m.

The Honourable Sir Henry Craik : I lay on the table a statement giving the information required in parts (a) and (c) and the first portion of part (b) of the question. With reference to the second portion of part (b), I would invite the Honourable Member's attention to Fundamental Rule 9 (25).

Statement showing the names of the Departments of the Government of India in which First Division Assistants are employed as Assistants-in-charge of Branches or Sections and drawing special pay.

Name of Department.	Branches in-charge of First Division Assistants.	Whether the Assistant-in-charge is in receipt of special pay or not.	If in receipt of special pay, the rate per mensem.
Army	Two	Yes	One is in receipt of Rs. 100 and the other Rs. 50.
Commerce	One	Yes	Rs. 50.
Financial Advisor, Military Finance	Four	Yes	Rs. 100 each.
Home	One	Yes	Rs. 75.
Imperial Council of Agricultural Research.	Three	No	
Industries and Labour	One	Yes	Rs. 50.
Legislative Assembly	Two	No	
Railway	Four	Three are in receipt of special pay.	Rs. 100 each.

CONCESSION PROPOSED TO BE GIVEN TO THE IMPERIAL CHEMICAL INDUSTRIES,
LIMITED.

57. **Mr. B. Sitaramaraju :** (a) Is it a fact that the Government of India in conjunction with the Punjab Government are proposing to give a concession to the Imperial Chemical Industries, Limited, for a period of 50 years in the Jhelum District of the Punjab for the purpose of setting up alkali works ?

(b) If the reply to part (a) be in the affirmative, will there be any opportunity for any part of the capital to be subscribed for by Indians, and will there be any Indians on the Board of Directors ?

(c) What steps have Government taken to ascertain whether there are Indian capitalists in the Punjab, or other parts of India who are prepared to undertake the enterprise on the same, or any other suitable, terms ?

(d) If a concession for a long period is considered necessary, will Government be pleased to state whether they have considered that a period of 25 years is not sufficient from the point of view of public interests ?

(e) Will Government be pleased to supply this House with full information regarding the concession ?

The Honourable Sir James Grigg : The Honourable Member is referred to the reply given on the 14th August, 1934, to Mr. B. Das's starred question No. 611 on the same subject.

FINANCIAL POWER OF A FIRST CLASS POSTMASTER TO OBTAIN COPIES OF COURT
JUDGMENTS.

58. **Seth Liledhar Chaudhury :** (a) Will Government please state whether the financial power of a first class Postmaster to obtain copies of Court judgments is limited to Rs. 10 in each case ?

(b) Will Government please state the cost of the copy of the judgment of the learned Sessions Judge, Amritsar, in the case *Crown versus Ram Nath, Clerk, Majeeth Mandi (Amritsar)*, under section 262, Indian Penal Code ?

(c) Was the copy of the judgment referred to in part (b) above, as well as of the evidence of certain witnesses, obtained by the Postmaster, Amritsar, piece-meal ? If so, why ? Was it to avoid the sanction of the Postmaster General ?

(d) In case the reply to the first portion of part (c) be in the affirmative, what is the action taken against the Postmaster for this irregular action ?

The Honourable Sir Frank Noyce : (a) No. The limit of financial power of a First Class Postmaster to obtain copies of Court judgments is Rs. 20 in each case.

(b), (c) and (d). Government have no information and do not propose to call for it, as the Postmaster General, Punjab, is fully competent to deal with the matter. A copy of the question and of this reply will be sent to the Postmaster General, Punjab.

ELECTRIC AND BUILDING OVERSEER IN THE LAHORE GENERAL POST OFFICE.

59. **Seth Liladhar Chaudhury** : Will Government kindly state :

- (a) the duties actually performed by the official designated as Electric and Building Overseer in the Lahore General Post Office ;
- (b) whether the electric installation in the Lahore General Post Office building is attended to by the Engineering Branch of the Posts and Telegraphs Department at Lahore ;
- (c) whether there is a qualified Conservancy Inspector in the Lahore General Telegraph Office and Building Overseers in the Punjab Circle Office and Divisional Engineering Office to look after the General Post Office building which is just across the road opposite the Lahore General Telegraph Office ;
- (d) whether the Conservancy Inspector of the Lahore General Telegraph Office has a number of times offered to look after the conservancy arrangements of the Lahore General Post Office which is said to be attended to by the so-called Electric and Building Overseer in the Lahore General Post Office ;
- (e) whether it was once decided to abolish the appointment of the so-called Electric and Building Overseer in the Lahore General Post Office but somehow or other these orders were subsequently cancelled ; and
- (f) whether in these days of financial stringency the appointment of the so-called Electric and Building Overseer cannot be abolished by transferring his electric duties to the Engineering Branch of the Department at Lahore, building supervision to the Building Overseers in the Circle Office or Engineering Branch, and conservancy duties to the Conservancy Inspector in the Lahore General Telegraph Office ?

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

APPOINTMENT OF HINDUS AS LINE INSPECTORS IN THE PUNJAB AND NORTH-WEST FRONTIER POSTAL CIRCLE.

60. **Seth Liladhar Chaudhury** : (a) Is it a fact that out of the nine posts of Line Inspectors sanctioned for the (Telegraph Engineering), Punjab and North-West Frontier Circle, not a single post is held by non-Muslims ? If so, what action do Government propose to take to adjust the communal inequality in this cadre ?

(b) Is it a fact that the post of a Line Inspector fell vacant in the Ambala Telegraph Engineering Sub-Division during the current official year and that it has also been filled up by a Muhammadan Sub-Inspector ? If so, will Government please state whether there were no suitable Hindu officials with longer service who could be promoted to the said post ?

The Honourable Sir Frank Noyce : (a) Government have no information. Recruitment to the grade of Line Inspectors is made by promotion of selected Sub-Inspectors and, as has been frequently stated

in this House, communal considerations do not apply to departmental promotion which is solely regulated by merit and seniority. Government do not, therefore, propose to take any action.

(b) Government have no information. The matter is entirely within the competence of the Postmaster General to whom a copy of the question is being sent.

APPOINTMENT OF TOWN INSPECTORS IN THE DELHI HEAD POST OFFICE.

61. **Seth Liladhar Chaudhury** : With reference to the reply to starred question No. 808, dated the 21st April, 1934, will Government please state whether the Director-General, Posts and Telegraphs, has received any appeals against the nomination of the Town Inspector, Delhi Head Post Office, from the senior dissatisfied graduates ? If so, what action has he taken on those appeals ?

The Honourable Sir Frank Noyce : It is presumed that by nomination the Honourable Member refers to the selection made by the Postmaster, Delhi ; if so, the reply to the first part of the question is in the affirmative. As regards the second part the appeals have been rejected after due consideration.

ALLEGATIONS AGAINST THE TOWN INSPECTOR, DELHI HEAD POST OFFICE.

62. **Seth Liladhar Chaudhury** : (a) Is it a fact that as a punishment for gross carelessness displayed, *vide* unstarred question No. 311, dated the 7th April, 1934, the Town Inspector, Delhi General Post Office, was ordered to be reverted by the Postmaster-General, Punjab, Lahore, but the Postmaster, Delhi, retained him ? If so, will Government please state what justification the Postmaster had for keeping in abeyance the orders of his superior ?

(b) Is it a fact that the Inspector again displayed carelessness by absenting himself from Air Mail duties on the 11th May, 1934, posting wrong test-cards and preparing false diaries ? Were these matters brought to the notice of the Postmaster-General ? If so, what action did he take against the official ? If none, why not ?

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

RECRUITMENT OF INFERIOR POSTAL STAFF IN DELHI.

63. **Seth Liladhar Chaudhury** : (a) Is it a fact that most of the new recruitments in the inferior staff made through the present Town Inspector of Delhi Head Post Office were effected from the junior men belonging to one and the same community and are Government aware that there is a general discontentment prevailing among the members of the inferior staff of the other communities on this account ?

(b) How many of the new recruits taken from July, 1933, upto July, 1934 were Hindus and Sikhs and how many were Muslims ?

(c) What action do Government contemplate taking against the official who spread so much discontentment ?

(d) Do Government propose to consider the desirability of introducing a half-yearly or annual change of Town Inspectors, as is being done

in the case of clerks employed in the Savings Bank, Sub-Accounts and Money Order departments? If not, why not?

The Honourable Sir Frank Noyce : (a) Recruitment of the inferior staff in the Delhi General Post Office is made by the Postmaster and not by or through the Town Inspector. Government are not aware of the existence of any discontent in regard to recent recruitment of inferior staff.

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

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

(d) No. There is no analogy between the duties and responsibilities of clerks employed in the Savings Bank, Sub-Accounts and Money Order Branches of a Post Office and those of a Town Inspector.

INITIAL PAY OF GRADUATES IN THE POSTAL DEPARTMENT.

64. **Seth Liladhar Chaudhury :** (a) Is it a fact that for some time past graduates were taken on enhanced initial pay in the clerical cadre of the Postal Department and were also allowed four years' benefit in seniority?

(b) Is it a fact that a few years ago the Postmaster-General, Punjab, Lahore, issued a circular ordering that, so far as possible, graduates should be posted in the correspondence and accounts branches and also as sub-postmasters?

(c) Is it a fact that the concessions referred to in part (a) above have been withdrawn for the new entrants and the orders referred to in part (b) are observed in breach?

