

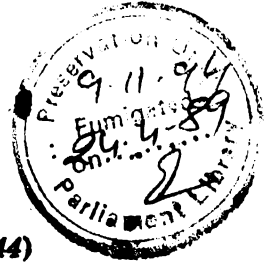
9th February 1944

LEGISLATIVE ASSEMBLY DEBATES

Official Report

Volume I, 1944

(7th February to 28th February, 1944)



TWENTIETH SESSION

OF THE

FIFTH LEGISLATIVE ASSEMBLY,

1944



LEGISLATIVE ASSEMBLY

President :

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

Deputy President :

Mr. AKHIL CHANDRA DATTA, M.L.A.

Panel of Chairmen :

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Mr. HOOSAINBHOY A. LALLJEE, M.L.A.

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Khan Bahadur S. G. HASNAIN.

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

Committee on Petitions :

Mr. AKHIL CHANDRA DATTA, M.L.A. (*Chairman*).

Syed GHULAM BHIK NAIRANG, M.L.A.

Mr. GOVIND V. DESHMUKH, M.L.A.

Sardar SANT SINGH, M.L.A.

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

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LEGISLATIVE ASSEMBLY.

Wednesday, 9th February, 1944.

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

MEMBER SWORN:

Mr. Yeshwant Narayan Sukthakar, C.I.E., M.L.A. (Government of India: Nominated official).

STARRED QUESTIONS AND ANSWERS.

(a) ORAL ANSWERS.

BRIDGING THE BRAHMAPUTRA AT PANDU AND DOUBLING OF CERTAIN METRE GAUGE LINE ON BENGAL AND ASSAM RAILWAY.

51. *Dr. P. N. Banerjee (on behalf of Mr. Akhil Chandra Datta): (a) Will the Honourable the Railway Member be pleased to state whether it is proposed to bridge the Brahmaputra at Pandu, and to double the Metre Gauge Line from some station near Lalmanirhat to Tinsukia on the Bengal and Assam Railway?

(b) Has the said portion of the line been, or is proposed to be, handed over to the control and direction of the Americans?

(c) Will the expenses of the said work be borne by the Americans? If so, on what conditions?

(d) What is the ultimate and immediate object of this arrangement?

(e) What will be the precise relationship between the Government of India and the Americans regarding the control and direction of the said portion of the line?

The Honourable Sir Edward Benthall: (a) Certain improvements to communications are being made, but it is not in the public interest to disclose the details.

(b) and (e). Yes for traffic operation but under the general control of the General Manager of the Railway.

(c) No.

(d) To assist the Railway with a difficult task.

COMMUNAL REPRESENTATION IN PROMOTIONS FOR MINORITY COMMUNITIES ON RAILWAYS.

†52. *Sardar Sant Singh: (a) Will the Honourable the Railway Member please state if it is a fact that the Railway Board, *vide* their letter No. E42CM113, dated the 4th May, 1942, introduced the principle of communal representation for minority communities in the matter of promotions as well? If so, in how many categories of services has this principle been introduced?

(b) Did the Railway Department consult the Railway Advisory Council in this matter? If so, when? Was the Home Department consulted before this policy was adopted?

(c) Did the Honourable Member place the views of the Railway Advisory Council before the Central Legislature by a regular Resolution before giving effect to a policy against which the Honourable Member has been making repeated statements before the House?

(d) Does the Honourable Member propose to explain if the minority community referred to in the above letter contemplates merely the Muslim Community, and does the supersession of other Minority Communities in the ranks mentioned in that letter apply to the members of the Sikh Community as well?

(e) Is it the intention of the Railway Board that the letter should have retrospective effect? If so, from what date?

The Honourable Sir Edward Benthall: (a) No, the orders referred to merely clarified the position which has existed for a long time in respect of posts of

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

stenographers. The principle of communal representation has not been introduced in respect of promotions.

(b) No, the second part does not arise. Government cannot disclose the details of inter-departmental discussions.

(c) No, as the Central Advisory Council was not consulted and there has been no change in the policy as enunciated.

(d) The orders apply to the representation of all minority communities and all of them will secure the prescribed representation to the extent qualified candidates are available.

(e) It was decided that appointments made after 1st April, 1941, should be reviewed and any necessary adjustments made in future recruitment.

STENOGRAPHERS IN THE OFFICE OF THE GENERAL MANAGER, NORTH-WESTERN RAILWAY.

†53. *Sardar Sant Singh: (a) Will the Honourable the Railway Member please state if the issue of the Railway Board's letter No. E42CM118, dated the 4th May 1942, has affected certain stenographers on the North Western Railway in the office of the General Manager? If so, does the Honourable Member propose to give information on the following points:

- (i) the total number of stenographers in that office;
- (ii) their communal proportion;
- (iii) whether they were appointed to their present posts by selection or by direct recruitment;
- (iv) the dates on which such selection or appointment was made; and
- (v) the terms of such selection or appointment?

(b) Is it a fact that a Principal Officer in the North Western Railway Headquarters' Office made a remark about one stenographer in the following words:-

"The Steno:—can neither type nor take anything down in shorthand. He cannot even type correctly from manuscript. He has wasted paper, my time, the time of my H. C. and his own time while in this office".

(c) Is it a fact that similar remarks have also been made against some other Stenographers as well? If so, are these persons still continuing in their jobs as Stenographers?

(d) Is it a fact that when similar remarks were made against two non-Muslim stenographers they were reverted back?

(e) Does the qualification of efficiency, which still continues to be the guiding principle in the circular of July 1934, hold good in this case?

The Honourable Sir Edward Benthall: (a) The orders apply to all offices and it is possible that some men are affected.

- (i) 25.
- (ii) 9 Hindus, 6 Muslims, 5 Sikhs, and 5 Anglo-Indians and Domiciled Europeans.

(iii) Some were recruited direct from outside and others were recruited from persons already in service by means of a competitive test.

(iv) The dates vary between 15th January, 1918 and 8th July, 1943.

(v) No special terms were laid down.

(b) The reply is in the affirmative.

(c) No papers are readily traceable but it is not unlikely that some men have been reported on adversely at some time or other. Men who proved consistently unsatisfactory would not have been retained as stenographers.

(d) The North Western Railway can identify two cases where non-Muslims were reverted from the post of stenographer as they proved unsatisfactory after prolonged trial.

(e) Yes.

**APPOINTMENT OF MUSLIMS INSTEAD OF AVAILABLE SIKH CANDIDATES ON
NORTHWESTERN RAILWAY.**

†54. *Sardar Sant Singh: (a) Has the attention of the Railway Member been drawn to the fact that the system of appointing members of the Minority Communities is being manipulated in a manner prejudicial to the interests of other Minority Communities on the North Western Railway? Is the Honourable Member aware that instances have happened where Muslim officers have mis-reported the non-availability of a Sikh candidate when he was available, and recommended the appointment of a Muslim instead?

(b) Were any representations received by the General Manager, North Western Railway where such practices were brought to his notice? If so, how many?

The Honourable Sir Edward Benthall: (a) No, I have no reason to believe that there is any manipulation of the rules prejudicial to any community.

(b) No, the second part does not arise.

SUPPLY OF PETROL TO OWNERS OF PRIVATE CARS, ETC., IN PROVINCES.

†55. *Sardar Sant Singh: Does the Honourable Member for War Transport propose to make a statement on the following points as regards the supply of petrol to owners of private cars, taxies and buses:

- (a) the quota allotted to each province;
- (b) rules governing such allotment in each province;
- (c) basic quota allotted to each car, taxi or bus; and
- (d) supplementary rations?

The Honourable Sir Edward Benthall: With your permission, Sir, I will answer questions Nos. 55 and 66 together.

For the basic rations admissible for cars, the Honourable Member is referred to the second schedule of the Motor Spirit Rationing Order, 1941, which dates in its present form from 1st May, 1942, and which will be found in the Library.

The general scheme of rationing is that, with the exception of the basic ration for motor cars, the Central Government indicate from time to time the extent of economy to be achieved and the general principles to be followed, the actual rationing being in the hands of the Provincial Rationing Authority and the Regional Rationing Authorities in each Province.

The present instructions to the Provincial Authorities are that the target to be aimed at is maximum possible economy and that, with the exception of the basic ration for private cars, no ration is to be issued for any purpose other than one essential to the prosecution of the war and the maintenance of civil economy. There is no quota allotted for each province, and consequently no sub-division of any quota between the allotment made for private owners and buses. As regards buses, the general instructions of the Government of India are that charcoal should be used invariably save where for any special reasons this is not possible.

The Government of India have from time to time received representations from persons residing in different Provinces, including the Punjab, suggesting that persons residing in other Provinces are more generously treated. These representations are examined when received, but as far as Government are aware, the restrictions on the issue of supplementary rations are uniformly governed by the same principles, although the actual quantity of supplementary ration must necessarily vary in different places according to local conditions including, for example, the size of major cities and the length of journeys which essential users have to perform.

POST-WAR DEVELOPMENT OF CIVIL AVIATION IN INDIA.

56 *Mr. K. C. Neogy: (a) Will the Secretary of the Posts and Air Department be pleased to refer to his answers to starred question No. 16 of the 9th November, 1943, relating to post-war Empire and Inter-national Aviation policy

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

and the supplementary questions arising therefrom, and state the substance of the conclusions of the Empire Air Conference held in October, 1943?

(b) Have these conclusions been examined by Government? If so, with what result?

(c) What further progress in the consideration of the post-war policy in this matter is likely to be made in the near future, and what will be the procedure therefor?

(d) Will the Honourable Member be pleased to refer to his answer to part (c) of starred question No. 21 of the same date on the same subject, and indicate the progress made in the preparation of plans for the development of civil aviation in India after the War?

Sir Gurunath Bewoor: (a) and (b). I regret I am not in a position to add to my previous reply. The conclusions of the Conference are wholly of a provisional nature and it is not considered in the Public interest to publish them at this stage.

(c) No plans have been formulated as yet for a continuation of the discussions on the subject.

(d) It is hoped to submit, in the near future, plans for the development of air transport services in India to the Post War Reconstruction Policy Committee. Other plans for the ground organisation and the associated services required are under preparation.

Mr. T. T. Krishnamachari: May I ask the Honourable Member if his attention has been drawn to the statements appearing about preparations for an Empire Air Scheme in other Empire countries and the feeling of the people of India that our rights are going by default? Will the Government make a statement in this regard?

Sir Gurunath Bewoor: I do not know to what the Honourable Member is referring.

Mr. T. T. Krishnamachari: If the Honourable Member looks into the papers he will find that other Empire countries are frequently speaking about participating in this Empire Scheme. From this statement it seems that India is not doing anything. Will the Honourable Member consider the desirability of making a complete statement?

Sir Gurunath Bewoor: I hope in the near future to be able to publish the post-war plans for civil aviation development in India, and the Honourable Member will probably find there the answer to this part of the question.

COMMITMENTS IN RESPECT OF SUPPLIES OF COAL FOR BUNKERS AND SHIPMENTS.

57. *Mr. K. O. Neogy: (a) Will the Honourable Member for War Transport be pleased to explain the full implications of the following statements made by him in the course of his reply to starred question No. 15 on the 8th November, 1943, on the subject of coal supply to various industries:—

(i) "A considerable measure of assistance given by His Majesty's Government in providing shipping for the carriage of coal by sea in return for supplies of coal for bunkers and shipments;"

(ii) "The scheme is in essence a compromise between conflicting interests made possible only by the pooling of resources between India and the United Kingdom?"

(b) Will the Honourable Member particularly explain in detail the nature of the understanding with His Majesty's Government in respect of supplies of coal for bunkers and shipments in return for certain facilities for coastal shipping of coal, indicating the quantity of coal supplied for bunkers and shipments since this arrangement was entered into, and the quantity of coal carried by sea under this arrangement? How long is this arrangement to remain in force, and what are the Government's future commitments in respect of such supplies of coal for bunkers and shipments?

(c) In what way have the resources been "pooled" between India and the United Kingdom in respect of coal, what are the detailed features of the scheme of such pooling, and how long is it expected to remain in operation?

(d) What is the present policy of Government in regard to the export of coal from India for different purposes, and how is it likely to affect the present coal position in India?