(d) If the replies to the preceding parts be in the affirmative, will Government please explain :

(i) why the concessions referred to above were allowed and why they have now been withdrawn; and

(ii) what other facilities are allowed to them to show their worth and thus carve their way out to higher position; if none, why?

(e) Do Government propose to make amends by making some proper arrangements to ensure for them a regular flow of chances of service in more responsible spheres and also restore to the new entrants the concessions mentioned in parts (a) and (b)? If not, why not?

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

EXCESSIVE HOURS OF WORK IN THE DELHI HEAD POST OFFICE.

65. **Seth Liladhar Chaudhury :** (a) Is it a fact that the staff of the Delhi Head Post Office and its town sub-offices work for eight hours or even more in continuous and split duties while the staff of the General Post Offices at Simla, Lahore, Peshawar, etc., as well as of the Presidency Post Offices in Calcutta, Bombay and Madras, work for seven hours only?

(b) Is it a fact that in addition to the above excessive hours of work, the staff is further required to attend on every alternate Sunday or other postal holiday?

(c) Is it a fact that the Bewoor Time Test Committee recommended rest for half an hour every day, but no such recess was ever allowed ?

(d) Is it a fact that recently the International Labour Office, Geneva, passed a forty hours' week ?

(e) Is it a fact that two or three years back the staff also submitted a large number of identical appeals for the grant of allowance for additional work on Sundays and foreign mail days but the appeals were rejected ?

(f) If the replies to the preceding parts be in the affirmative, do Government propose to reduce the hours of work by changing either the closing or the opening hours of business, or grant them an allowance for additional work exacted from the staff on week days, holidays and foreign mail days and also grant them half an hour's rest ? If not, why not ?

The Honourable Sir Frank Noyce : (a) The facts are not as stated by the Honourable Member.

(b) The attendance of the necessary staff on Sundays and holidays is a recognised condition of service in the Postal Department. In order, however, to minimise hardship the Director-General has issued instructions that a rotation of duties should be arranged, as far as the exigencies of the service permit, among the whole staff of an office so that the turn for an individual to work on Sundays and Post Office holidays may recur as seldom as possible. In this connection attention is invited to the reply given to parts (c) and (d) of Mr. S. G. Jog's starred question No. 964, dated the 8th November, 1932.

(c) In his Report on the Revision of Time-Test in the Post Office, Mr. Bewoor recommended an allowance of 30 minutes for rest, refreshment and unavoidable interruptions to duty in the case of clerks on continuous duty and an allowance of 15 minutes for the same purpose in the case of clerks on split duty. Clerks are allowed recess for refreshment and rest so far as possible.

(d) No.

(e) The fact is that in 1931 representations were received from some of the clerks of the Delhi Post Office asking for the grant of an overtime allowance for work in connection with the special delivery of foreign mails and not in connection with the work on Sundays. These appeals were rejected after due consideration. The special delivery of foreign mails in the Delhi Post Office has since been discontinued.

(f) Does not arise

APPOINTMENT OF JUNIOR TIME-SCALE CLERKS AS INSPECTORS OF POST OFFICES AT CERTAIN PLACES

68. **Seth Liladhar Chaudhury :** (a) Will Government please state how they account for the appointment of junior time-scale clerks as Inspectors at Delhi, Amritsar, Jhelum and in the office of the Superintendent, Railway Mail Service, D. Division, Delhi ?

(b) What new necessities have arisen which justify reconferment of wide discretionary powers of nomination of Town Inspectors on the first class Postmasters from amongst such officials ?

(c) Is it a fact that this system of nomination was once tried and given up as a result of organised and protracted agitation by the All-India (including Burma) Postal and R. M. S. Union ?

(d) Do Government propose to consider the desirability of fixing some standard or criterion, such as seniority coupled with academic qualifications, for the conscientious use of such powers ? If not, why not ?

The Honourable Sir Frank Noyce : (a) It is not clear whether the Honourable Member refers to Inspectors of Post Offices who are in the selection grade or to the Town Inspectors who are in the time scale and Government, therefore, regret that they are not in a position to reply in detail to this part of the question. I may add, however, that if any official considers that he has any grievance, it is open to him to represent it to the proper authority through the usual official channel.

(b) The posts of Town Inspectors are now in the ordinary time scales of pay, and, it is, therefore, within the competence of a first class Postmaster to appoint to such posts.

(c) Government have not been able to trace the case to which the Honourable Member refers.

(d) No. Government do not consider that the present system of selecting for appointments as Town Inspector those officials who are considered most suitable by the Postmaster concerned requires any change.

EXCHANGES OF THE STAFF OF THE POSTAL DEPARTMENT.

67. **Seth Liladhar Chaudhury :** (a) Are Government aware that owing to the want of exchanges the staff of the Postal Department is experiencing a great difficulty in the matter of transfers to their home stations ?

(b) Is it a fact that contrary to Fundamental Rule 22 (b) the members of staff who desire to be transferred to the Divisions and other smaller Head Offices are required to give an undertaking that they shall accept less pay ?

(c) If the replies to the preceding parts be in the affirmative, will Government please state under what rules they take an undertaking and whether they are prepared to make some suitable arrangements for the transfer of clerks to their home stations and also stop the practice of demanding written undertakings ? If not, why not ?

The Honourable Sir Frank Noyce : (a) Government have no information.

(b) No; the pay of officials transferred is fixed strictly in accordance with the Fundamental Rules and no question of any individual undertakings arises.

(c) Does not arise

MESSAGE FROM THE COUNCIL OF STATE.

Secretary of the Assembly : Sir, the following Message has been received from the Council of State :

I am directed to inform you that the Council of State has, at its meeting held on the 14th August, 1934, agreed without any amendments to the following Bills

which were passed by the Legislative Assembly at its meetings held on the 19th and 30th July and 7th August, 1934, namely :

1. A Bill to amend certain enactments and to repeal certain other enactments ;
2. A Bill to provide for the imposition and collection of an excise duty on mechanical lighters ; and
3. A Bill to consolidate and amend the law regulating labour in factories."

DEATH OF SIR MANMOHANDAS RAMJI.

The Honourable Sir Frank Noyce (Member for Industries and Labour) : Sir, in the absence of the Leader of the House owing to illness, it has fallen to my lot to express, however inadequately, the regret with which we, on these Benches, have learnt of the passing of one who was a Member of this Assembly from 1921 to 1928 and who was an eminent figure in the public life of Bombay. That regret will, I am sure, be shared by all sections of the House. I had not the privilege of knowing Sir Manmohandas Ramji intimately, but during my spells of service in Bombay and my frequent visits to that city, I met him often enough to be in a position to appreciate the great qualities, the wise caution, the independence of character and the courteous disposition, which won for him the respect and regard of the commercial and industrial circles in that city. Sir Manmohandas Ramji fought manfully for what he conceived to be the best interests of India but he always fought fairly. (Hear, hear.) He was always ready to place his services at the disposal of the Government and of the public as is shown by the number of committees on which he served from time to time, the Braithwaite Committee, the Railway Advisory Committee, the Railway Risk Note Committee, and the Income-tax Committee. He has died full of years and honours but in the troublous times through which we are passing, India generally and Bombay specially could ill-afford to lose a counsellor of his character and experience. I would request you, Sir, to convey our deep sympathy to his relatives in their bereavement.

Mr. H. P. Mody (Bombay Millowners' Association : Indian Commerce) : Sir, at the desire of my leader I beg to associate the Independent Party with the tribute which has been paid to the memory of the late Sir Manmohandas Ramji by my Honourable friend, Sir Frank Noyce. I knew Sir Manmohandas Ramji for a number of years. He was actively associated with a number of organisations with which my own connection has been very close. Sir Manmohandas Ramji was a typical Bombay citizen, a man of many-sided activities. He had very large business connections, and there was hardly an important trade or industry with which he was not associated. His shrewd common sense and his knowledge of men and affairs enabled him to make a success of every business which he touched. He was one of the most successful Mill-Agents in the whole of India, and it was instructive to see how he carried the burden of all his various business interests. If you walked into his office, you would find him sitting at a table devoid of any papers, in an office which seemed to be bare of any staff, and yet he knew every detail of his large business. His connection with public life was also many-sided. He was for many years a member of the Municipal Corporation of Bombay and was its President in the closing year of his connection with that body. As such,

he rendered meritorious services to the civic life of Bombay. He was equally intimately connected with a great many other organisations : he was a member of the Improvement Trust, the Port Trust, and the Legislative Council of Bombay. He was, with the exception of my old and revered friend, Sir Dinshaw Wacha, the oldest member of the Millowners' Association, Bombay ; and he was its President some years ago. Up to the very last, he kept a close touch with everything that transpired and his advice and counsel were of the utmost assistance. He did not speak very much : but his shrewd common sense and his intimate acquaintance with the commercial and industrial life of Bombay and the country generally enabled him to take a very active and useful part in the discussion of almost any question that came up before the Millowners' Association or any other public body. His most outstanding service to the commercial life of India, I think, was the part he took in founding the Indian Merchants' Chamber of Bombay. In those days, the voice of Indian commercial opinion was very little heard, and if it was heard at all, it was completely ignored. Sir Manmohandas Ramji, in the teeth of much opposition, in the face of many difficulties, founded, with the assistance of a few friends, the Indian Merchants' Chamber, and from humble beginnings he made it, within a very short time, one of the most influential bodies in the whole of India. For many years, until the Federation of Indian Chambers came into being, it may truthfully be said that the Indian Merchants' Chamber was really the voice of Indian Commercial opinion in India. It is a matter of regret that this leadership of Indian Commercial opinion threatens to pass into other hands. It is typical of the man that when, at a critical juncture in the history of the Chamber which he had founded, Sir Manmohandas Ramji was called last year to preside once again over the deliberations of that body, as one who would command the most confidence from all sections of the Chamber, he willingly gave his services, what time his health would surely have entitled him to seek retirement. It was also typical of him, that when he found himself in disagreement with the Chamber on a crucial question, namely, that of the Indo-Lancashire pact, he was not afraid of sending in the resignation of his Presidentship. My Honourable friend, Sir Frank Noyce, has spoken of the courage with which he voiced his opinions. That courage was exemplified most signally when he put himself against the current of public opinion, and stood up as an exponent of the 18 *d.* ratio. That courage was also exemplified in later years when he stood out against the reformist tendencies of the younger generation. He was not afraid of incurring unpopularity on such occasions, and it was, I think, his greatest merit that he served, whatever cause he intended to serve, without regard to any consequences that might arise to him personally. Sir, Bombay has lost one of its most respected citizens and the commercial and industrial life of India one of its most notable figures by the passing away of Sir Manmohandas Ramji, and I desire to associate myself in this expression of sympathy with the family of the deceased.