The Honourable Sir Edward Benthall: (a), (b) and (c). The coal rationing scheme to which I referred in my reply to part (c) of starred question No. 15 on the 8th November, 1943, was based on an estimated average daily supply of 2,700 wagons in the Bengal and Bihar fields. In order to achieve this target it is necessary for 60,000 tons of coal to be carried by sea to Madras and 30,000 tons to be carried by sea to Bombay. Without this sea transport, two additional trains a day to Madras and one additional train a day to Bombay would have to be run from the coalfields, which owing to the long hauls and longer turn round involved would make it impossible to maintain the wagon quota except with disproportionate effect on other traffic. His Majesty's Government were accordingly approached to provide the shipping tonnage required and they agreed, but asked that the amount of export coal which we had been giving should be stepped up by at least 20,000 tons. The rationing scheme, after making necessary provision for essential consumption in India, contemplated the provision of 110,000 tons a month for bunkers at Indian ports and 100,000 tons a month for exports to Ceylon and the Middle East. The increase in despatches consequent upon the provision of shipping would have made it possible to allot a greater quantity of coal to essential Indian consumption than would otherwise have been the case. This is what I referred to as the pooling of resources between India and the United Kingdom.

Up to the end of January the plan could not be implemented owing to the serious fall in production in the coalfields, but it is hoped that with the improvement in the output in the Bengal and Bihar fields it will be possible gradually to give effect to it. No period has been fixed for the continuation of this arrangement which is obviously to India's advantage and it will remain in force so long as the advantages in the plan indicated above obtain.

(d) It has always been recognised that India should meet Ceylon's requirements of 30,000 tons a month. We have not been able to do this in full for the past few months. As regards requirements of Mideast, it is our policy to allot such quantities as may be feasible after meeting India's essential requirements and taking into account the easing of the transport position rendered possible by the shipping assistance given by His Majesty's Government.

Mr. K. C. Neogy: With regard to the Honourable Member's reply to part (b) I should like to have the exact quantities of coal supplied for bunkers and shipments, as also the quantity of coal carried by sea. This was specifically put down in the question. I do not think the Honourable Member has supplied the figures.

The Honourable Sir Edward Benthall: I am sorry I cannot lay my hands on the figures at the moment, but the quantities exported in the last two months have been very small indeed.

Mr. Lalchand Navalrai: Does the Honourable Member know that coal is being sent from Muzaffarnagar to Sind and it is being held up there on account of no wagons being given by the Regional Officer at Lahore?

The Honourable Sir Edward Benthall: That does not seem to arise, nor am I quite clear how this transaction has come about because coal is not allowed to be re-consigned.

Mr. K. C. Neogy: Will the Honourable Member lay on the table the statistical statement asked for in part (b) of my question if he has not got them now?

The Honourable Sir Edward Benthall: I will do so.

Mr. K. C. Neogy: That is all right.

Mr. Muhammad Ashar Ali: Is it soft coke alone that is being sent out or other coal?

The Honourable Sir Edward Benthall: No soft coke is being exported.

Mr. Muhammad Ashar Ali: Then which coke?

The Honourable Sir Edward Benthall: Steam coal, Sir.

DISCRIMINATION AGAINST SIKH STENOGRAPHERS ON NORTH-WESTERN RAILWAY.

†58. ***Sardar Sant Singh:** (a) Will the Honourable the Railway Member please state if it is a fact that the Railway Board requisitioned the services of stenographers from various Railways, preferably members of the Minority Communities? If so, is it a fact that only names of Muslim stenographers were sent up by the North Western Railway?

(b) Is it a fact that the North Western Railway Subordinate Service Commission's Office asked for the services of a Sikh stenographer, by name, from the North Western Railway, but the North Western Railway declined to send him? If so, does the Honourable Member propose to explain the reasons for this invidious discrimination against the Sikhs on the North Western Railway?

The Honourable Sir Edward Benthall: (a) Yes, in October, 1941, the Railway Board asked State-managed Railways for the services of two stenographers and stated that other things being equal Muslims would be preferred. The reply to the second part is in the negative.

(b) Yes. As regards the second part, there was no discrimination as the North Western Railway were unable to spare the services of any stenographer.

DISABILITIES AND RESTRICTIONS AFFECTING INDIANS IN THE UNITED STATES OF AMERICA.

59. ***Mr. Govind V. Deshmukh:** Will the Foreign Secretary please state, with reference to his reply to starred question No. 112 put on the 12th November, 1943, regarding disabilities and restrictions affecting Indians in the United States of America:

(a) if the final report referred to in part (b) of his answer has been received; if so, if it be placed on the table; and

(b) if it is not yet ready, the reasons for such a long delay?

Mr. O. K. Caroe: (a) No.

(b) The Agent-General for India has made representations to the State Department. Both the Government of India and the Government of the United States of America realise the importance of this issue, and are giving the matter the most earnest and active attention.

Mr. Govind V. Deshmukh: There must be some reason for these delays in making this report which was anticipated then.

Mr. O. K. Caroe: Because the Agent General is still in negotiation with the State Department.

THE AMERICAN EXCLUSION ACT AND ITS EFFECTS ON INDIANS.

60. ***Mr. Govind V. Deshmukh:** Will the Foreign Secretary please state, with reference to the answer to starred question No. 113 put on the 12th November, 1943, regarding the American Exclusion Act and its effects on Indians, if he has made inquiries regarding the Bills about the possibility of parity of treatment for Indian nationals promised by him in his replies to my supplementary questions? What are the titles of these Bills and the objects thereof?

Mr. O. K. Caroe: It now transpires that there was one Bill only before Congress, No. H. R. 3070, dated the 25th October, 1943, which is described as being 'to repeal the Chinese Exclusion Acts, to establish quotas, and for other purposes'.

This Bill has been passed by Congress and has now become law.

On the question of parity of treatment for Indians I refer the Honourable Member to my answer to his last question.

SCHEME FOR SUPPLY OF FOODGRAINS TO RAILWAY SERVANTS AT CONCESSIONAL RATES.

61. ***Mr. K. G. Neogy:** (a) Will the Honourable Member for Railway be pleased to state the date from which effect was given, in each Railway, to the scheme under which all Railway servants are entitled to obtain food-grains for themselves and their families from Railway grainshops at concessional rates?

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

(b) Is the scheme operated uniformly in all particulars in all the Railway systems in India?

(c) What are the other kinds of foodgrains, or other necessities of life, if any, which are likewise supplied to Railway servants at concessional rates?

(d) What are the reasons for allowing the benefit of this scheme to all Railway servants as also to their families, irrespective of their pay, unlike the system operating in the different departments of the Central Government which recognises a pay limit beyond which its benefit is not available and under which the benefit is confined to the Government servant and does not extend to his family?

(e) Has the scheme been operated from the very beginning on the basis of a regular rationing system in respect of each article supplied? If so, what are the principal features of this system and what standard of consumption in respect of each such article has been adopted in this scheme?

(f) What is the estimated total cost of operating the scheme in the case of each Railway for the current financial year?

(g) What is the organisation for exercising control over the operation of this scheme in each Railway from the point of view of administration and financial check, respectively?

The Honourable Sir Edward Benthall: (a) 1st June, 1943, except on the N. W. and E. I. Railways on which the concession rates became effective from the middle of June, 1943.

(b) The scheme is not completely uniform over all Railways, but there is a considerable measure of uniformity.

(c) and (f). I lay a statement on the table which gives the required information.

(d) Grain Shops on Railways were originally organised to make foodgrains available to all classes of railway servants on an actual cost basis. There was, therefore, no reason to deny the facilities of such shops to any particular class. When concessional rates were introduced later, the withdrawal of these facilities from the higher-paid staff was considered unnecessary. The extra cost involved was small and the administrative difficulties of making such distinction considerable. Relief in kind through the grain shops is related to the actual needs of the railway employees including their families and this has also been done where other Central Government servants have been given similar relief.

(e) Yes. The Railways have from the beginning adopted certain limits for issues of articles sold in Grain Shops although absolute uniformity has not been possible on account of various factors. In the case of principal foodgrains, the single adult ration has varied between 15 and 20 seers per month and the family limit between 40 and 70 seers per month. In areas in which civil rationing schemes are in force, the Railways have adopted the civil scale of rationing. In respect of other articles, the actual rations have depended on the supply position.

(g) There is, on most Railways, an officer of administrative rank in charge of the grain shop organization and financial checks are exercised by the Financial Advisers and Chief Accounts Officers of Railways.

List of commodities supplied to Railway servants at concessional rates through the Railway Grain Shops

1. Wheat.	9. Salt.
2. Rice—	10. Spices—
Fine	Haldi
Medium	Chillies
Coarse.	Cardamoms
3. Jowar.	Elachi
4. Bajra.	Cloves
5. Dals.	Murich
6. Mustard oil, and other	Dhanis
cooking oils.	Tamarind
7. Sugar.	Jira.
8. Gur.	

11. Ghee.	15. Matches.
12. Kerosene oil.	*16. Standard Cloth.
13. Tea.	17. Cloth other than Standard Cloth.
14. Soap.	

* At prices fixed by the Textile Commissioner.

Statement showing the estimated loss on Railways in the working of the Railway Grain Shops during 1943-44.

Railway.	(In Thousands.)		Railway.	(In Thousands.)	
	Amount.	Rs.		Amount.	Rs.
B. & A.	20,173		M. & S. M.	3,361	
B. N.	13,885		N. W.	11,675	
B. B. & C. I.	8,936		O. & T.	3,739	
E. I.	23,228		S. I.	3,669	
G. I. P.	11,181				
			Total	99,847	

Mr. K. C. Neogy: Will the Honourable Member be pleased to give the definition of a family as adopted for the purpose of operating this scheme? Does it include servants?

The Honourable Sir Edward Benthall: No; I think not. I think that in certain cases provision has been made for up to two dependants.

Mr. K. C. Neogy: Will the Honourable Member be pleased to indicate the features in regard to which the scheme is not being operated uniformly in the different railways—part (b) of the question?

The Honourable Sir Edward Benthall: I think the Honourable Member had better put down a separate question: to answer it would probably take a considerable time. I could not answer it offhand.

Mr. K. C. Neogy: Was the scheme placed before the Finance Committee or the Central Advisory Council for consideration?

The Honourable Sir Edward Benthall: I am not sure. I do not preside over the Standing Finance Committee.

An Honourable Member: It has been considered.

MONOPOLY FOR PURCHASING WOOL TO SHIAMJI MAL OF AMRITSAR.

62. ***Sir Muhammad Yamin Khan:** (a) Will the Honourable the Supply Member please state if the sole monopoly of purchasing wool has been given to Shiamji Mal of Amritsar?

(b) Why has a monopoly been given to one man alone?

(c) Has the attention of Government been drawn that wool is purchased by this firm in fictitious names at Rs. 28 and supplied to the Government at Rs. 42 and Rs. 45?

(d) Are Government prepared to make enquiry in this scandalous matter and inform the House as to how much commission over and above this has been given by Government?

(e) Have Government tried to see the banking accounts of this firm, and of those purchasers who purchased this wool at low prices and sold through him at higher prices?

(f) What is the price that is actually paid to the people who initially and originally supplied wool in the Meerut District?

The Honourable Dewan Bahadur Sir A. Ramaswami Mudaliar: (a) Messrs. Shamji Mall & Co. of Amritsar are Government's sole buying agents for wool for the area north of a line drawn from Karachi to Calcutta.

(b) The Honourable Member's attention is invited to the reply given by me to Part (a) of Seth Yusuf Abdoola Haroon's Starred Question No. 246 on the 9th August, 1943.

(c) No.

(d) Allegations of this nature were made and Government after a very careful enquiry came to the conclusion that these allegations were not correct. Nevertheless, in accordance with the personal undertaking given by me, I have

examined the question of the contracts entered into by the sole buying agents and as a result of these enquiries certain changes have been made. The buying agents have agreed and undertaken not to purchase grey and black wools for their private account. The terms of the contract have also been revised and in the case of any dispute between the contracting parties the matter will be referred to the Director General of Supply or his nominee and his decision will be binding on the Company as well as the supplier.

(e) No.

(f) If the Honourable Member will let me know the types and qualities of wool and the period for which he desires this information, I shall endeavour to collect it, and place it before the House.