Mr. K. C. Neogy (Dacca Division : Non-Muhammadan Rural) : Sir, my acquaintance with the late Sir Manmohandas Ramji could not possibly have been of the same intimate character as that of my Honourable friend, Mr. Mody, but, I think, I am one of the very few Members present here today, who had the privilege of having Sir Manmohandas Ramji as their Colleague in the first Legislative Assembly. He represented the Indian mercantile interests of Bombay during those three years, but, at the same

[Mr. K. C. Neogy.]

time, he was one of the promoters of the Democratic Party which we formed and which constituted the Opposition in the first Legislative Assembly. I very well remember that although a capitalist himself he used to take a very democratic view of things in all questions of public importance which came up before the House ; and I was particularly struck by the urbanity of his manners. I have no doubt that the Indian mercantile interests have suffered a very severe loss in his death and I desire to associate myself and my Party with all that has fallen from the two previous speakers.

Mr. N. N. Anklesaria (Bombay, Northern Division, Non-Muhammadan Rural) : Sir, I feel sure that not only this House but the whole country has heard with sorrow of the sad news of the death of Sir Manmohandas Ramji. Sir Manmohandas Ramji was a name which is very familiar in my constituency. Apart from the activities, which my Honourable friend, Mr. Mody, has enumerated, of Sir Manmohandas Ramji, he was a pillar of strength to the orthodox Hindu community of Guzerat, and of late he was appointed President of the Sanatanist Board, and as such he was carrying on a very manly fight against the revolutionary tendencies which have been attacking the Hindu society and Hindu religion, and I feel sure that the Sanatanists of Guzerat will feel his loss very keenly. I associate myself and the Centre Party with what has been said about Sir Manmohandas Ramji by the previous speakers, and I support the proposal for sending our condolences to the bereaved family.

Sir Hari Singh Gour (Central Provinces Hindi Divisions : Non-Muhammadan) : Sir, I happen to be one of the few who have had the privilege of serving with the late Sir Manmohandas Ramji in the first Legislative Assembly inaugurated in 1921 ; and, as Mr. Neogy has pointed out, he was one of the foundation Members of the Democratic Party which was the main Opposition in the first Assembly. Those, who will recall his services as a Member of this Assembly, will easily realise the words of wisdom which fell from him on every occasion when this House had to deliberate upon questions of commerce, industry or finance. Sir Manmohandas Ramji spoke but little in this House, but his influence in the Democratic Party, and through the Democratic Party in shaping legislation and measures passed in the First Assembly, was considerable ; and we mourn the loss of one who was a great industrialist in this country, a great pioneer of the Bombay mill industry. We also mourn his loss, because he was one of those few men who, by his sound judgment and advice, shaped the policy of the Government during the formative stages of the first Assembly of 1921. I wish to associate myself and my Party with all that has fallen from the Honourable Sir Frank Noyce and Mr. Mody, and wish you, Sir, to convey to the family of the deceased our heartfelt grief at his death.

Sir Leslie Hudson (Bombay : European) : Sir, I wish to associate myself and my Party with all that has fallen from the Honourable Sir Frank Noyce and the other Honourable Members who have spoken on this motion. Sir Manmohandas Ramji, as my Honourable friend, Mr. Mody, pointed out, was an outstanding figure in the commercial and industrial life of Bombay for many years past. My own connection with Sir Manmohandas was more particularly on the Port Trust where his experience and

his advice were always keenly sought after by the Chairman of the Port Trust and his colleagues amongst the trustees. My own personal friendship, I am glad to say, with Sir Manmohandas existed for at least 10 or 12 years, and on more than one occasion I went to him for advice on knotty commercial subjects and was always helped by his very keen common sense and great knowledge and experience. Sir, I wish to associate myself and my Party with the remarks which have been uttered by the Honourable Members.

Mr. President (The Honourable Sir Shanmukham Chetty) : I wish to associate the Chair with the tribute that has been paid to the memory of the late Sir Manmohandas Ramji. Sir Manmohandas was one of the first of Indian businessmen who realised the need for co-operative action on the part of the business community of India and the need for Indian businessmen to take a more active part in the wider public life of the country. In his death India has lost a prominent citizen and the commercial and business world of India has lost one of its outstanding personalities. It will be my duty to convey to the bereaved family of Sir Manmohandas Ramji the sympathy and grief of this House.

THE INDIAN RUBBER CONTROL BILL.

Mr. G. S. Bajpai (Secretary, Department of Education, Health and Lands) : Sir, I move for leave to introduce a Bill to provide for the control of the export from and import into India of rubber and for the control of the extension of the cultivation of rubber in British India.

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

“That leave be granted to introduce a Bill to provide for the control of the export from and import into India of rubber and for the control of the extension of the cultivation of rubber in British India.”

The motion was adopted.

Mr. G. S. Bajpai : Sir, I introduce the Bill.

THE INDIAN INCOME-TAX (AMENDMENT) BILL.

Mr. A. J. Raisman (Government of India : Nominated Official) : Sir, in the unavoidable absence of the Honourable Sir James Grigg owing to indisposition, I ask your permission to move the motion standing in his name.

I move for leave to introduce a Bill further to amend the Indian Income-tax Act, 1922, for a certain purpose.

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

“That leave be granted to introduce a Bill further to amend the Indian Income-tax Act, 1922, for a certain purpose.”

Mr. F. E. James (Madras : European) : Sir, before this motion is put to the vote, may I ask for information on a point of order? In the case of a Bill which is put down in the name of one Honourable

[Mr. F. E. James.]

Member of the House, under what conditions is it possible for another Honourable Member to introduce that Bill on his behalf? I ask that merely in order to have a ruling from you which might apply to all Bills whether official or non-official.

Mr. President (The Honourable Sir Shanmukham Chetty) : Under the Rules and Standing Orders, so far as Government Bills are concerned, the Member in charge of a Bill is deemed to be anyone acting on behalf of Government for the purpose.

The question is :

“ That leave be granted to introduce a Bill further to amend the Indian Income-tax Act, 1922, for a certain purpose.”

The motion was adopted.

Mr A. J. Baisman : Sir, I introduce the Bill.

THE INDIAN ARMY (AMENDMENT) BILL.

Mr. President (The Honourable Sir Shanmukham Chetty) : The House will now resume consideration of the Bill further to amend the Indian Army Act, 1911.

Clause 2 was added to the Bill.

Clauses 3 and 4 were added to the Bill.

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

“ That clause 5 stand part of the Bill.”

Sir Abdur Rahim (Calcutta and Suburbs : Muhammadan Urban) : Sir, I move :

“ That clause 5 of the Bill be re-numbered as clause 5 (1), and after the clause so re-numbered the following new sub-clause be inserted :

‘ (2) After section 7 of the said Act, the following section shall be inserted, Insertion of new section namely :

7A in Act VIII of 1911.

‘ 7A. The status and opportunities for promotion and power of command, rank and precedence of the Indian Commissioned Officers in the Indian Army shall be the same as that of the British Officers in the Indian Army in all units and formations.’ ”

Lieut.-Colonel A. F. E. Lumby (Army Secretary) : Sir, on a point of order. I beg to submit that the amendment proposed is not within the competence of the Indian Legislature. My case is this. Firstly, under clause (d) of sub-section (1) of section 65 of the Government of India Act, the Indian Legislature has power to make laws for the government of officers, soldiers and followers in His Majesty's Indian forces, wherever they are serving, in so far as they are not subject to the Army Act. British officers of the Indian Army and the British officers of the British Service who would be with them in the mixed formations, which the proposed amendment would cover, are subject in all respects to the Army Act, and, consequently, the Indian Legislature is not competent to legislate for them. My submission is, therefore, that it is not within the competence of this

Legislature to enact the section which the amendment proposes to insert in the Bill ; for, that section provides that the status and opportunities of Indian Commissioned officers in the Indian Army shall be the same as those of British officers in the Indian Army, and, in doing so manifestly purports to legislate for the British officers no less than for the Indian Commissioned officers.

My second point is that clause (i) of sub-section (2) of that same section 65 of the Government of India Act adds a proviso to sub-section (1) :

“ Provided that the Indian Legislature has not, unless expressly so authorised by Act of Parliament, power to make any law repealing or affecting any Act of Parliament passed after the year 1860 and extending to British India, including the Army Act.”