Sir Muhammad Yamin Khan: Will the Honourable Member be pleased to depute somebody who can come with me to Meerut, and I can show him that the wool is purchased from the producers at the rate of Rs. 28 and is supplied to the Government at Rs. 45—the same wool—under fictitious names by the people who are holding the monopoly, and this loot is going on in the Supply Department? Is he ready to send somebody?

The Honourable Dewan Bahadur Sir A. Ramaswami Mudaliar: The contracts are to be entered into by the sole buying agent with each of these people, stating in the contract form the Government control rate, and the purchase is at the Government control rate. The Government control rate is published, and if there is any dispute about the quality of the wool whereby the rate is varied from one Government rate to another, it has been agreed that the Director General of Supply himself or his nominee will be the arbitrator for the purpose. No private account of such purchases can be kept by this firm—they cannot trade on private account. These are the safeguards which have been imported into the contract, and I do not see how there can be any room for fraud.

Sir Muhammad Yamin Khan: Will the Honourable Member be pleased to get somebody deputed to see the private accounts of the Director of Wool, himself?

The Honourable Dewan Bahadur Sir A. Ramaswami Mudaliar: The bank account of the Director . . . ?

Sir Muhammad Yamin Khan: Yes; the private account of the Director of Wool Supplies himself, and how much money has gone into his bank account within the last two years and where it came from.

The Honourable Dewan Bahadur Sir A. Ramaswami Mudaliar: That is a very serious allegation for the Honourable Member to make.

Sir Muhammad Yamin Khan: I want an enquiry because this thing has happened. The Honourable Member knows that a Major was caught only a few days ago in whose house Rs. 70,000 was found; and another man to whom the monopoly for *ghee* was given has been convicted at Lahore for three years, for supplying something adulterated which was not *ghee* at all; and the same thing has been going on here because the monopoly is given to one man in this form to purchase wool, and the whole staff is corrupt from top to bottom.

Mr. N. M. Joshi: In view of the fact that serious allegations have been made against a public servant, may I ask the Government of India to have a thorough investigation into this matter and make a report to the House in the interests of the purity of administration?

The Honourable Dewan Bahadur Sir A. Ramaswami Mudaliar: I am perfectly willing to make an inquiry. But allegations merely of a general nature—"Will you examine the bank account of this man or that?"—are not allegations on which any Government can proceed to make an inquiry with reference to any responsible official. If any Honourable Member of this House, with a due sense of responsibility, will place before me, either confidentially or otherwise, any specific fact which will lead to such an inquiry, I am perfectly willing to set all the machinery of the Government in motion to have that inquiry made.

Sir Muhammad Yamin Khan: Will the Honourable Member read the question? The whole thing is given in the question, that the wool is purchased from the producers at the rate of Rs. 28 and the same wool is supplied to the Government at Rs. 45 because there is a middle man in whose name it is

purchased and that man supplies to the monopolist in a fictitious manner: the same man is carrying on all the transactions. If the Honourable Member makes an inquiry he will come to know everything.

The Honourable Dewan Bahadur Sir A. Ramaswami Mudaliar: The question related to the Government's sole buying agent, who is not a Government official—he is only a contractor for buying. Now the allegation that the Honourable Member chooses to make related to government servants. Nothing in the question led me to expect that such an allegation was going to be made on the floor of the House till now, and I venture to suggest that if such an allegation against Government servants is to be seriously made, it ought to be substantiated by something more than these vague generalisations. I must emphatically protest against such allegations. As regards the firm itself, the charge is that the firm is buying at a lower rate and selling it to the Government at a higher rate. I have said that I have personally gone into this question and tried to see that loopholes are closed. If in spite of that, there is such a loophole for middlemen to abuse it, I shall look into the matter if cases of this kind are brought to my notice. I venture to suggest that nothing in this question led me to expect that any allegation was going to be made against any officers of my Department, and I must submit that nothing has been said in the course of these questions which in any sense justifies me to make an inquiry into the conduct of any type of Government servants concerned in this matter.

(Some Honourable Members rose to ask further questions).

Mr. President (The Honourable Sir Abdur Rahim): I think the Government Member has made the position quite clear. Next question.

WEEKLY REST DAY FOR GANG STAFF ON NORTH-WESTERN RAILWAY.

63. *Mr. Lalchand Navalrai: (a) Will the Honourable Member for Railways be pleased to state whether the gang staff on the North Western Railway are allowed a weekly rest day? If not, is it proposed to allow them such a rest day? If not, why not?

(b) Is it a fact that, with effect from the 1st March, 1943, the Agent and General Manager, South Indian Railway, has been pleased to permit a weekly rest day to the gang staff employed on that Railway? Why is the same privilege not allowed to the staff on the North Western Railway?

(c) Is it a fact that the Hours of Employment Regulations were applied to the North Western Railway prior to the South Indian Railway? If so, why has not the weekly rest day yet been allowed to the gang staff on the North Western Railway?

(d) What is the policy of Government in the matter of extension of the Hours of Employment Regulations to certain categories of staff on the State-managed Railways which are denied relief at present? If no such policy has been formulated, do Government propose to consider this question?

The Honourable Sir Edward Benthall: (a) No; the Hours of Employment Regulations do not prescribe a weekly day of rest for this staff, but the question of granting them such rest is under consideration. The rest period is at present on a monthly basis.

(b) I am not aware of the date from which the gang staff on the S. I. Railway were given a weekly day of rest. As I have already stated, the question in respect of similar staff on the N. W. Railway is under consideration.

(c) Yes; as regards the second part the reason is that such action is not necessary under the Regulations.

(d) Government have no intention of undertaking during the war investigations which must precede any extension of the Hours of Employment Regulations. The second part does not arise.

Mr. Lalchand Navalrai: May I ask the Honourable Member why no rest is being given to these gangmen who are very hard worked?

The Honourable Sir Edward Benthall: The Honourable Member has not listened to my answer. I said that the period of rest is on a monthly basis.

MISAPPLICATION OF THE REVISED STATE RAILWAY LEAVE RULES ON NORTH-WESTERN RAILWAY.

64. *Mr. Lalchand Navalrai: (a) Will the Honourable Member for Railways be pleased to state whether his attention has been drawn to a memorial submitted by the North Western Railway staff to the address of the Governor General in Council protesting against the alleged misapplication of the Revised State Railway Leave Rules of 1930, to some of them? If so, how was the same disposed of?

(b) Is it a fact, as stated in the memorial, that the Secretary of State for India, did not permit the application of the Revised State Railway Leave Rules to certain gazetted officers on the ground that the undertakings given by some of them were invalid for uncertainty of the nature of rules at the time of signing the same?

(c) If the reply to part (b) above be in the affirmative, does the Honourable Member propose to lay a copy of the Secretary of State's communication on the table of the House, and is it also proposed to apply the same principle to the Non-gazetted Railway servants on the North Western Railway? If not, why not?

The Honourable Sir Edward Benthall: (a) I have seen an advance copy of the memorial referred to. It has not yet been received through the proper channel.

(b) The Secretary of State did not agree to the application of the revised leave rules to officers who were not specifically informed that they would apply to them.

(c) The reply to the first part is in the negative. As regards the second and third parts, the revised rules have been made applicable to persons who were specifically informed that they would apply to them.

Mr. Lalchand Navalrai: When this memorial is received through the proper channel, will the Honourable Member consider the question of these non-gazetted officers—whether the same privileges be extended to them or not?

The Honourable Sir Edward Benthall: If the memorial is received through the proper channel it will be considered in the usual manner.

Mr. Lalchand Navalrai: I do not understand what is the meaning of usual manner. It will be thrown into the waste paper basket!

MANUFACTURE OF AMMONIUM SULPHATE.

†65. *Mr. R. R. Gupta: (a) Will the Honourable the Supply Member be pleased to state in continuation of his reply to starred question No. 330 given on the 19th November, 1943, what further steps have since been taken to give effect to the recommendations of the Foodgrains Policy Committee in the matter of manufacture of Ammonium Sulphate in this country?

(b) Have Government extended any assistance to any private firm which might have undertaken to put up the necessary plant for the manufacture of this chemical? If so, do Government propose to furnish full particulars of such assistance?

The Honourable Dewan Bahadur Sir A. Ramaswami Mudaliar: (a) Enquiries have been made from America and the United Kingdom as to the possibility of obtaining plant to manufacture synthetic ammonia, and as to the size, cost, time of delivery, etc., of units which might be fabricated for India.

(b) No.

SUPPLY OF PETROL TO OWNERS OF PRIVATE CARS, ETC., IN PROVINCES.

†66. *Sardar Sant Singh: (a) Will the Honourable Member for War Transport please state how petrol is regulated for distribution to various Provinces? What quantities are allotted to each Province for the use of (i) private owners of cars, and (ii) buses plying on hire?

(b) Is it a fact that in the Punjab, there are restrictions on the allotment of petrol to the owners of cars, particularly on supplementary allotments which are not to be found in other Provinces?

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

‡For answer to this question, see answer to question No. 55.

**PROMOTIONS OF TRAIN EXAMINERS AS TRANSPORTATION INSPECTORS ON
EAST INDIAN RAILWAY.**

67. *Mr. Muhammad Ashar Ali: Will the Honourable Member for Railways please refer to circular No. OPE 1802/A, dated the 3rd March, 1937, issued by the Deputy General Manager, East Indian Railway, Calcutta, regarding fixation of seniority of Train Examiners for promotion as Transportation Inspectors (Stock) and state:

(a) if it is a fact that a Train Examiner, Grade A, of the late Oudh and Rohilkhand Railway (200—10—260—15—300—350) will only be promoted as an Inspector after he has served and received the pay of a Train Examiner, Grade I, of the East Indian Railway (300—25—400);

(b) if the reply to part (a) be in the affirmative, what will be his (Oudh and Rohilkhand Railway Train Examiner, Grade A), pay as an Inspector; and

(c) if the reply to part (a) be in the negative, the effect of the circular on the Train Examiners of the Oudh and Rohilkhand Railway, and how their promotions as Inspectors are governed?

The Honourable Sir Edward Benthall: (a) Yes, but the maximum of Grade A is 300 and not 350.

(b) 350—25—400, or 425—25—500 according as he works on the O. & R. or E. I. Section, respectively.

(c) Does not arise.

REST FOR GUARDS ON NORTH-WESTERN RAILWAY (DELHI DIVISION).

68. *Mr. Muhammad Ashar Ali: Will the Honourable Member for Railways please refer to circular No. 430-T/O/11, dated the 19th November, 1942, issued by the Divisional Transportation Officer, North Western Railway, Delhi Division, New Delhi, and reading as under:—

“With reference to this office circular No. 430-T/O/11, dated the 6th March, 1940, please inform all Guards posted at yours that they cannot claim rest unless they have done 16 Hours continuous duty with a train.” and state:

(a) the rule or regulation under which a Guard is required to perform 16 hours continuous duty as imposed by the said circular;

(b) if it is physically possible to perform 16 hours' continuous duty with a train; and

(c) if any gazetted officer during his training for Guard's duties has worked in any train for 16 hours continuously; if so, who, when, and with what results; and, if not; whether Government propose to direct the Divisional Transportation Officers to work as Guards of goods trains or as Luggage Guards of the Coaching Express on any day for 16 hours continuously and report his experience; if not, the reasons therefor?

The Honourable Sir Edward Benthall: (a) The orders are based on a rule framed by the N. W. Railway.

(b) Yes, when the exceptional need arises.

(c) I know of officers who have worked trains which have taken 16 hours on the road, but cannot undertake to collect details; the second and third parts do not arise.

OVERCROWDING OF TRAINS ON NORTH-WESTERN RAILWAY.

69. *Mr. Muhammad Ashar Ali: Will the Honourable Member for Railways please refer to the reply to part (b) of starred question No. 191 asked in the Legislative Assembly (Central) on the 4th August, 1943, *vis.*—“I am satisfied that Railway staff do everything in their power to stop this unauthorised form of travel and I hope that the publicity given in this case will discourage the public from risking their lives in future” and state:

(a) the number of persons dealt with at the Delhi Junction Station under section 109 or 120 (c) of the Indian Railways' Act, 1890, since the 1st April, 1943, if none, the reasons therefor;

(b) the reasons for not taking action against the Railway Administration for the overcrowding of trains through the issue of tickets over and above the accommodation provided in the trains; and

(c) what arrangements the North Western Railway Administration have made for the travelling of passengers holding Monthly Seasonal Tickets between, Delhi, New Delhi, Shahdara and Ghaziabad; if no arrangements have been made, the reasons therefor; and which is the last train for the Shahdara passengers?

The Honourable Sir Edward Benthall: (a) There have been no such prosecutions. In reply to the second part of the question, I am afraid that under present conditions prosecutions under the two sections mentioned are not practicable, or a solution of the problem.

(b) While it may be possible to regulate to some extent the sale of tickets to the accommodation available in the train at starting stations, it is not possible to do so at Junction stations. I would also refer the Honourable Member to the proceedings of the Central Advisory Council of 16th November, 1943, a copy of which is in the Library of the House and which makes mention of the practical difficulties of such regulation.

(c) Passengers holding monthly season tickets between Delhi, New Delhi, Delhi Shahdara and Ghaziabad are allowed to travel by all passenger trains on the section serving these stations. Further, one Up and one Down Shuttle trains run between New Delhi and Ghaziabad for the convenience of monthly season ticket holders, except on Sundays and gazetted holidays, when these Shuttles do not run between New Delhi and Delhi. As regards the second part, 67 Up is the last passenger train for Delhi Shahdara, which leaves Delhi at 19-40 hours.

DIFFICULTY IN SECURING ACCOMMODATION BY MEMBERS OF THE LEGISLATIVE ASSEMBLY AT DELHI RAILWAY STATION.

70. *Mr. Muhammad Azhar Ali: (a) Will the Honourable Member for Railways please state if it is a fact that the Members of the Central Legislature are informed by the Station Superintendent, Delhi Junction, that they could not undertake journey by the train they desire to travel as there was no accommodation, although the Station Superintendent was approached 24 hours in advance?

(b) Is it a fact that in 1942, the Railway Board was kind enough to issue instructions that the Members of the Central Legislature proceeding to and returning from New Delhi should be given preference in travelling and accommodation provided for them; if so, have those instructions become out of date, or the Station Superintendent, Delhi, was not provided with those instructions?

(c) What steps do Government propose to take in the matter? If not, why not?

The Honourable Sir Edward Benthall: (a) It is possible that some Members of the Central Assembly may not have been able to secure reserved accommodation on account of having given only 24 hours notice in advance.

(b) and (c). The instructions issued by the Railway Board in January 1943, and not in 1942 as stated by the Honourable Member, asking railway administrations to extend in favour of Members of the Legislative Assembly the period in advance of the actual date of travel within which tickets may be purchased so as to enable Members to secure early reservation and to give all reasonable assistance to them in this matter are still in force and the Railway Board have again drawn the attention of railway administrations to these instructions last month.

Mr. Lalchand Navalrai: The Honourable Member knows that reservation is made not by the Station Superintendent or the person who is in charge of the station but a telegram or information has to be given to the General Manager's Office and from the General Manager's office order is issued to the stations to reserve, and that is causing a great deal of inconvenience.

The Honourable Sir Edward Benthall: I am not aware of that arrangement.

Mr. Lalchand Navalrai: Will the Honourable Member make enquiries and make reservation easy and convenient.

Mr. Muhammad Ashar Ali: When I came to attend this session the other day, my seat was reserved from Bareilly and not from Lucknow, though I had asked it to be reserved from Lucknow to Delhi.

The Honourable Sir Edward Benthall: The Honourable Member has not put any question. He has only made a statement.

Mr. Muhammad Ashar Ali: Mr. Lalchand Navalrai has said that the Station Superintendents do not reserve seats from the stations from where the members start but from some other junction. Is that the direction of the Railway Board?

The Honourable Sir Edward Benthall: Not that I am aware of.

UNSTARRED QUESTIONS AND ANSWERS.

[DISTRIBUTION TO PROVINCES FROM CENTRAL ROAD FUND.]

28. Mr. Kailash Bihari Lal: Will the Secretary of the Posts and Air Department be pleased to state:

(a) if it is a fact that, since the inception of the Central Road Fund, the basis of its distribution to the Provinces is the same;

(b) if there has been any enquiry and report as to whether the principle on which the Central Road Fund has been distributed to the Provinces has led to equitable and uniform development of roads in the different Provinces; and

(c) the mileage of roads in different Provinces constructed with the help of the Central Road Fund?

Sir Gurunath Bewoor: (a) Yes.

(b) No enquiry has been held as Government have no reason to believe that the distribution has not resulted in equitable and uniform development.

(c) The information is not readily available and its collection would involve an amount of time and labour that would not be justifiable in war time.

OVERLOADED COAL FROM BENGAL AND BIHAR COALFIELDS TAKEN OVER BY EAST INDIAN AND BENGAL NAGPUR RAILWAYS.

29. Mr. K. C. Neogy: Will the Honourable Member for War Transport be pleased to state whether it is a fact that, since April, 1943, all overloaded coal at different Weigh Bridges in the Coalfields of Bengal and Bihar are taken over by the East Indian and the Bengal Nagpur Railways? If so, what is the total quantity taken over by each of the Railways, and what is the total value of the coal taken over by each of the Railways, and the total amount paid by each of the Railways, during 1943?

The Honourable Sir Edward Benthall: In reply to the first part of the question, I understand these arrangements came into force on the East Indian in November, 1942, and on the Bengal Nagpur Railway in January, 1943.

As regards the second part of the question, the quantity taken over by the East Indian from November, 1942, to the end of November, 1943, was 58,256 tons valued at Rs. 3,24,256, of which Rs. 1,72,019 has already been paid to the collieries. The B. N. Railway from April, 1943, to November, 1943, took over 14,833 tons, the price of which is now under settlement.

[DELAY IN PAYMENT FOR COAL REQUISITIONED FOR RAILWAYS UNDER DEFENCE OF INDIA ACT.]

30. Mr. K. C. Neogy: (a) Will the Honourable Member for War Transport please state if it is a fact that the Chief Mining Engineer, Railway Board, is issuing notices each month under the Defence of India Act to collieries to deliver certain quantities of coal, and forcing them to deliver the quantities without ensuring the prompt payment of the value of such coal? What time generally elapses before such payment is made?

(b) Have any instructions been issued to the Chief Mining Engineer, Railway Board, to cancel such notices, if the Railways fail to pay the bills within a reasonable time from the date of presentation?

(c) Are Government aware that collieries are being hampered in their efforts to raise more coal by such enforcement of supplies to the Railways without assurances of prompt payment of the bills?

The Honourable Sir Edward Benthall: (a) It is a fact that the Chief Mining Engineer, Railway Board, issues notices under the Defence of India Rules calling upon Collieries to load the quantities of coal which are due under the contracts placed by Railways. It has come to the notice of Government that there has been some delay in the payment of bills for coal purchased and special steps have been taken which aim at securing more prompt payment. Information as to the time that elapses before payment is not readily available.

(b) No.

(c) Government have taken action to secure the more prompt payment of bills for coal, and thus to eliminate any cause for complaint in this respect.

RESTRICTIONS ON SUSPENDED RAILWAY EMPLOYEES.

31. Mr. Lalchand Navalrai: (a) Will the Honourable the Railway Member be pleased to state what restrictions are placed on an employee under suspension in regard to (i) his wages, (ii) leave, (iii) attendance, (iv) leaving headquarters, (v) seeking employment somewhere else, (vi) passes, and (vii) the signing of muster sheet? Will he please quote the relevant rules where these points are defined?

(b) If any official circulars exist on the points referred to in part (a) above, does the Honourable Member propose to lay copies of the same on the table of the House?

The Honourable Sir Edward Benthall: (a) (i) Employees under suspension are eligible for a subsistence allowance not exceeding one-fourth of their pay; this is prescribed in paragraph 2043 of the State Railway Establishment Code, Volume II.

(ii) Employees under suspension are not entitled to any leave, *vide* paragraph 2045 of the State Railway Establishment Code, Volume II.

The Railway Board have prescribed no rules for regulating the other matters referred to except in the case of officers in connection with leaving Headquarters and passes. Such officers are not permitted to leave Headquarters except with the permission of the Railway Board and they are not ordinarily entitled to any passes. Railway administrations may have made rules applicable to non-gazetted staff in these matters.

(b) No.

KARACHI DIVISION GUARDS REPRESENTATION FOR SENIORITY.

32. Mr. Lalchand Navalrai: (a) With reference to the reply to part (c) of my unstarred question No. 6, asked on the 27th July, 1943, to the effect that the Karachi Division Guards' representation for seniority was under consideration, will the Honourable the Railway Member be pleased to state how the said representation was disposed of?

(b) Is it a fact that prior to the representation sent by the Guards in 1943, to which a reference is made in part (a) above, the affected Guards had also sent a representation in 1939, which too had not been replied to?

(c) What is the time limit within which representations sent by the staff must necessarily be replied to? If no such provision exists, it is proposed to fix some such limit? If not, why not?

The Honourable Sir Edward Benthall: (a) Government are informed that after careful examination the Railway have decided that the seniority of the guards in question had been correctly fixed under the orders then in force.

(b) No, the representation made in 1939 was replied to.

(c) No time limit has been laid down. It is also not proposed to prescribe a time limit as it is not necessary.

OVERSEAS BUSINESS SECURED BY NORTH WESTERN RAILWAY THROUGH CERTAIN AGENCIES.

33. Mr. Lalchand Navalrai: (a) Will the Honourable Member for Railways be pleased to state the amount of overseas business secured by the North

Western Railway through the following agencies during the financial years, 1940-41, 1941-42, and 1942-43:

- (i) Messrs. Thomas Cook and Sons;
- (ii) Messrs. Cox and Kings; and
- (iii) Messrs. Vensimal Bassarmal and Brothers?

(b) Is it a fact that, owing to the war conditions, there is practically no public passenger traffic from India to overseas and *vice versa*, and, as such, there is no possibility of overseas business being secured through these agents?

(c) Is it a fact that much overseas traffic is shown by the Railway agencies to have commission at ten per cent. instead of five per cent. admissible on inland traffic? If so, what steps do Government propose to take to check the inflation of overseas traffic? If not, why not?

The Honourable Sir Edward Benthall: Information is being called for and a reply will be laid on the table in due course.

ASSISTANCE TO RAILWAY EMPLOYEES FROM RAILWAY FUNDS TOWARDS EDUCATION OF THEIR CHILDREN.

34. Mr. Muhammad Azhar Ali: (a) Will the Honourable Member for Railways please refer to paragraph 689 of the East Indian Railway Gazette No. 25 of 1939, regarding assistance to Railway employees from Railway funds towards education of their children, *viz.*, "the Railway Board have further decided that staff appointed prior to first February, 1929, who have not yet elected the old or the new (1930) rules for the grant of assistance to railway employees towards the education of their children should be permitted to elect by which rules they will be governed at the time they first apply for such assistance," and state the number and date of the Railway Board's Resolution or letter of the said decision, (if permissible to lay the same on the table of this House)?

(b) Is it or is it not a fact that an employee is permitted to elect the rules at the time he first applies for the assistance?

(c) Is it or is it not a fact that the word "staff" or "employee" as referred to above includes the staff or the employee on the North Western Railway?

The Honourable Sir Edward Benthall: (a) Government are not prepared to give such details about Departmental orders.

(b) Yes.

(c) No.

TRANSFER OF TICKET COLLECTORS OF DELHI DIVISION OF NORTH WESTERN RAILWAY TO TRANSPORTATION GROUP.

35. Mr. Muhammad Azhar Ali: Will the Honourable Member for Railways please state:

(a) if it is a fact that a large number of Ticket Collectors of the Delhi Division of the North Western Railway has been transferred to the Transportation Group (Trains Clerks) from the Commercial Group (Ticket Collectors); if so, the particulars of the rule for the recruitment and training of the subordinate staff under which such transfers are prescribed; and

(b) if it is a fact that by such transfers the seniority and avenue of advancement are affected; if so, what remedy is provided to compensate the loss; if no remedy is provided, the reasons therefor?