That sub-section, Sir, I submit, applies for the same reason as clause (d) of sub-section (1).

Thirdly, Sir, in so far as the amendment proposes to regulate the mutual powers of command of the Indian Commissioned officers and the British Officers of the Indian Army, I submit that it is contrary to section 71 of the Army Act, which lays down that it is for His Majesty to make the regulations as to the persons to be invested with command over His Majesty's forces, and as to the mode by which such command is to be exercised.

Mr. President (The Honourable Sir Shanmukham Chetty) : What has the Honourable Member, Sir Abdur Rahim, got to say on that point of order ?

Sir Abdur Rahim : Sir, the first objection taken by the Army Secretary is that this Legislature has no power to legislate with respect to British officers who are subject to English Army Act, but the amendment which I am placing before the House does not purport to legislate with respect to British officers at all. All that my amendment seeks to do is that the Indian Commissioned officers whom this Bill seeks to create shall have certain opportunities of command. They will have to serve in the same units and formations as the British officers. The majority of the Select Committee lay down that there shall be no difference whatever so far as powers of command and other matters are concerned in the units of the Indian Army. That is the position taken up by the Army Authorities themselves. Now, Sir, if the Bill can legitimately provide for equal opportunities in the ordinary units, not the mixed, but the purely Indian units of the Indian Army, where is the difficulty in making the same provision with respect to mixed formations ? In one case if this Legislature has power to legislate, it has the same power in the other case also.....

Mr. President (The Honourable Sir Shanmukham Chetty) : The Honourable Member means he is seeking to provide for a class of officers for whom nothing has yet been provided in the Army Act ?

Sir Abdur Rahim : Exactly.

(At this stage, Lieut.-Colonel A. F. R. Lumby rose to speak.)

Mr. President (The Honourable Sir Shanmukham Chetty) : Let Sir Abdur Rahim finish his speech, and then the Honourable Member can reply.

Sir Abdur Rahim : Sir, I say that the position taken up by Government is inconsistent, because they themselves admit that the Commissioned officer shall have the same opportunities and same status with respect to the units in the Indian Army as the British officers, and they cannot, therefore, take any objection and say they cannot have any provision to the same effect with respect to mixed formations. They themselves have introduced this Bill creating a class of officer called the Indian Commissioned officer. I do say, therefore, that it follows that this Legislature which is asked to pass this Bill has got the power to lay down what will be the functions, the duties and powers of command of the Commissioned officer who is going to be created by this Bill in the Indian Army throughout. By this amendment I am not seeking to make any provision with respect to command by Indian Commissioned officers over British forces of British service at all. The provision that I want this House to consider is that with respect to the Indian Army in all units and formations, not only in the ordinary units but also in mixed formations of the Indian Army, the Indian officer who is going to be created by this Bill shall have the same power of command as British officers. The amendment does not seek to make any law with respect to British officers. That is the first point.

Then, all that section 65 clause (d) says is that, for the government of officers, soldiers and followers of His Majesty's Indian forces, wherever they are serving, in so far as they are not subject to the Indian Army Act. &c. My friend has only been able to refer to section 71 of the Army Act, and all that it says is that His Majesty the King may make such regulations as he pleases in order to remove doubts as to the powers of command duly vested in officers and others belonging to His Majesty's Forces. By this amendment we are not seeking in any way,—and nobody will think of doing it,—to encroach upon the power of His Majesty the King. Whatever law may be passed by this Legislature it will always be subject to any regulations that His Majesty may make. That is an obvious proposition which nobody can doubt. And here is my friend, the Honourable the Law Member, who, I am sure, will agree with me that whatever law this Legislature may pass, it will always be subject to whatever regulations His Majesty may be pleased to enforce.....

Mr. President (The Honourable Sir Shanmukham Chetty) : The Honourable Member's point is that his amendment is not inconsistent with section 71 of the Indian Army Act ?

Sir Abdur Rahim : Exactly, it is in no way inconsistent. I think these are really the two points that my Honourable friend, the Army Secretary, raised by way of objection to this amendment.

Sir Hari Singh Gour (Central Provinces Hindi Divisions : Non-Muhammadan) : Sir, the Honourable the Army Secretary has referred to section 65 of the Government of India Act, clause (d). Now, if he will kindly read that very clause, he will see that it cannot possibly apply to the subject we have in hand at present. That section says that the Indian Legislature has power for the government of officers, soldiers, airmen and followers of His Majesty's Indian Forces wherever they are serving. Now comes the Exception. The Exception is,—in so far as they,—that is to say, the Indian officers are not subject to the Indian Army,—that is to say the Indian Legislature has got the power

of providing for the government of officers only so far, but it cannot have the power so far as these officers are subject to the Army Act. Nothing has been said by the Army Secretary as to how these officers, whom we are about to create, will be subject to the Army Act, and if they are not subject to the Army Act, the Exception in clause (d) ceases to apply.

My friend then referred to proviso in clause 2, which says that
 12 Noon. the Indian Legislature has not, unless expressly so authorised by Act of Parliament, power to make any law repealing or affecting any Act of Parliament passed after the year 1860 and extending to British India, and any Act amending the same. Now, he has not actually referred to any Act of Parliament passed after that year which extends to British India. He has referred to section 71 of the Army Act. I have got that section before me, and as you rightly pointed out, Sir, if I may say so with due deference, all that section 71 of the Army Act lays down is to give His Majesty power to make regulations "as to the persons to be invested as officers or otherwise with command over His Majesty's forces", so that proviso (2) does not deal with any regulations at all. And, in so far as these regulations under section 71 are to be made by His Majesty in accordance with the provisions of the Army Act, my Honourable friend, Sir Abdur Rahim, has already pointed out that there are no regulations at the present moment applicable to the Indian officers about to be created, but, if, hereafter, any regulation is made applicable to the Indian officers, it will *protanto* supersede any powers which this House may confer upon the Indian officers. That is the plain meaning of section 71 of the Army Act. I cannot understand how my Honourable friend, the Army Secretary, questions the jurisdiction and authority of this House to legislate for officers which he himself proposes to create by virtue of this Bill. Some confusion has, no doubt, been caused in the mind of the Army Secretary by reason of the wording of my Honourable friend, Sir Abdur Rahim's amendment. Because he has said that: "the status and opportunities for promotion and power of command, rank and precedence of the Indian Commissioned Officers in the Indian Army shall be the same as that of the British Officers in the Indian Army in all units and formations,"—that is to say, by analogy with the British officers, he has compendiously categorised all the powers, authority, status and function which the Indian officers will discharge and enjoy. Now, supposing there were no analogy at all and supposing the Legislature were to say in so many terms that they will have this status, these powers and those functions without reference to the British officers in the Indian Army, could my Honourable friend then say that this House has no jurisdiction to define the powers and the status of the Indian officers which it brings into being? My Honourable friend is quite prepared to cut out the closing words and give the specific status and powers and functions which we propose that these Indian officers shall enjoy, and, in that case, there can be no objection whatever to this Legislature enacting the measure we have in hand. I submit that the Army Secretary has not yet stated anything which would take this clause out of the jurisdiction of this Legislature.

Lieut.-Colonel Sir Henry Gidney (Nominated Non-Official) : Sir, with regard to the point of order raised in respect to the amendment of my Honourable friend, Sir Abdur Rahim, may I, on this point, ask the

[Lieut.-Colonel Sir Henry Gidney.]

Army Secretary, whether in raising his objection and quoting from various army regulations, his main objection is to one part of Sir Abdur Rahim's amendment, and that is the word "formations". If the Honourable the Army Secretary objected to any other part, then I submit that my Honourable friend, Sir Abdur Rahim's amendment seems to be quite reasonable, but if the Army Secretary objects to that specific word "formations", I can quite conceive what is flowing in the undercurrent of his mind. By formation he means one consisting of British units and Indian units in one station and it is the difficulty regarding the command of that united formation which I think has actuated the Army Secretary in raising this objection. I should like to know whether the Army Secretary specifically objects to that word "formations" and not units of the Indian Army *qua* the Indian Army.

Lieut.-Colonel A. F. R. Lumby : With reference to the point which has just been made by my Honourable friend, Sir Henry Gidney, I certainly do base my major objection on the possibility of the proposed amendment covering mixed formations.

Mr. President (The Honourable Sir Shanmukham Chetty) : Does the Honourable Member mean to say that if the word "formations" is omitted, then the amendment would be *intra vires* of this Legislature ?

Lieut.-Colonel A. F. R. Lumby : No, Sir. I was going to say that my objection is on the point of principle.

Mr. President (The Honourable Sir Shanmukham Chetty) : The House is not concerned with any principle at all. What the Chair wants to know is, whether he would contend that this amendment will be *ultra vires* of this Legislature even if the words "all units and formations" are omitted. The Chair asks this specific question, because the answer to that will enable the Chair to understand the real point of the Honourable Member's objection.

Lieut.-Colonel A. F. R. Lumby : I would still maintain my view, even if those words were omitted, and the point I would make would be this. My Honourable friend, the Leader of the Opposition, based his case largely on the argument that we had already legislated in this draft Bill that the powers and privileges of the Indian Commissioned officers and the British officers of the Indian Army would be identical. But that is not so. This is purely a discipline Bill which does not cover status or powers of command or anything of that kind.