The Honourable Sir Edward Benthall: (a) Certain Ticket Collectors are being utilized temporarily as Trains Clerks. As regards the second part, the attention of the Honourable Member is invited to the note at page 178 of the State Railway Establishment Code, Volume I.

(b) The transfers referred to are temporary and do not, therefore, affect the permanent Trains Clerks.

POLICY RE SENIORITY ON EAST INDIAN RAILWAY.

36. Mr. Muhammad Azhar Ali: (a) Will the Honourable Member for Railways please state if it is or is not a fact that the East Indian Railway Administration has laid down the policy regarding determining seniority from the date of confirmation in the grade or class?

(b) Is it or is it not a fact that no deviation from the said policy is permissible on the change of grade or class either by abolishing the existing grade or class or by introducing the new grade or class in place of the abolished grade or class?

The Honourable Sir Edward Benthall: (a) Yes, except for Workshop staff.

(b) The question is not understood.

TRIALS OF STATE RAILWAYS STAFF UNDER SECTION 161, INDIAN PENAL CODE.

37. Mr. Muhammad Azhar Ali: Will the Honourable Member for Railways please state:

(a) the particulars of the staff on the State-managed Railways who were charged with offence under section 161, I. P. C., since September, 1939;

(b) the sentence passed against them by the trial Courts;

(c) the results of their appeals and revisions, respectively, if any; and

(d) if it is or it is not a fact that so far no gazetted officer has been charged under the section?

The Honourable Sir Edward Benthall: (a) Information is readily available only of prosecutions made after November, 1942. Since then 32 employees of State-managed Railways have been prosecuted under Section 161, I. P. C.

(b) Twenty-six of the employees referred to in part (a) were convicted, the punishments ranging from a fine of Rs. 50 to 2½ years R. I. and a fine of Rs. 1,000.

(c) Government have no information in this connection.

(d) No gazetted officer has so far been prosecuted under Section 161, I. P. C.

RULES WHEREUNDER ABSENCE ON LEAVE CONSTITUTES A BREAK IN SERVICE FOR CERTAIN PURPOSES ON STATE RAILWAYS.

38. Mr. Muhammad Azhar Ali: Will the Honourable Member for Railways please state:

(a) if it is or it is not a fact that on the Bengal and Assam, Bombay, Baroda and Central India, Great Indian Peninsula, East Indian, North Western and Oudh and Tirhut Railways, absence on leave on medical certificate or on other leave for a period not exceeding four months at a time on average pay shall not constitute a break of service in the grade or class held immediately before the absence for the purposes of earning increments, substantive promotion and confirmation in the grade or class held immediately before the absence; and

(b) the rules or regulations of the Conditions of Service under which the absence is prescribed to constitute a break in service for those purposes?

The Honourable Sir Edward Benthall: (a) and (b). Neither kind of leave constitutes a break in service for the purposes mentioned in the question though increment is earned provided only that the post is held substantively and not merely in an officiating capacity. The Honourable Member's attention is invited to Rule 2022 of the State Railway Establishment Code, Volume II, a copy of which is in the Library of the House.

DUTIES OF SPECIAL TICKET EXAMINERS AND GROUP INSPECTORS ON NORTH WESTERN RAILWAY.

39. Mr. Muhammad Azhar Ali: Will the Honourable Member for Railways please state the difference in responsibilities and in duties between the Special Ticket Examiners and the Group Inspectors of the Special Ticket Examiners on the North Western Railway?

The Honourable Sir Edward Benthall: Special Ticket Examiners are required to check and charge passengers travelling without tickets. Group Inspectors of Special Ticket Examiners are required, in addition to checking and charging passengers, to be responsible for the efficient working of the men in their Groups and to bring to notice slack and irregular working.

**SCALES OF PAY OF SPECIAL TICKET EXAMINERS AND GROUP INSPECTORS ON
NORTH WESTERN RAILWAY.**

40. Mr. Muhammad Azhar Ali: Will the Honourable Member for Railways please state the difference in scales of pay between the Special Ticket Examiners and the Group Inspectors of the Special Ticket Examiners on the North Western Railway?

The Honourable Sir Edward Benthall:

Group Inspectors of Special Ticket Examiners	Old 105—5—140
	<hr/> New 100—10/2—120
Special Ticket Examiners	Old 66—4—90
	<hr/> New 65—5/2—85'

**SCALES OF PAY ETC. OF GROUP INSPECTORS AND DIVISIONAL INSPECTORS OF
SPECIAL TICKET EXAMINERS ON NORTH WESTERN RAILWAY.**

41. Mr. Muhammad Azhar Ali: Will the Honourable Member for Railways please state the difference in scales of pay, duty and responsibility, separately, between the Group Inspectors of Special Ticket Examiners and the Divisional Inspectors of Special Ticket Examiners on the North Western Railway?

The Honourable Sir Edward Benthall: The scales of pay are as follows:

Divisional Inspectors of Special Ticket Examiners	Old 200—10—250
	<hr/> New 200
Group Inspectors of Special Ticket Examiners	Old 105—5—140
	<hr/> New 100—10/2—120

The Divisional Inspectors are responsible for the general supervision over the staff under them, for arranging special checks when required, for attending court in prosecution cases and conducting enquiries when necessary. Group Inspectors are required, in addition to checking and charging passengers, to be responsible for the efficient working of the men in their groups and to bring to light slack and irregular working.

**HARASSMENT CAUSED TO A PASSENGER AT BAREILLY BY THE DIVISIONAL SUPER-
INTENDENT, MORADABAD DIVISION.**

42. Mr. Muhammad Azhar Ali: (a) Will the Honourable Member for Railways please state if it is or it is not a fact that Mr. P. H. Baker, Divisional Superintendent, Moradabad Division of the East Indian Railway, caused on the 15th January, 1944, at Bareilly unnecessary harassment to a passenger holding Luggage Ticket No. 589093 issued by the Bareilly Junction Railway Staff at Bareilly Junction?

(b) Is it or is it not a fact that the luggage with the said passenger was not found either heavy or beyond the prescribed free allowance?

(c) Is it or is it not a fact that the said luggage of the passenger from Bareilly to Moradabad—a distance of about 52 miles—was forcibly placed by the said Divisional Superintendent (Mr. P. H. Baker) into the Brake-Van, and the passenger was deprived and denied of the use of the bedding during the cold night?

(d) Is it or is it not a fact that the passenger was detained by the train he intended to travel, and consequently reached his office late and was deprived of his day's pay?

The Honourable Sir Edward Benthall: (a) It is not a fact that Mr. Baker, Divisional Superintendent, Moradabad, caused any harassment to a passenger holding Luggage Ticket No. 589093 at Bareilly Junction on the 15th January, 1944. The reason for weighing the luggage of the passenger was that it appeared bulky and was likely to cause inconvenience to other passengers in the compartment.

(b) On weighing the luggage was found to be within the free allowance admissible on the tickets held by the passenger.

(c) In regard to the first part, it is ~~not a fact~~ that Mr. Baker ordered the passenger's luggage to be placed in the break-van. In regard to the second part, Government have no information.

(d) It is a fact that the passenger did not travel by the train with which he originally intended to travel as time was occupied in weighing and booking his luggage. As to the second portion of the question, Government has no information.

MOTIONS FOR ADJOURNMENT.

CANCELLATION OF A LARGE NUMBER OF PASSENGER TRAINS ON THE NORTH WESTERN RAILWAY.

Mr. President (The Honourable Sir Abdur Rahim): Mr. Essak Sait has given notice of his intention to move for the adjournment of the business of the Legislative Assembly to discuss a definite matter of urgent public importance of recent occurrence, namely, "the stoppage of 71 passenger trains on the North Western Railway from the 3rd February, 1944, thereby upsetting the whole rural economies of the area and causing great inconvenience and hardship to the public".

The Honourable Sir Edward Benthall (Member for Railways and War Transport): Temporary cancellation of trains under war conditions is not an abnormal occurrence and it has taken place in several parts of the country at various times. There is, therefore, nothing new in this, and therefore the matter is not one of urgency. In the present case the cancellation became necessary owing to the necessity of conserving railway coal due to short coal raisings. Other passenger services over the lines continue, and while I deeply regret the inconvenience caused to the travelling public, it is incorrect to say that the action has completely upset the whole rural economy of the area. I am answering questions on the coal position and there will be an opportunity of discussing the subject during the time of the railway budget.

Mr. H. A. Sathar H. Essak Sait (West Coast and Nilgiris: Muhammadan): With regard to the first point that it is not unusual, I certainly maintain that that has been a very unusual notification. 71 trains have been stopped at one stroke in one area on a particular day. There have been occasions of stoppages of a train here and a train there, but there has not been a case of a simultaneous stoppage of 71 trains at one time. The coal position may be discussed here because we do not know what the position is exactly. We have certain allegations to make on that account.

Mr. President (The Honourable Sir Abdur Rahim): I hold that the matter is urgent and one of importance. As the explanation given by the Honourable the Railway Member so far has not satisfied the Mover of the motion, I hold that the motion is in order, but as objection has been taken I should like to know how many Members are for leave being granted.

(After a count.)

As less than twenty-five Members are in favour of leave being granted, leave is refused.

REPRESSION CARRIED ON UNDER THE COVER OF THE DEFENCE OF INDIA RULES.

Mr. President (The Honourable Sir Abdur Rahim): The next motion is in the name of Mr. Kazmi. I am sorry to observe that the Honourable Member has again tried to argue the case in the very notice. He wishes "to censure the Government of India for the reign of terror carried on by the Executive in India under the cover of Defence of India Rules, so as even to interfere with the administration of justice by arresting lawyers who defend persons charged with political offences, as is exemplified by the arrest and detention of Mr. Pardivalla at Lahore and of Pandit Baij Nath, Advocate of Agra, the latter of which cases has been commented upon by the Honourable the Chief Justice of the Allahabad High Court, who during the course of hearing observed: 'It seems to me that these Defence of India Rules have paralysed us and we have got no power,' as reported in the *Dawn*, dated 5th February, 1944".

I should like to know whether the Honourable the Home Member has got to say anything on this.

The Honourable Sir Reginald Maxwell (Home Member): The particular cases cited are matters of provincial concern only and the Government of India have nothing to do with such individual local applications of the Defence of India Rules. The policy of the rules itself is nothing new. The principle of the rules has been before the House for the last four years and therefore a motion of this kind could only be considered in relation to the particular application. Those particular applications, I submit, are matters of purely provincial concern.

Mr. President (The Honourable Sir Abdur Rahim): Would not the Government of India be entitled to give directions as regards the application of the rules to cases of this character?

The Honourable Sir Reginald Maxwell: No, Sir. Powers are legally conferred on the provinces. It is for the provinces to apply them as they, in their judgment, think fit; the possibility of giving direction only exists in regard to provincial matters under section 126A of the Government of India Act and that power of giving direction is only employed in cases where it is necessary to enforce a general policy on any province.

Mr. President (The Honourable Sir Abdur Rahim): In this case the allegation is made that an advocate, who appeared to defend an accused person under the Defence of India Rules, has been arrested. Is it not possible for the Government of India to say that the interests of justice should not be interfered with in that manner?

The Honourable Sir Reginald Maxwell: The matter does not come before the Government of India until it has actually occurred.

Mr. President (The Honourable Sir Abdur Rahim): It has been brought to the notice of the Government of India now.

The Honourable Sir Reginald Maxwell: I understand that Mr. Pardivalla's case happened before the last Session and a motion in regard to that was disallowed at that time.

Mr. President (The Honourable Sir Abdur Rahim): What about this one? The difference in this case is that the Chief Justice had to take notice of the case and he has recorded a finding that it was unjustified.

The Honourable Sir Reginald Maxwell: The Chief Justice has not recorded any finding on this individual case. He has made a general observation to the effect that the powers of the High Court are limited by the Defence of India Rules in considering such cases but he has not, so far as I can find out, recorded any finding that the action taken by the Provincial Government in this case was improper.

Mr. President (The Honourable Sir Abdur Rahim): Has the Chief Justice recorded any finding that the action of the Provincial Government was unjustified?

Qazi Muhammad Ahmad Kazmi (Meerut Division: Muhammadan Rural): I must apologise to the Chair for the wording of the motion. As a matter of fact, I have not got here the copy of the judgment delivered by the Chief Justice, but only a report in the *Dawn*. You will find that he did point out to the authorities that the action was unjustified and he even said . . .