Sir Abdur Rahim : I thought my Honourable friend, the Army Secretary, admitted yesterday that so far as units are concerned there is no difficulty and the powers will be the same.

Lieut.-Colonel A. F. R. Lumby : My whole point in the course of my first speech and in the Select Committee and yesterday was that regulations will have to be made by His Majesty's Government under section 71 of the Army Act to govern these things. This Bill says nothing about such matters which in the case of the British and Indian Armies are covered by King's Regulations. It seems to me that there is nothing in the Bill which can be used as an argument to support any

other view than that it is by regulations that these various things will be governed and that those regulations will have to be made under section 71 of the Army Act by His Majesty's Government.

As regards my Honourable friend, Sir Hari Singh Gour's point on clause (d) of sub-section (1) of section 65, the term "officers, soldiers and followers in His Majesty's Indian forces" must be held, I submit, to include the British officers of the Indian Army. It is they who are under the Army Act, and it is because they are under that Act that I have submitted that it is not within the power of this Legislature to insert a section in the Bill which would govern their conditions of service. One point that may have been missed as regards this proposed amendment is this. The general impression that I have gleaned from the objections which have been raised to my point of order is that it is merely proposed in this amendment to raise the status of the Indian Commissioned officer up to that of the British officer. But that is not quite all that it would involve. At the present moment, there is nothing to regulate the mutual powers of command of the Indian Commissioned officer and the British officer, but under this amendment the British officer would be made junior, if he was junior in service and rank, to the Indian Commissioned officer and that would be, under present circumstances, a change in his conditions of service.

Mr. President (The Honourable Sir Shanmukham Chetty) : Does the Army Act say in any section that a British officer can never act under the command of an Indian officer ?

Lieut.-Colonel A. F. E. Lumby : The Army Act says nothing about the powers of command.

Mr. President (The Honourable Sir Shanmukham Chetty) : What is the authority for the Honourable Member to state that this will be in contravention of the Army Act ? What I want to know is this. Is there any authority, either in the Army Act or in the King's Regulations made under section 71 of the Army Act, by which an Indian officer can never have command over a British officer ?

Lieut.-Colonel A. F. E. Lumby : There is no such provision, for an Indian officer is not provided for as yet in the King's Regulations.

Mr. President (The Honourable Sir Shanmukham Chetty) : Then why does the Honourable Member say that it will change the status of the British officer ?

Lieut.-Colonel A. F. E. Lumby : I think the point is that the sections in the King's Regulations that deal with powers of command only deal with powers of command as between officers of various categories of His Majesty's Land Forces, plus one specific clause which refers to the position of Dominion officers when they are doing duty with units of the British Army. The Indian Commissioned officer has not been legislated for at all. The Indian officers we have at present in the Indian Army come under the heading of 'British officers', as defined again in the present Bill, and no provision has yet been made in King's Regulations for the Indian Commissioned officer. The assurance that I have given on all occasions when supporting this Bill before the House has been that the regulations to govern the powers of command of this new type of officers will be made by His Majesty's Government under section 71 of the Army Act.

Mr. President (The Honourable Sir Shanmukham Chetty) : The Chair would like to know whether section 71 of the Army Act has the same application to the Dominions as it has to India.

Lieut.-Colonel A. F. E. Lumby : In section 71 of the Army Act, reference is made to His Majesty's forces. In section 190, which covers the various definitions under the Army Act, in paragraph 7(a), inserted by an amendment in June 1932, it says, that His Majesty's forces do not include His Majesty's Dominion forces.

Diwan Bahadur A. Ramaswami Mudaliar (Madras City : Non-Muhammadian Urban) : It seems to me the position is quite simple. The first objection of the Honourable the Army Secretary was that no legislation affecting British officers can be made at all by this House. I venture to suggest that in this very Bill there are clauses which relate to British officers, such as the clause relating to courts martial, section 20 :

“ A general court martial shall consist of not less than five British officers or Indian Commissioned officers, each of whom has held a commission, etc.”

And, again, section 23 :

“ A general, summary general or district court martial may be composed of ”—
etc., etc.

So that, you are giving power to the British officers who are regulated by the Army Act under this very Bill which the Army Secretary has introduced, so that I do not think that section 65 has any application at all. Then, so far as the Army Act is concerned, the position seems to be even clearer. We are subject to Parliamentary legislation. I take it that the Army Act applies to India. After the passing of the statute of Westminster, the particular definition which my Honourable friend just now referred to—paragraph 7 (a) of section 190, was passed in 1932, but, taking it that the Army Act applies to India, what does it say ? As my Honourable friend, the Army Secretary, said, it does not contemplate the class of officers which we are now discussing under this Bill—the Indian Commissioned officers. The Army Secretary has also admitted that the Army Act does not provide for any relationship between the British officers and the Indian Commissioned officers who are being realised under this Bill. So far the Army Act does not at all contemplate the relation between these two officers or recognise any position *qua* British officers and Indian Commissioned officers, so that nothing that we might enact about Indian Commissioned officers can be connected with the Army Act. That is quite clear. Therefore, section 71 has no application. The next question is, whether any regulations have so far been framed. Regulations framed under a Statute have. I concede, as much force as the Statute itself, and, therefore, if the Army Secretary were in a position now to lay his hands on particular regulations and point out that these regulations have already been framed and that, they are, therefore, binding on this Legislature as any particular section of the Parliamentary Statute, then I am willing to concede this particular provision may affect those regulations, and, therefore, will be *ultra vires* of this House. The Army Act is silent on the point. No regulations have yet been framed. Therefore, we have got plenary powers now to deal with the situation that might arise and to give a status to the Indian Commissioned officers. My Honourable friend is suffering under this overwhelming difficulty that in all probability there

will be a distinction between Indian Commissioned officers and British officers and that regulations may be framed which place the Indian Commissioned officers in an inferior rank to the British officers. Even so, he need not have any apprehension in the matter. What will happen is this. Directly a regulation is made by His Majesty under clause 71 of the Army Act, then that regulation has as much force as a Parliamentary Statute so far as any law passed by this House is concerned. To the extent that the regulation over-rides any provision that we have already made, it will have superior force and our Act, to that extent, will be inoperative. Therefore, my Honourable friend need have no apprehension. What we want to test is whether in that case a regulation will be forced positively to make discrimination between the Indian Commissioned officers and the British officers and then comes the question as to how far the assurance given by my Honourable friend, the Army Secretary, will be realised in the actual regulation that might be framed. Therefore, Sir, I submit that at present there is nothing which stands in the way of this Legislature framing a clause such as that which my Honourable friend, Sir Abdur Rahim, has pointed out.

The Honourable Sir Nripendra Sircar (Law Member) : Sir, the matter strikes me in this way. (*An Honourable Member* : "Speak up please.") I have not started yet. Reading section 65 (d), we find there that the Indian Legislature can make laws for the government of officers, soldiers and followers in His Majesty's Indian forces, wherever they are serving, in so far as they are not subject to the Army Act.

Now, proceeding by stages, it is obvious that under 65 (1) (d), the Legislature has no power to enact any law in respect of a person who is subject to the Army Act. Now, if we start with that, we have got to remember that the British officers who are acting in India are subject to the Army Act. This is the first step in the argument. Therefore, *qua* those British officers, although they are acting in India, no legislation can be enacted by this House. This House has no power, not because they are British, but because they are subject to the Army Act.

Lieut.-Colonel Sir Henry Gidney : Both British forces and the Indian forces ?

Mr. President (The Honourable Sir Shanmukham Chetty) : This amendment deals with a class of officers who are going to be created by an Act of this Legislature, and they are, therefore, not dealt with by the Army Act.

The Honourable Sir Nripendra Sircar : I am coming to that. I quite realise that these are officers who are going to be created by this Act, and, therefore, these are officers who could not have been referred to or dealt with by the Army Act. At this stage, I am not concerned with them, but with British officers, subject to the Army Act, about whom this House has no power. This House can create new officers, but cannot legislate for those governed by the Army Act. If we assume that the British Officer has certain rights under the Army Act, and that Army Act does not contemplate this new class of officers at all, then I may put the matter before the House, by following what was indicated by my Honourable friend, Sir Hari Singh Gour. Supposing this Legislature proceeds to put down, step by step, (1), (2), (3), that these will be the functions, authorities and powers of the officers who are going now to be enrolled, then, let us assume that, in this Act we had put it down that British

[Sir Nripendra Sircar.]

officers will always act under Indian officers whether the British officer concerned is junior or senior. I am testing the correctness of my argument. What would then be the position? Is the British officer, or is he not, entitled to say,—“under the Army Act” (supposing this Act had not been introduced at all), “under the Army Act and under the regulations enacted by His Majesty, I would never have been placed under this new class of officers which is now going to be created”. That is, as the Chair was pleased to point out, this is a class of officer which was not in the contemplation of the Army Act at all,—because it has now come into existence...

Sir Hari Singh Gour : What section of the Army Act provides for that, please?

The Honourable Sir Nripendra Sircar : My friend, Sir Hari Singh Gour, need not be so very impatient, I may tell him—or although I was not convinced by Sir Abdur Rahim’s argument, whatever might have been the impression made by him, it was completely removed by Sir Hari Singh Gour; however, I may proceed in my own way and answer the specific question put to me by the Chair. I would ask the Honourable Members of this House to look at this from this point of view. The British officer takes up this attitude. He says : “If this had not been passed at all, if this new class of officers had not come into existence, then what was my right? My right was that I was a British officer, controlled by the Army Act, and my rights, duties and liabilities are all to be found in the Army Act in the matter of command and so on. Whatever happens to me, that will be done by the British officer, who is the only officer in contemplation under the Army Act.” Now, what are you going to do? You are going to do this. You are creating another class of officers who will have that right,—I am taking an extreme case, I am not suggesting that that is going to happen. Under this Act, you are saying, taking the illustration I have given, for testing the argument, “I a British officer shall be placed under an Indian officer, who is not an officer governed by the Army Act, although I am his senior, although that could not have been my position if this Act had not been enacted.” Sir, the wordings on which I place the greatest reliance are as much that of 65 (1) (d) as of 65 (2) :

“Provided that the Indian Legislature has not, unless expressly so authorised by Act of Parliament, power to make any law repealing or affecting.....

(i)the Army Act.”

I draw the attention of this Honourable House to the word “affecting”. Sir, for years we had a long discussion and judicial decisions about the word “affecting”. If I might remind this House very shortly, Mr. Justice Mookherji, in connection with the Calcutta Improvement Trust Tribunal, which gave that Tribunal certain powers to deal with land affected by any scheme, after going through all the authorities, came to the conclusion that “affected” means “prejudicially affected”. If it is beneficially affected, then really that is not the idea of the word “affecting”. The House will remember that that was upset not only by the Full Bench of the Calcutta High Court but the decision of the Full Bench was accepted and confirmed by the Judicial Committee, and from that moment at least, so far as I am concerned, I have understood the word “affecting” to mean “which causes any change, which has any effect of any kind.”—whether that effect is prejudicial or beneficial we

are not concerned with. But strictly speaking, that matter hardly arises in answer to the question which was put to me by the Chair. I will answer the question put by my Honourable friend, Sir Hari Singh Gour. He said : "suppose we had, instead of following the language of the Honourable Sir Abdur Rahim's amendment, we had put down *seriatim* (a), (b), (c), (d), that these are the powers of these new Indian officers, could you have said that the Act was *ultra vires* ?" Sir, to that question the answer is that that depends on what your (a), (b), (c), (d) are going to be. I took the extreme case, *viz.*,—under item No. (c) it is set out, the Indian Legislature enacts, that a British officer, whatever his seniority, will be under the command of a junior officer of this new class of Indian officer. Take that extreme and improbable case for testing the validity of my argument. Supposing the Indian Legislature had said that he will, whatever his position may be under the Army Act, whatever the regulations may be, and so on, be under a junior of this newly created class of officers, that will be really affecting his rights under the Army Act. Now, proceed another step backward.

Sir, this Act, instead of saying that the British officer is bound to be under an Indian officer, proceeds to say that he may be under an Indian officer—not that he is bound to be. That is exactly the position which is going to be introduced by the amendment. It is only a question of degree, between the case supposed in my illustration, and the one you are enacting, but as a matter of logic, the positions are exactly the same, *viz.*, the other man is entitled to say that : "in one case you were regulating through the Indian Legislature that I was bound to be under an Indian officer ; in the other case you are regulating that I may be under an Indian officer ; that is not my position under the Army Act. The Army Act does not contemplate my being placed under anybody who does not come under the Army Act, that is to say, any other than a British officer." Therefore, the point of view of this will be that his rights are 'affected' by the amendment which is going to be made : he is entitled to say that this House has legislated for one subject to the Army Act. If I may, before I resume my seat, read out the amendment, this is what my Honourable friend, Sir Abdur Rahim, proposes by his amendment :

"(2) After section 7 of the said Act, the following section shall be inserted, namely :—

'7A. The status and opportunities for promotion and power of command, rank and precedence of the Indian Commissioned Officers in the Indian Army shall be the same as that of the British Officers in the Indian Army in all units and formations.'

Sir, I would ask you to look at these words—"rank and precedence of the Indian Commissioned Officers in the Indian Army shall be the same as that of the British Officers". It is only a question of the language which is used, but what is the substance ? The substance is that we are putting it in this way that the rank and precedence of the new Indian officers will be that of the British officers. In substance it means from the point of view of the British officer that whatever his rights may be under the English Army Act and although he is entitled to say that under this Act he will not recognise a newly created body like the Indian officers who are going to.....

Diwan Bahadur A. Ramaswami Mudaliar : Can he say so ? What is the authority of the Honourable Member to say that he can say so ?

The Honourable Sir Nripendra Sircar : Section 65 prevents this Legislature from legislating about him, and, further, my authority is section 71 of the Army Act. I thought it was conceded that the British Army Act does not apply to the Indian officers who are now going to be created, because, otherwise, there would have been no necessity for our taking the trouble of legislating. As that is so, in answer to the question of my Honourable friend, the Diwan Bahadur, I want him to consider this. If it is conceded that under the British Army Act you cannot place a British officer under an Indian officer for the reason that that class of officer is neither defined nor is within the contemplation of the British Army Act, then the position under the new Indian Act will be that the British officer will be liable to be placed under the Indian officer. Please remember that I am not going into the politics of the thing; I am only arguing the point of order, and not contending that the Indian officer should have inferior status. If this amendment is permissible, it is equally permissible to amend by suggesting that the British officer acting in India must always be placed under an Indian officer irrespective of the question of juniority and seniority. Taking the argument suggested by my Honourable friend opposite, let us see if the argument is sound. Why is this amendment *ultra vires*? We are providing that the British officer, whoever he may be and whatever his rank may be, under our legislation, is going to be under some Indian officer. It can be said, as has been suggested, where does the British Army Act say that a British Brigadier-General should not be under an Indian Lieutenant? But, Sir, why should the British Army Act say that? As I said,—I hope I am not repeating what I said before—the British Army Act does not contemplate this new officer at all. It does not contemplate the situation that the British officer will be placed under some other kind of officer who is going to be under the power of the Indian Legislature.

Sir Abdur Rahim : It does not provide against it either.

The Honourable Sir Nripendra Sircar : All that it contemplates is the British officer and it cannot provide either one way or the other, and, therefore, it follows also that if my friend's argument is right, it is not only permissible for us to say here by enactment that in the matter of rank and precedence it shall be the same, but it is equally permissible for us to say that a British officer whatever his position must be under the Indian officer.

Sir Abdur Rahim : I would not suggest such a painful necessity.

The Honourable Sir Nripendra Sircar : But that is the logical consequence. As I said, I am not going into politics. I am also keen on removing inferiority from the Indian officer, but I am only considering the legal position. It can equally be said: "Where does the British Army Act say that a British Brigadier-General cannot be placed under the Indian Lieutenant? It does not say that, and, therefore, it is argued such provision is not expressly inconsistent with any provision of the Army Act." But my whole point is that it is not necessary that a provision in the Indian Act should be in terms which are inconsistent with any provision of the Army Act or of any other Parliamentary Act. All that is wanted is that rights of men governed by the Army Act must not be affected. The word "affected" is the widest possible. Direct inconsistency in express terms is not required. You cannot affect the Army Act. Are you affecting the position of the officers under the Army Act? With regard to the

British officer, are you enacting that his position will be controlled by the Indian Act? You contend that, as a matter of fact, a British officer, under the powers exercised by this House, can be placed under a body of officers who are now going to be created. If the argument is right that so long as you do not find in the Army Act something which is the direct contrary of any express enactment here, then there will be considerable force in the arguments which have been suggested by my Honourable friend, the Diwan Bahadur.

Diwan Bahadur A. Ramaswami Mudaliar : Then clause 20 is also *ultra vires* of the House.

The Honourable Sir Nripendra Sircar : That is an argument of despair!

Diwan Bahadur A. Ramaswami Mudaliar : That is a logical absurdity!

The Honourable Sir Nripendra Sircar : No, that is not so. Either my argument is right or that argument is wrong. It must be one of two things. If my argument is right and if it makes clause 20 *ultra vires*, that is neither here nor there. This argument must be judged on its merits. We have not yet discussed clause 20 and we have not heard the Diwan Bahadur on clause 20 whether it is *ultra vires* or not.

Sir Abdur Rahim : May I ask the Honourable the Law Member whether Government have got the power to enact sections 20, 21, 23 and 25 because, after all, you are going to be a party to enacting this very measure.

The Honourable Sir Nripendra Sircar : Will the Honourable Member kindly repeat the sections he has just cited?

Sir Abdur Rahim : I have mentioned as an example sections 20, 21, 23 and 25. We are not arguing a particular case. I want my Honourable friend to give his opinion on those sections especially in view of the word 'affected' and the meaning he has suggested to that word. He might also look at the definition of a 'British officer' as given in clause 5 (a) (1).

The Honourable Sir Nripendra Sircar : I have looked at the definition, Sir.

Sir Abdur Rahim : I want to know the opinion of the Honourable Member as regards the whole Act.

The Honourable Sir Nripendra Sircar : I thought my friend wanted to know what my opinion was about sections 20, 21, 23 and 25. As regards the 'definition', I do not find any difficulty whatsoever, and, for this reason. A 'British officer' means a person holding His Majesty's commission in His Majesty's Land Forces or in the Royal Marines or in the Territorial Army, and includes, in relation to a person subject to this Act when serving under such conditions as may be prescribed, a person holding a commission in His Majesty's Naval Forces or the Royal Air Force.

Sir Abdur Rahim : May I interrupt my Honourable friend. I referred to that definition to show that you are legislating with reference to this very officer. That is the whole object. The Law Member says that it will affect the Army Act because the British officer is mainly under the Army Act.