Mr. President (The Honourable Sir Abdur Rahim): Has he recorded a finding that the order was unjustified?

Qazi Muhammad Ahmad Kazmi: This is what he says:

"It was said in the affidavit that he was one of the leaders of the bar. His Lordship disclosed that he had enquired from Mr. Wanchoo, the District Judge of Agra, and was told that Pandit Baijnath was one of the leaders of the bar there and that he was seriously ill and might die any day."

It is further said:

"His Lordship observed that when he had made the remarks in the case of Pandit Baijnath that he was extremely unhappy about the case and he hoped that the authorities would see their way to remove his unhappiness, he thought that the advocate would be released but recently on making an inquiry he was told that the advocate had not been released. His Lordship added that he had studied the rules on the subject and found that he had got no jurisdiction. His Lordship further observed that rightly or wrongly he had come

to the conclusion in the case of Pandit Baij Nath that because that gentleman was appearing for the accused in so many cases arising out of the disturbances the police thought that the best thing was to get him behind the prison bars."

I submit that this is more or less a finding by the Chief Justice of the Allahabad High Court.

Mr. President (The Honourable Sir Abdur Rahim): On the facts before me, I hold that the motion is in order and will be taken up at 4 o'clock.

The Honourable Sir Reginald Maxwell: Sir, I objected to leave being granted.

Mr. President (The Honourable Sir Abdur Rahim): As objection has been taken to leave being granted, those Members who are in favour of leave being granted will rise in their places.

(After counting.)

As not less than 25 Members have stood up, the motion will be taken up at 4 o'clock.

THE INDIAN PENAL CODE (AMENDMENT) BILL.

[AMENDMENT OF SECTIONS 497 AND 498.]

Qazi Muhammad Ahmad Kazmi (Meerut Division: Muhammadan Rural): Sir, I do not propose to move Motions Nos. 1 and 2 in my name but I shall move No. 3. With your permission, I should like to add the name of Mr. Muhammad Muazzam Sahib Bahadur to the list of members of the Select Committee.

Sir, I beg to move:

"That the Bill further to amend the Indian Penal Code for a certain purpose (*Amendment of section 497 and 498*) be referred to a Select Committee consisting of the Honourable Sir Asoka Roy, Sir Muhammad Yamin Khan, Syed Ghulam Bhik Nairang, Mr. Lalchand Navalrai, Mr. K. C. Neog, Kunwer Hajee Ismaiel Alikhan, Mr. Muhammad Azhar Ali, Mr. C. P. Lawson, Sardar Mangal Singh, Sir George Spence, Mr. Hooseinbhoj A. Lalljee, Mr. Abdur Rasheed Choudhury, Mr. Muhammad Muazzam Sahib Bahadur and the Mover, and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five."

The subject matter of these two clauses is a very short one. I know that Honourable Members would not like to go into the technicalities and I would not bother the House with them. I will put the whole thing in plain, simple words. The object of introducing this amendment is that adultery must be made punishable both for the man and the woman and in cases in which a man is punishable for abducting or enticing away a woman and the woman is also found to be an instigating party or to be an active party, she may also be punished as an abettor. This is the gist of the amendments that are contained in the Bill that is before the House. Now, Sir, there would not have been much difficulty in getting these Bills passed but unfortunately for the gradual penetration of the Western ideas in the society

Mr. N. M. Joshi (Nominated Non-Official): The ideas of justice and injustice!

Qazi Muhammad Ahmad Kazmi: I do not want to say either, but I must say that though one thing may be quite just according to the Western ideas yet it may be unjust according to the Indian ideas. What I maintain is that I am not going to blame the Western ideals or Western civilization, but I do maintain that, though according to the Western civilisation, adultery is not a crime, is not a serious offence, yet according to the conceptions both of Hindus and Muslims adultery is considered to be a very heinous offence. It is with the advent of the British rule that these ideas have been considerably modified. At the present stage there is a strange combination of the two civilizations and there are varying ideas in the minds of the persons especially of the educated classes. A perusal of the opinions that have been received from various quarters would lend support to my argument. One remarkable feature that we observe is that the higher a person is placed in life the less is his idea of the seriousness of the offence of adultery and the lower he is placed in the scale of life the idea about the seriousness of the offence increases. As a matter of fact, we find that in the Frontier province and in Baluchistan, where woman is almost considered to be the property of the man and in respect of which I have sometimes drawn the attention of the Government of India also, adultery is considered to be a heinous offence and a woman is as much liable to be convicted

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and imprisoned for adultery as the man himself. While it is so in provinces and places which are considered to be backward, it is not so in British India, and it is only to enforce that idea that I have brought this amendment. Both according to the Hindus and the Muslims, adultery is a very heinous offence.

Mr. N. M. Joshi: Not punishable as a crime.

Qazi Muhammad Ahmad Kazmi: I am talking of the Hindus and the Muslims and not of the ideas imported from Western countries. So far as Hindus and Muslims are concerned, they have always considered it to be a very serious offence and in support of that I may inform the House for the satisfaction of my Honourable friend who is objecting to it that it was for the first time in 1845 that Government thought of the advisability of reducing the rigour of the sentence that was to be passed in cases of adultery. It was Act II of 1845 in which there are only two sections. The first section reads:

"It is hereby enacted that whenever any person shall be convicted of the offence of adultery by any of the courts of East India Company within the territories subject to the Presidency of Bombay, such person shall be sentenced to a fine or imprisonment or both at the discretion of the court and shall not be sentenced to any other punishment whatever, any law or regulation to the contrary notwithstanding."

Now, the words 'any law or regulation to the contrary' clearly show that prior to the enactment of this Act there were other punishments which were intended by the Legislature of that time. Now, it was not only that but they thought a further proviso to be necessary which is enacted in section 2 of this Act. It runs:

"And it is hereby enacted that no person shall be admitted to prosecute any woman for adultery other than the husband of such woman and that no person shall be admitted to prosecute any man for adultery other than the husband of the woman with whom such man is alleged to have committed adultery."

So, by this Act II of 1845 the offence of adultery was made a private offence in which only the husband of the wife was interested and the society as a whole had no interest whatsoever. It was at the option of the husband to prosecute or not the person who had committed the offence. This is a thing which is abominable for the Indian society. The Indian society does not abhor only adultery but it abhors the man who can carry on such dirty practices through the agency of his wife. So, the public opinion against persons who could allow their wives to carry on was strong enough to stop it. But now we find that gradually with the dawn of civilisation this is also gradually waning. When we have a look at the Indian Penal Code and the report of the First Law Commissioners, we find that they wanted to abolish this Act of 1845 and they were of opinion that adultery should not be made any offence at all. But later on on account of the seriousness of Indian opinion in this matter, the Second Law Commissioners thought otherwise and made it an offence in the form in which it is contained in section 497 of the Indian Penal Code. I may just refer this Honourable House to the reasons that were given by the Second Law Commissioners for incorporating this section in the Indian Penal Code. They say:

"Though we well know that the dearest interests of the human race are closely connected with the chastity of women and the sacredness of nuptial contract, we cannot but feel that there are some peculiarities in the state of society in this country which may well lead a humane man to pause before he determines to punish the infidelity of wives."

I especially want to draw the attention of this House to the cause which led them to enact this.

"The condition of women of this country is unhappily very different from that of the women of England and France, they are married while still children, they are often neglected for other wives while still young. They share the attentions of a husband with several rivals. To make laws for punishing the inconstancy of the wife, while the law admits the privilege of the husband to fill his zenana with women, is a course which we are most reluctant to adopt. We are not so visionary as to think of attacking, by law, an evil so deeply rooted in the manner of the people of this country as polygamy. We leave it to the slow, but we trust the certain, operation of education and of time. But while it exists, while it continues to produce its never failing effects on the happiness and respectability of women, we are not inclined to throw into a scale, already too much depressed, the additional weight of the penal law."

It is clear that the chief ground on which the learned authors of the Code enacted only a one-sided provision for the conviction of males and exempted

emales was the very bad condition and plight in which the women of this country were according to them on account of polygamy. Probably they thought that it would be after the removal of polygamy, and after education to women that women would also be rendered liable for the offence of adultery. That seems to be the gist of the whole statement of the second Law Commissioners. But, Sir, I only want to point out in this connection that prior to this adultery was recognised to be a heinous offence and the woman was liable for it. It was the Law Commissioners who took up a lenient attitude and who gave this exemption to women in the year 1860. Prior to that the woman was a culprit, if she entered into such an illegal connection. The Law Commissioners meant that by the advance of civilisation and by the adoption of monogamy that offence might become punishable in women also. It appears from the words of the authors of the Code that if monogamy is adopted and if the condition of women is bettered, then they would adopt the measure of punishing women also for any such infidelity. But what is the fact? The fact is that they belonged to England where there is monogamy where the liberty of women is much greater than the liberty in India. But still, is adultery a criminal offence there? It is not. So, what I maintain is that this was only an excuse; what they wanted was to avoid punishing adultery altogether and they began by exempting the women from punishment for infidelity, and for that they took protection under the weakness of woman, her illiteracy, her low position in the scale of society. We find that according to their conceptions the greater the freedom, the greater the power of an individual to enter into illegitimate connections with other persons, as is exemplified by the conditions in England. That is what I say. I cannot say whether the one is wrong or the other is not wrong. What I say is this. According to Indian ideas, adultery is an abominable crime. It may not be so according to western ideas. Now, we as Indians want to have our own laws and our own conception incorporated in the Code of the country. This is so far as section 497 is concerned. A very considerable body of opinion has been received after the circulation of the Bill for eliciting opinion. I have carefully studied the opinions, as in a measure of this kind, we must look to the public opinion and if the general opinion is against us, we must not pursue the matter any further. Probably this is the stand taken up by the Government of India in this matter. But today what I ask the Government of India to do is to apply their minds to the opinions that have been received, try to analyse how many of them have simply been affected by western ideas and what is the real and general public feeling in India itself. Now, Sir, out of the public bodies, Hindus, Muslims, and including Europeans that have been consulted there is not a single one of them who opposes these amendments. I will just mention some of the public bodies consulted. The Anjuman Himayat-e-Islam, Lahore, Ahmediya Ishaiyat-e-Islam, Lahore, Hindu Sudhar Sub-Committee, Sri Sanatan Dharam Pratinidhi Sabha, Punjab, Arya Pradeshik Pratinidhi Sabha, Punjab, Sind and Baluchistan. There is also the Secretary, European Association, Punjab Branch. All of them without exception support me.

Mr. N. M. Joshi: Reactionary bodies.

Qazi Muhammad Ahmad Kazmi: Yes, you may call them anything you like but they are public bodies. There is not a single public body that is opposing it. But individuals oppose it. There were two Women's Associations also who were consulted, one from Madras and the other from Sind and both of them have supported the Bill.

An Honourable Member: What about Women's Conference?

Qazi Muhammad Ahmad Kazmi: If they do not choose to give their opinions, nobody can compel them to do so.

Mr. Lalchand Navalrai (Sind: Non-Muhammadian Rural): They are too modern.

Qazi Muhammad Ahmad Kazmi: Now, who are the persons who are opposing it and on what grounds? Instead of putting before the House the views of persons who are supporting the Bill which, I think, is the whole of India, I

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should like to put before the House the views of those gentlemen who are opposed to it. I would ask the House to analyse the real reason as to why they are opposing it. I have tried to make certain selections from the views that have been received so that there may be no botheration for reading the whole of these, and I will just cite the reasons for which they are opposing it. There is

12 Noon. a view that there would be restriction of individual liberty if this law is passed. The Chief Commissioner of Coorg says:

"My personal opinion is that adultery ought not to be made a criminal offence at all either for the man or the woman. To make it a criminal offence is to create other problems equally serious and to restrict individual liberty in a field where liberty of choice is the very essence of truly moral conduct."

He says that truly moral conduct can only be achieved by giving the woman liberty to enter into illegal relations. (*An Honourable Member*: "You are making it illegal.") I am quite prepared to agree to the abolition of this section as has been suggested by some people because they say that a man should not be made liable for adultery. The Madras High Court says on page 11:

"The Honourable Judges consider that there is no logical reason why a woman should not be punished for abetment of adultery or of enticement, though there may be great practical difficulties in proving her guilt. Further, the possibility of proving such abetment may lead to scandalous and perjured evidence. The Honourable Judges think, however, that Indian sentiment will probably favour a change in law."