The Honourable Sir Nripendra Sircar : I thought I made my position perfectly clear. I was arguing that if the argument put forward from the opposite Benches is right, then we can not only say, that he can be placed on the same footing as the Indian officer, but it will be equally within our power to say that he will be always under the Indian officer. In any case, apart from "affecting", this Legislature cannot legislate in respect of officers subject to the Army Act and that is being done. That difficulty has to be got over, before we consider whether anything has been "affected" or not.

Mr. President (The Honourable Sir Shanmukham Chetty) : To show that it is not inconsistent with the provisions of the Army Act. Is that the Honourable Member's position ?

The Honourable Sir Nripendra Sircar : My point was that as regards the Army Act the Indian officer was not in contemplation and the "Regulation" in section 71 of the Army Act only means this ; instead of this matter of superiority of command and so on being left to the Legislature, it is being taken away from the Legislature to His Majesty the King who will settle that matter by Regulations, and, therefore, it will be no longer within the competence of the Legislature or of any other body to prescribe anything for the respective precedences and so on of the officers *inter se*. I would submit in conclusion that this amendment to section 7 states :

"The status and opportunities for promotion and power of command, rank and precedence of the Indian Commissioned Officers in the Indian Army shall be the same as that of the British Officers in the Indian Army in all units and formations."

And that, in my submission, will be hit by section 65, sub-section (2) of the Government of India Act, as also by 65 (1) (d).

Sir Hari Singh Gour : May I put one question, if you do not mind, Sir.

Mr. President (The Honourable Sir Shanmukham Chetty) : The Chair has heard enough.

Sir Hari Singh Gour : I only want to put one question.

Some Honourable Members : Order, order.

Mr. President (The Honourable Sir Shanmukham Chetty) : The legislative jurisdiction of the Indian Legislature is derived from the authority of the British Parliament. The limitations imposed on the legislative jurisdiction of this House are contained in section 65 of the Government of India Act. Whenever a question is raised, whether a certain provision is *ultra vires* or *intra vires* of this Legislature, the Chair has to carefully examine the provisions of section 65 of the Government of India Act. Section 65, sub-section (1), defines the territorial and personal jurisdiction of this House, and sub-section (2) defines the limitations imposed upon the jurisdiction of this House. The Chair will have first to consider whether the amendment or the clause in question is covered by the positive territorial and personal jurisdiction conferred upon this Legislature by section 65 (1). The relevant sub-section runs as follows :

"The Indian Legislature has power to make laws for the government of officersin His Majesty's Indian forces, wherever they are serving, in so far as they are not subject to the Army Act or the Air Force Act."

Now, the expression "Indian forces" used in this section does not have a racial connotation, but a territorial connotation. It does not mean Indian officers, but it means both Indian and British officers serving in the army in India. (Hear, hear and Applause.) The expression "Indian forces", therefore, has got a territorial and not a racial connotation. The Bill before the House creates a new class of officers called the Indian Commissioned Officers. This class of officers may be composed either of Indians or of Britishers, and this House has got jurisdiction to legislate for both those classes. The amendment of Sir Abdur Rahim seeks to define the status and powers of the Indian Commissioned Officers who are to be created by the present Bill, and it is open to this Legislature to define what the power and status of those officers will be. This House has, therefore, got the right to define the status and powers of the Indian Commissioned Officers. Since the Indian Commissioned Officers are to be created anew, by an Act of this Legislature, they cannot obviously have been covered by any of the provisions of the Army Act or the King's Regulations framed thereunder. What the Chair has, therefore, now to decide, is whether the amendment of Sir Abdur Rahim would, in a negative and indirect manner, affect the position and status of officers who derive their status under the Indian Army Act or the King's Regulations. The contention of the Honourable the Law Member and the Honourable the Army Secretary is that the amendment of Sir Abdur Rahim will affect the status of those British Officers whose status is derived by the King's Regulations made under section 71 of the Army Act. But neither the Honourable the Law Member nor the Army Secretary have shown the Chair any provision of the King's Regulations by which it is specifically provided that a British Officer should, under no circumstances, be placed under the command of an Indian officer (Hear, hear); and, in the absence of any such provision, the Chair must hold that even indirectly the amendment of Sir Abdur Rahim does not contravene any of the provisions of the King's Regulations made under section 71 of the Army Act. (Applause.)

The Chair has now to examine the amendment in the light of the limitations imposed by section 65 (2) of the Government of India Act. That sub-section—the relevant portion of it—runs as follows:

"Provided that the Indian Legislature has not, unless expressly so authorised by Act of Parliament, power to make any law repealing or affecting—(i) any Act of Parliament passed after the year one thousand eight hundred and sixty and extending to British India (including the Army Act, the Air Force Act and any Act amending the same)";

If it can be shown that the amendment seeks to repeal or affect any of the provisions of an Act of Parliament referred to in this sub-section, the amendment would be clearly out of order. The Army Act, which is an Act of Parliament, has been brought to the notice of the Chair and both the Honourable the Law Member and the Army Secretary have relied on section 71 of that Act. Their contention is that the amendment of Sir Abdur Rahim will affect section 71 of the Army Act. The Chair accepts the argument of the Honourable the Law Member that "affecting" means affecting in any sort of manner and not necessarily affecting prejudicially. Let us look into section 71 of the Army Act on which reliance has been placed. That section runs as follows:

"For the purpose of removing doubts as to the powers of command vested or to be vested in officers and others belonging to His Majesty's forces, it is hereby declared that His Majesty may, in such manner as to His Majesty may from time to time seem

[Mr. President.]

meet, make regulations as to the persons to be invested as officers, or otherwise, with command over His Majesty's forces, or any part thereof, or any person belonging thereto, and as to the mode in which such command is to be exercised.''

What the Chair has to decide is whether the amendment of Sir Abdur Rahim would in any manner affect section 71 which the Chair has just read out. Now, the purport of section 71 is to vest in His Majesty the King the power of making regulations to regulate the command of officers. It has not been contended either by the Honourable the Law Member or by the Army Secretary that the purport of this section 71 is to vest that power exclusively in His Majesty the King. The interpretation that the Chair puts upon the section is this. Unless there is any provision to the contrary in a Local Act, His Majesty the King may frame regulations to provide for the command of officers ; or where there are positive provisions in a Local Act, His Majesty the King may override those provisions and make fresh regulations. That, in the opinion of the Chair, seems to be the interpretation of section 71 of the Army Act. If the purport of section 71 is to say that no one except His Majesty the King shall make any rules to define the command of officers, then the contention of the Honourable the Law Member would be right in the light of section 65 (2) of the Government of India Act. But that is not the interpretation that can be reasonably placed on section 71. By incorporating in this Bill the amendment of Sir Abdur Rahim, this Legislature will not, and in fact cannot, in any way interfere with the power of His Majesty the King vested by section 71 of the Army Act. If the House agrees to the incorporation of this amendment, the result, in the opinion of the Chair, seems to be this ; if no fresh regulations are made by His Majesty the King under section 71, then the powers of command with regard to the Indian Commissioned officers will be regulated by this amendment of Sir Abdur Rahim. But it would be open to His Majesty either to alter or over-ride the provisions contemplated in the amendment of Sir Abdur Rahim. For all these reasons, the Chair must hold that the amendment of Sir Abdur Rahim is in order. (Applause.)

Sir Abdur Rahim : Sir, the House realise that the ruling that you have just given is extremely important not only so far as this Bill is concerned but that it is likely to affect any such questions that may arise with respect to other Bills in this House of a similar nature.

Sir, on the merits, I spoke yesterday at great length and I do not desire to repeat any of the arguments which I advanced then. This amendment being within the power of the Legislature, I do ask the Army Secretary, as representing the Army Authorities in India, to accept this amendment, as I do not think he will dispute the fact that it is extremely undesirable to make any sort of distinction between the Indian Commissioned officers and the British officers as defined in the Act. If he agrees with me that it cannot be desirable in the interests of the efficiency of the army, which after all is the paramount consideration, then I do say to him that he cannot but accept this amendment, the only object of which is to give the Indian Commissioned officers, who have been created by this Act, the same opportunities as the British officers enjoy at present. I did not hear throughout the speech of my Honourable and gallant friend one word to the effect that on the merits there is any objection whatever to this amendment. Now, that the legal difficulty has been brushed out of the way, I do ask, in the interest of the

efficient and harmonious working of the Indian army, that he should accept this amendment and make no other difficulty whatever.

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

“ That clause 5 of the Bill be re-numbered as clause 5 (1), and after the clause so re-numbered the following new sub-clause be inserted :

‘ (2) after section 7 of the said Act, the following section shall be inserted, Insertion of new section namely :

7A in Act VIII of 1911.