One thing to be noted here is that they are probably not in favour of the Bill but they say that it is in consonance with Indian sentiment and that if a man is made liable for the offence of adultery there is no reason to exempt the woman. That is only logical. Therefore my point is this; according to any standard of civilization you should either vote for the abolition of the sections altogether or accept the amendment suggested. You cannot have a mixture of both western and eastern ideas.

Then one other reason given is "I am not in favour of making the law of adultery more rigorous". That is the opinion of Justice Bose of the Nagpur High Court. It is also said to be a retrograde measure and it is said that sections 497 and 498 ought to be removed. (District Judge, Nagpur, Mr. Justice Allsop of the Allahabad High Court, etc.).

That is the western point of view. I have no objection if you remove those sections and adopt westernised ideals, but you are not having the courage to do it. This reminds me of the opinion of the Second Law Commissioners who say that by the advance of time when the condition of the woman in society has improved then it will be time to make her liable. But as a matter of fact it was not what was intended or what is being done by the Government of India at the present time, when the condition of women in India is much better and improved and it cannot be said that they are in the same condition now as they were before. Still it is said by people who want to retain the sections that their conditions continue to be the same.

There is another body of opinion which says that the condition of women in rural areas does not justify it. The District Judge of Raipur and the Registrar of the Chief Court of Sind say that.

Mr. Lalchand Navalrai: In the rural areas of Sind women are even killed for this kind of offence.

Qazi Muhammad Ahmad Kazmi: That shows how far the Registrar of the Sind Chief Court has given the true facts. This gentleman says that the amendment would be very hard for people in the rural areas and Mr. Lalchand Navalrai says that no such thing will ever be tolerated in the rural areas of Sind. This is not going to affect the conditions in rural areas. So the stand taken up by the Registrar of the Sind Chief Court fails. He does not talk of the educated people of Sind; they according to him would be quite glad to have this amendment but it is of the poor country people who will never know of this law and will be punished that he is talking. He tells us not to have this law because the rural people will be ruined. They will not be ruined; it is only the educated people who will be affected and it is only the higher strata of society which try to stop this amendment being enacted.

Then there is another body of opinion which is quite in consonance with the views of the Law Commissioners. They say that conditions have not happened and will not happen unless the personal law of the communities is changed. This means to say that unless this law is changed the conditions will never change; they will continue to be the same and so long as polygamy is allowed this exemption of women from the offence of adultery should be maintained.

Then there are the opinions of the District Commissioner of Raipur, High Court, of Bombay, Sir P. T. Rajan, and the Bihar Government. I will only quote the actual words of the Bihar Government:

"The authors of the Indian Penal Code fully explained why the wife was not made punishable as an abettor in respect of an offence under section 497 of the Indian Penal Code. The position of Indian women has no doubt undergone some change for the better since the framing of the Code. But women in India still suffer from certain disadvantages. As long as polygamy is allowed for both Hindu and Muhammadan men, it would not be equitable to punish women as abettors for the offence of adultery. There is no reason for enforcing monogamy on women when the same is not enforced on men."

This is a very very simple reason which Bihar Government has given and I think it is a very frank one. They say that if persons are allowed to enter into polygamy on account of their laws then our law must allow polyandry also.

There is another view which exposes the real reason why this is being opposed. The Government of Assam says:

"The more enlightened view is that the section occurring in a Criminal Code is itself an anachronism."

Now, Sir, I perfectly understand the enlightened view which is western, and if some of the gentlemen who have got western views are adopting it there is no harm. You adopt any particular code of morality and that will be quite good for the maintenance of the society, but when you introduce two conflicting views in the same society then the difficulty arises. Let India adopt those views, let this section be deleted and then it will be a western code altogether.

Another view is:

"Moreover, it seems to me that with the progress of civilisation woman has come to be looked on less as chattel or possession of her husband and more and more as an independent and equal individual, and marriage more as a contract."

Now, Sir, what does this mean? According to this view only when women used to be considered as chattel it was only in those days that it was necessary to punish them for this offence. Now as she has ceased to be a chattel these are the days when the offence of adultery should be converted into a civil liability. I hold the contrary view. I maintain that as soon as you say that adultery should only be a civil offence, your contention amounts to saying that woman is only a chattel, because you refuse the use of your utensils by other people. If they get hold of the utensils and use them for sometime, then you are entitled to get civil damages from the other party. If you intend to change the law in respect of adultery and turn it from a criminal offence to a civil wrong, then you are making the woman a chattel. Because another person had the audacity of using a woman against the will and without the permission of her husband, therefore the husband is entitled to get damages. This therefore means that woman is only a chattel that belongs to and is to be used by the husband and if any other person uses her he shall have to pay the damages. I quite see that no criminal liability should attach to a woman if she is considered to be a chattel. But if she is a living being and if she has got any position in the society then she should also be made responsible for her actions.

Another view is:

"The policy of law has been to reduce the offence of adultery from a public and social offence to a private wrong against the husband of the woman."

That is exactly the same. Another body of opinion is:

"With the progress of civilisation the idea that a husband has proprietary rights over his wife has, to a considerable extent, been modified and adultery has been made a civil wrong and not a criminal offence in most of the countries."

It is exactly the same thing. Then another body of opinion is:

"I do not think that there has been any appreciable improvement in the cultural or educational condition of women of that class amongst whom cases of adultery generally occur."

Mr. President (The Honourable Sir Abdur Rahim): The Honourable Member need not refer to all this evidence at such length.

Qazi Muhammad Ahmad Kazmi: This is the last one which I will quote. This is the opinion of Sessions Judge, Hyderabad:

"I have no doubt that there are cases in which as one witness told me instead of the man enticing away the woman, the woman enticed away the man. But even in those cases the condition of the woman may be to a very large extent responsible."

I quite fail to understand as to how they justify this. They say the woman is responsible. If Honourable Members would look into the opinions, they will find that one Magistrate has said—and this is of course in my favour—that "in my experience I have always found that in cases under sections 497 and 498 it is the woman who is the active party". I do not quite agree with this, but still he has probably more practical experience than myself. One gentleman says: "Progress of society is from status to contract". That is to say, from the position of a wife under Hindu law to Muhammadan Law. But still you will find that if you take either Hindu Law or Muhammadan Law, women have always been treated on an equal basis with men, because if there is an offence both are liable and in spite of all the claims that are made on behalf of women by the western countries you will find that they have always considered woman to be nothing more than a chattel, because they only consider that the offence of adultery can only give rise to civil liability.

Now, Sir, I have almost finished. I have examined carefully the opinions of all those against me and if there was any sense in their opposition I would not have proceeded with the Bill. But I find that most of the opinions are based on a confusion of ideas. They claim that the woman has greater liberty and on the other hand that she is not fit to be liable for any act done by herself. I cannot reconcile these two inconsistencies.

I will now say something in connection with section 498. In it we find that a woman who is an active party cannot be punished at all, not even as an abettor. Now, Sir, no doubt the laws were made by males and they have kept everything for themselves. I admit that it is correct to a certain extent. But that does not mean that they should exempt women from liability of serious offences. The High Court of Madras says that even though it is proved that the enticement came from the woman and the man refused for some time to yield to it, still when he ultimately yields it is he who has to suffer.

(A pause.)

Mr. President (The Honourable Sir Abdur Rahim): The Honourable Member had better go on.

Qazi Muhammad Ahmad Kazmi: This very thing came up before the Madras High Court in another case which is reported in 26 Madras—charge against the first accused of enticing a married woman under section 498 of the Indian Penal Code and against the second accused of abetment of that offence under sections 498 and 109 of the Indian Penal Code. The Sub-Magistrate of Ginki convicted both accused, sentencing the first accused to six months rigorous imprisonment and to a fine of Rs. 100 with one month's further rigorous imprisonment for default and the second accused to one month's simple imprisonment. Now the second accused was the woman whom the first accused was charged with enticing. With regard to this the judgment of the High Court in this connection is a very short one. It runs:

"Whether a woman could be convicted of abetting or of taking away herself within the meaning of section 498, Indian Penal Code, we need not now decide, as that is not the offence charged against her: but we are of the opinion that when a man is convicted, as in this case, of enticing away a woman under section 498 Indian Penal Code, the woman cannot be guilty as an abettor. We set aside the conviction of on the charge of enticing herself and direct that her bond be discharged."

Now, Sir, kindly examine the words of section 498 itself.

Mr. President (The Honourable Sir Abdur Rahim): The whole thing will be examined by the Select Committee, which the Honourable Member is proposing, in detail.

Qazi Muhammad Ahmad Kazmi: I apprehend that it is not going to the Select Committee.

Mr. President (The Honourable Sir Abdur Rahim): When the Honourable Member knows that he ought not to waste the time of the House.

Qazi Muhammad Ahmad Kazmi: I am trying to persuade the House and convince the Government to accept this point of view. Section 498 reads:

"Whoever takes or entices away any woman who is and whom he knows or has reason to believe to be the wife of any other man, from that man, or from any person having the care of her on behalf of that man, with intent that she may have illicit intercourse with any person, or conceals or detains with that intent any such woman, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both."

In my experience I have never found that any man was acquitted of the offence under section 498 because the woman was found to be the active party. It is presumed that in every case of taking away of a married woman by man, it is the man who is liable though he may have been enticed away by the woman herself. I do not say that every married woman who is taken away should be made punishable but only in cases where the Court finds that real enticement came from the woman herself. Even in those cases she should not be punished with an equal punishment with the person who has taken her away or yielded to the temptation of accompanying her and going along with her. He may be given a bigger punishment but the woman should also be punished as an abettor.

Apart from the moral point of view, I assure the House that an amendment of this kind would curtail the number of cases under section 498. How do you think is this section being actually worked in rural areas? Any person, without any rhyme or reason, who thinks of getting hold of a woman, brings a suit under section 498. Somehow or other they get the woman and as soon as that is done the proceedings are dropped. What is being done every day? There is no question of restitution of conjugal rights; he may or may not be legally married to the lady, but still he simply goes and files a complaint, and the complaint will be heard; the woman will be summoned as a witness; and when the woman goes one of the parties would apply for custody of the woman; and if the alleged husband succeeds in taking the woman that finishes the matter; he never appears before the court again

Sir Syed Raza Ali (Cities of the United Provinces: Muhammadan Urban): That is natural because he is the husband.

Qazi Muhammad Ahmad Kazmi: Probably my learned friend has not heard what I have said before. I said that without rhyme or reason if you only want to claim a woman you go and just institute a suit against her and her parents that she was your legally wedded wife and she has been enticed away, and then get a warrant from an honorary magistrate and get it executed through the police by paying them a little money; the woman comes before the court, the magistrate asks the woman to furnish security and the woman may be given to the custody of the alleged husband

Sir Syed Raza Ali: She should not.

Qazi Muhammad Ahmad Kazmi: But you are not the magistrate: the magistrates are doing it daily, and she is given to the custody of the alleged husband; he takes away the girl and stays at home and never appears again and the woman is never examined. You might probably have heard of a contempt case against a Judge of a High Court: It was under similar circumstances that an honourable judge was dragged into contempt of court proceedings by another High Court. One of his servants living in his compound had a daughter who married in another province and unfortunately the husband maltreated the girl and she had to come away from the husband; and there was a probability of a dower suit or something of that kind contemplated by the woman. The husband went to a honorary magistrate's court, filed a complaint under section 498 and applied for a warrant of arrest against the girl who was living with her parents. The warrant was given and taken to the place of the girl. The girl was arrested and taken to court. Some persons taking pity on her condition accompanied her to the court in order to furnish surety and bring her back to her parents. The complainant found that he could not get the custody and so obtained an adjournment and the case was postponed and she had to return 300 miles. Another warrant was issued for the next date and knowing the reason for this the master asked

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her not to obey the warrant, and so the contempt of court proceedings arose. Cases are often instituted from the simple motive that whenever the woman is caught hold of by the police and taken to the court, the magistrate may give her to the alleged husband and the whole matter will be finished

Mr. President (The Honourable Sir Abdur Rahim): All that has nothing to do with this Bill. The Honourable Member is really wasting the time of the House by indulging in all sorts of irrelevant matters.