‘ 7A. The status and opportunities for promotion and power of command, rank and precedence of the Indian Commissioned Officers in the Indian Army shall be the same as that of the British Officers in the Indian Army in all units and formations. ’ ”

Lieut.-Colonel Sir Henry Gidney : Sir, I rise whole-heartedly to support this amendment. My reasons are the same as were so ably adduced by my Honourable friend, Sir Abdur Rahim, yesterday. Sir, the Army Member, who has presented this Bill with great sympathy and concern for the future of the Indian officer as he is to exist under the new Act, has assured this House that since neither the Army Act nor the Indian Army Act cover the powers of command, and since these are to be found under power given in section 71 of the Army Act, the matter of equality of status between the Indian Commissioned officer and the British officer will be regulated by His Majesty's Government. Now, Sir, I think no one in this House has any reason to doubt the credit, the depth of feeling or the sincerity of the Army Member, for in all his dealings with this House, I think all sides will agree with me, he has put matters before us always in a fair and square manner. (Applause.) And in my mind I have no doubt that the Army Secretary will carry out his assurance or see that it is carried out to the satisfaction of the House. But, Sir, the question is this. Let me try and put a picture before the House. Let us take a small military station consisting of two Indian units and one British unit. I am now discussing that special part of the amendment regarding the word “ formations ”. Here is a mixed formation of troops and an officer must be appointed as officer commanding that station. Hitherto, there has been no difficulty, because the officer commanding the Brigade or the Division generally selects the senior officer, if efficient, whether he belongs to the Indian unit or the British unit. Now, with the introduction of the new Indian Commissioned officer, there is just the possibility, as Sir Abdur Rahim said, of,—I will not call it the “ inferiority ” or the “ superiority complex ”—let me call it the mid-complex, or, as I was reported to have said in the shorthand proceedings of the Sandhurst Committee “ mid-complexion ”. The question here arises, will the Senior Indian Commissioned officer be selected ? In my mind there is a definite doubt as to whether there will be an equality of status ; and I submit, Sir, as a member of the Committee who sponsored the Military Academy of Dehra Dun and speaking on behalf of Anglo-Indians and Domiciled Europeans whose sons enter this Academy, I cannot for the life of me see why, if this assurance is given to us, there should be any doubt in the mind of Government or there should be any delay in now announcing on the floor of this House that there shall not be any difference in the status. I do not say for a moment that Indian Commissioned officers who enter the army today will be as equally disciplined and learned in the art of warfare as

[Lieut.-Colonel Sir Henry Gidney.]

experienced British officers—possibly we have lost it in India for a little while. But I do submit that, if Government are going to give Indians a chance to learn the art of defence or eventually going to give India the control of its own defence and help her along the path of complete self-government, it must make a serious and honest effort today, and at the outset there must be no difference whatever between the British and the Indian officers in the Indian Army. Sir, supposing there is to be any difference, surely this House will not for a moment tolerate it. I certainly would not vote for it, because I am very emphatic on this point that there must be no camouflage in this effort. It must be a serious, complete, honest and entire effort, as I know the Army Secretary intends it to be. But there is a doubt, and the doubt certainly exists, as I brought out just now, in my question to the Army Secretary, in the question of the command of mixed formations. Our memories are not dull : we remember some years ago, in this very House, this very question was debated, and our friend, Mr. Jinnah, was here and our late lamented friend, Colonel Crawford, was also here. We know what transpired in that discussion, and, I believe, without any doubt that there does exist a belief in the mind of the British officer, and this is the crux of the impasse, that he will not serve under an Indian officer. There is no need to camouflage it. Let us frankly admit it. The Government must either encourage it or discourage it ; and the only way to discourage it and to instil confidence in the minds of the youth of India so as to encourage them to join the Army which will ultimately be the army by which we shall defend India, an absolute sense of equality, i.e., there will be no difference in status or treatment between the Indian Commissioned officer and the British officer, just as no difference exists between British officers of the Indian Army and British armies today especially as regards formations mixed or unmixed. With these few words, and with the full assurance that I know the Army Secretary will do his best, I would ask him in his reply to repeat his assurance. I know he cannot give a pledge, because he is not in a position to do so, but I want him to reiterate that assurance in unequivocal terms that there will be no difference between the British and the Indian officer : If I may say so, your ruling, Sir, on the objection raised by Government will, I think, stand out as a classic ruling, and if you will pardon me saying so, it is one of the most perfect rulings that have been given in this Honourable House within the last thirteen or fourteen years that I have been a Member of this House. In my mind I feel convinced that your ruling was certainly the correct one and I only hope that this House will support this amendment. If not, you might just as well scrap this Army Act. There is no use introducing an Army Act that will make much more of a British officer than of an Indian officer and create invidious differences. Let them all in equality be officers of His Majesty the King and of His Army. (Cheers.)

Mr. B. Das (Orissa Division : Non-Muhammadian) : Sir, even a worm will turn, and I find my gallant friend, Sir Henry Gidney, a great supporter of the Government, is turning against the Government. I was glad to hear from my Honourable friend, Colonel Sir Henry Gidney, that he spoke on behalf of the Europeans also—he assured us that the Europeans are in agreement with the views expressed by Sir Henry Gidney on the floor of the House. That makes my task a little

easy. I would not go so much for the dishonesty of the Government as I would otherwise have gone ; but I would like my Honourable friends from the European Benches to make it clear that they are in agreement with my Honourable friend, Colonel Sir Henry Gidney. I see, Sir, they are in agreement. When I was listening to the Honourable the Law Member I was reminded—I was then not a politician in the beginning of the Montagu-Chelmsford reforms period—of how the Civil Service revolted against serving under Indian Ministers. When I heard the very sympathetic speech of my gallant friend, Colonel Lumby, I find the whole thing that is agitating—that is not only at the back of the mind of the gallant Colonel, but of the whole British forces practically,—is that they will not serve under an Indian Officer. Sir, I congratulate you on that excellent and, as my Honourable friend, Colonel Sir Henry Gidney, pointed out, classic ruling ; but when I heard the arguments on the Government side, I felt what is the use of the Army Secretary coming to this House and asking us to pass this Bill ? Why does he not ask His Majesty the King Emperor to pass an Ordinance or frame regulations by which a few Indian boys will be made into Indian Commissioned officers ? If the Government is going to oppose this amendment—I do hope they will have more common sense and that better sense will come to the Army Secretary, the Army Council in India and the British Army Council. But I do hope if the Army Secretary cannot make up his mind today, let him follow the precedents of other Government measures ; when Government have not made up their mind they have taken time ; let him take time and let him consult the Army Council in India and let him consult the War Office ; let him consult also the British Cabinet ; but let them not be hasty today. I shall not say now what I wanted to say : I shall reserve that to a subsequent stage and, if I find that the Government do not use their common sense and agree to the unanimous opinion of this House, I will have to oppose this Bill.

Mr. Muhammad Yamin Khan (Agra Division : Muhammadan Rural) : Sir, we have got a very simple question before us and that question is whether by this Act the Army Secretary and the Government want to create a body in the Indian Sandhurst equal in efficiency and equal in merit to that what they have been providing by English Sandhurst or not. If the intention is to give the same training as is given at Sandhurst and if the boys are going to be brought up in the same spirit as the boys in England are brought up, then there is no other way but to give them the same status. If the intention of the Government is not to give them the same training as is given at Sandhurst, then I would rather chuck off the whole of this scheme of Dehra Dun. If this school at Dehra Dun is going to serve the purpose and the intention is sincerely to teach and bring the boys in India with the same training as is given in England, then the distinction of colour and race has got no force whatsoever. There was a time when we had neither District Magistrates who were Indians nor Commissioners in Provinces who were Indians ; but now, in the last few years, we have seen that there have been Indians who have held the office of Governor with great credit and they have discharged their duties in most satisfactory manner. In military service, the Indians have always been exemplary and Indian officers and Indian regiments have discharged their duties during the war with such great efficiency. Indians also lead

[Mr. Muhammad Yamin Khan.]

British troops at the time of emergency and in the battlefields of Iraq, Palestine, Syria and France have rendered great services. Then, what is here that makes the Indian to be deemed as inferior to a British officer in the same rank? I would point out that if a Major who comes from Dehra Dun is to serve under a Captain who comes from Sandhurst, or a senior Captain coming from Dehra Dun is to serve under a junior Captain who comes from Sandhurst, if an Indian is to be treated like this, then it would mean a great deal of danger in the army. If an Indian officer is to be discouraged like this, then it will mean a great danger to the army, because the same brotherly feelings and comradeship, which at present exist in the British army, will never remain there, and that is a very great danger, and I would warn the Government that they should take note of this fact. There should exist the same brotherly and friendly feelings between British and Indian officers as between British and British officers in the army. They must all feel that they are equals, and there should be no inferiority complex, because once this inferiority complex is put into their minds, then co-operation, which is so essential for the efficient working of the army, will cease to exist. Therefore, I feel that I need not say much on this subject, which is a very simple but vital matter. I hope the Army Secretary will accept it. Sir, I support this amendment.

The Honourable Sir Frank Noyce (Member for Industries and Labour) : Sir, on behalf of Government, I am quite prepared to accept the suggestion put forward from the other side that Government should have time to consider their position in regard to this amendment. If you, Sir, are prepared to agree to that, I venture to suggest that we might leave further discussion on this matter to a future date.

Mr. B. Sitaramaraju (Ganjam cum Vizagapatam : Non-Muhammadan Rural) : Sir, I wish to point out that the Majority Report of the Select Committee state here :

“ But we are assured that Regulations are being framed by His Majesty's Government.”,

and so forth. So far as the merits of the question are concerned, some assurances were given.....

Mr. President (The Honourable Sir Shanmukham Chetty) : Government have asked for time. Has the Honourable Member, Sir Abdur Rahim, any objection?

Sir Abdur Rahim : We have no objection.

Mr. President (The Honourable Sir Shanmukham Chetty) : As there is no more business for the day, we may adjourn the House now.

The Assembly then adjourned till Eleven of the Clock on Thursday, the 16th August, 1934.