Qazi Muhammad Ahmad Kazmi: I would only point out that in case the woman is made liable to punishment and it is not in the hands of the husband to drop the proceedings at any stage he likes, all this temptation would go away because in that case the woman would go as an accused before the court

Mr. President (The Honourable Sir Abdur Rahim): That is not the object of the Bill.

Qazi Muhammad Ahmad Kazmi: I maintain that making the woman also liable will not make the husband run so easily to the court to get warrants *ex-parte* and execute them and thereby try to get custody of the woman and drop the proceedings thereafter. As a matter of fact, it is only an instrument in the hands of the husband in these days for getting the custody of the wife without having a prosecution at all; and my submission is that cases are daily filed in the rural areas under section 498 with no other object than getting the custody of the alleged wife and such cases will come to an end and will reduce the number pending today in rural areas.

Sir Syed Raza Ali: By the way, section 497 is not triable by a magistrate of the second or third class.

Mr. President (The Honourable Sir Abdur Rahim): Order, order; let the Honourable Member go on.

Qazi Muhammad Ahmad Kazmi: I never maintained that section 497 offences are not triable by magistrates of the first class. There is no question of "inducing away" in the whole of that section. What I want in that section is that the woman should be made punishable, whether by a first class or second class magistrate. But now I am talking about section 498 and I would very much like to know whether the use of this section is not leading to glaring abuses in actual practice

Sir Syed Raza Ali: No; it is not.

Qazi Muhammad Ahmad Kazmi: I would like to hear the Honourable Member. With these observations I finish and I shall give my reply.

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

"That the Bill further to amend the Indian Penal Code for a certain purpose (*Amendment of section 497 and 498*) be referred to a Select Committee consisting of the Honourable Sir Asoka Roy, Sir Muhammad Yamin Khan, Syed Ghulam Bhik Nairang, Mr. Lalchand Navalrai, Mr. K. C. Neogy, Kunwer Hajee Ismael Alikhan, Mr. Muhammad Azhar Ali, Mr. C. P. Lawson, Sardar Mangal Singh, Sir George Spence, Mr. Hooseinbhoj A. Lalliee, Mr. Abdur Rasheed Choudhury, Mr. Muhammad Muazzam Sahib Bahadur and the Mover, and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five."

Mr. Lalchand Navalrai: Sir, this is a Bill asking for the amendment of sections 497 and 498 of the Indian Penal Code—where a man is punished for enticing or enticing away. Enticing a woman to adultery is section 497 and enticing away is section 498.

Sir Muhammad Yamin Khan (Agra Division: Muhammadan Rural): Not a woman but a married woman.

Mr. Lalchand Navalrai: Yes, that is what I mean. Otherwise it will come under section 366, abduction, and other sections. You know the law and I also know it. The amendment that the Honourable the Mover wants is that both the man and the woman should be punished in cases where the woman also is doing exactly the same enticement as the man does, in other words, when she abets, when she induces, when she tempts the man to have the offence committed. The Bill now is only at a stage when it is sought to be referred to a Select Committee. I expect, as the Honourable the Mover said in his speech,

that the Government may oppose the motion. Therefore, I thought that the Honourable the Law Member or the Honourable the Leader of the House

The Honourable Sir Sultan Ahmed (Leader of the House): The Leader of the House has got nothing to do with it.

Mr. Lalchand Navalrai: would get up and say something about their own view. I do feel that this is a matter which should not be killed at this stage. I submit that full consideration should be given to this Bill. Times have changed and if it is not going to be considered now, it shall have to be considered some time later. Therefore, why not consider it now when we have the opinions of others that the Honourable Member has placed before the House. Not knowing the view of the Government I shall not waste the time of the House on a detailed criticism of the Bill, especially as this Bill is intended to go to a Select Committee and I am also proposed as a member thereof. But the Honourable the Mover should not expect me at this moment to give my final view on this Bill, but I do feel that the Bill should not be killed at this stage. It should be considered coolly and from all points of view in the Select Committee. I know that this Bill will not catch the imagination of the British people. Their morals, their manners and their customs are quite different even in this direction. Therefore, I submit that this Bill should be considered from the Indian point of view. May I say that I feel fortunate that we have a Law Member who is an Indian and who understands the customs and manners of the Indian people, not only ancient but even the present also. I also look to the Honourable the Leader of the House to at least help us in this way that the Bill is not killed at this stage.

The Honourable Sir Sultan Ahmed: This is too subtle a subject for me!

Mr. Lalchand Navalrai: It may be subtle but it has to be considered in the Select Committee, and subtle things are considered better in the Select Committee. I, therefore, think that the Honourable the Law Member would be well advised by the Treasury Benches that he should see that this Bill goes to the Select Committee, and if it is not approved of there or returns with certain amendments this House is there and the thing will be considered. I am glad that the third Indian Member also has come and I hope that he will give advice to the other Members of the Cabinet to consider the customs and manners of Indians from the Indian point of view and not the British point of view. I do not blame in the least the British people. If they have their own customs and their own manners, let them have them and I will not come in their way. If a Bill like this were to come before the British people, I should certainly say, let them have their own way, but so far as Indians are concerned we must consider this Bill coolly and dispassionately and come to a conclusion whether it should be killed at this stage or should be further considered.

The first point that has been raised by my Honourable friend is that ancient Indian customs and manners not only disallowed such an act as immoral, but punished women also. That continued for a time—I think he said 1860 or so—when on account of the advent of British rule in this country the rulers did not know what were the customs and manners of Indians so that their laws might be suited accordingly. At that time the British rulers assumed the conditions of Europe and gave sanction to this section of the Indian Penal Code where woman was exempted from being punished as an abettor. Therefore, the question now arises, should we change that now? The reason given in those days for not punishing a woman was that she was weak in intellect or weak in understanding properly. On account of that weakness it was considered that it would not be right to punish her. But now it has been sufficiently shown not only by my Honourable friend, but by the public opinions that he has quoted to the House, that women are not so weak as they were before and that they understand their position well. If in practice women also seduce and then the paramours commit offences, why should the women not be punished? If you are not punishing the women you will be adding to the number of such cases being committed. I agree with my Honourable friend that there are several cases in which women in the rural areas abet these offences, and the time has come when

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this mischief should be stopped and more morality established, even by punishing the women who abet such offences. (Interruption.) I will ask your experiences of Meerut hereafter. (*An Honourable Member*: "What about the men?") The men are also being punished. If the woman is equally aggressive, then why should she not be punished? (*An Honourable Member*: "Women are punished for theft.") Yes. There was a time when she was considered to be weak in intellect. Is it so now? I agree with the Honourable the Mover of the Bill that if the woman is also punished, there will not be so many cases of adultery as they happen now.

Now, I come to the question of seduction. I think some Indians know that some cases have happened where the women seduced. The opinion that my Honourable friend read out from the Registrar of the Sind High Court shows that this amendment will not be suitable in the rural areas. I am of a different opinion. I would say with some conviction that this will be more suitable in the rural areas and in some towns. Some of these cases from the rural areas have been defended by me and I will tell you what happens. A woman in the rural areas has intimacy with a man. There is an agreement between them. The woman says 'I will go with you if you take me away from this house'. She is taken away from the house and then the husband goes and files a complaint. She comes to the court and says that it is not the paramour that seduced her but that she went away with the man of her own will. She gives evidence like that and the case falls through. Another case happened like this. In the rural parts, you know, *Jowar* cultivation grows high. The man and the woman fix a rendezvous. They meet in the field and if by any chance the relative of the woman finds her out there, she raises a cry that she is being forced. Such cases come to the court. Therefore, I am submitting that this is not a simple matter in which the Treasury Benches should be led away by the British opinion on the point. They should consider the Indian point of view.

One of my Honourable friends asked me 'Why is it that there should be punishment for the woman. Why should there not be divorce given, if she is unchaste and not faithful to her husband'. The reply to that is that all the social laws do not permit of divorce, especially among the Hindus. Therefore that question also does not arise. (*An Honourable Member*: "Why not amend the Hindu civil law?") That is a weak way of doing things. It will disturb the families. I submit that the Legislature should pass this law and see how it works. I am sure that cases of adultery will come down. Amending the civil law should not solve the problem. The culprits must be punished, whether it is the man or the woman.

Then my learned friend has read the public opinions. Why did you call for the public opinions? Public opinions have shown that they are in favour of this Bill. The Bill should not be disposed of at this stage but a chance should be given to the Select Committee to consider the public opinions and either accept them or reject them.

Then the judicial opinions, opinions of High Court judges and so on are also in favour of this Bill. There is no doubt that this Bill will not appeal to those who have been Westernized. There is a circle called the upper layer in India. That upper layer of men and women will also not like this Bill. Considered from every point of view, I think that this Bill should be considered in the Select Committee. I trust that the Honourable the Law Member will think twice before opposing this Bill. I know the customs, the religious ways and manners of living in Calcutta and Bengal. I know them full well. I know there is Theosophy also. There are so many societies which have got their own social and moral code. This is not an offence against the husband alone. It is an offence against the society; it is the offence against the public of India also.

Sir Syed Raza Ali: Question?

Mr. Lalchand Navalrai: Excepting you. But I do not want to be personal.

1 P.M. The point is that it should not be considered to be a simple and minor thing to be disregarded. Therefore, reserving my final view on this for the Select Committee, I submit that the Honourable the Law Member and

other Indian Members will take courage in their hands irrespective of the views of their British colleagues and come forward and send this Bill to the Select Committee.

Mrs. Renuka Ray (Nominated Non-Official): Sir, I firmly believe that there should be a single standard of morality for men and women, and not the double standard which exists in India today. Certainly, equal punishments should be meted out to both men and women and women should be put on equal footing with men in this respect. Is that so in India today? Is there not polygamy allowed by law in this country? Is there not a double standard of morality? And so long as there is a double standard of morality in this country, I cannot follow the arguments that have been advanced so far.

Mr. Lalchand Navalrai: Get that done also.

Mrs. Renuka Ray: That is exactly what I am trying to say. The moral standard, as it stands today, not only condones the unfaithfulness of a man, but by allowing him to marry again gives him legal sanction, whereas a woman is kept on an entirely different footing. Now, if Mr. Kazmi brings a Bill first for the enforcement of monogamy in India and has it enacted, I can say on behalf of the representatives of the women in India that they will give their full support to the present Bill. But until that is done, there is no equal treatment and there is no question of fairness. Mr. Lalchand Navalrai has gone into a long argument and has also discussed the position in ancient India. I would like to remind him and others that in ancient India mutual fidelity in marriage was enjoined. Today, even amongst the Hindus, polygamy is allowed without legal justification which was not the case in the old days. How can you tolerate this double standard of morality? I agree that punishment should be meted out to women equally provided they are on equal footing with men in other respects.

Mr. Kailash Bihari Lall (Bhagalpur, Purnea and the Sonthal Parganas: Non-Muhammadian): Sir, I rise neither to support nor to oppose this Bill.

Sir Syed Raza Ali: Then sit down.

Mr. Kailash Bihari Lall: Unless I hear some more experts on the subject, and especially from you, Sir Raza Ali, I am not in a position to offer any opinion about it myself. I simply want to say this that the law as it stands today is based on the conditions prevailing in the society and if any change is to be made, it must be considered carefully. So far as the liberal view is concerned, we have heard Mrs. Ray and it will be very difficult for Mr. Kazmi to meet her point unless he amends the *Koran* itself. So, by the very arguments that Mrs. Ray has brought forward, she has confronted my friend with a proposition that will make him think of some innovation in the religious injunctions.

Similarly, there is the provision about *Niyog* in *Sattiyaprakash*. So far, I have heard that there is something like *Niyog* which says that a wife can have cohabitation with a man for the purpose of begetting a child if she has not been able to get a child from her own husband. I do not know how far it is correct. Even in ancient times, during the days of Mahabharata, there was a custom of *Niyog* prevalent and the husband would himself allow his wife to beget a child through the help of others. I do not know whether it would come under the category of adultery or not. These are the things which should be taken into consideration. If there has been some amount of liberty to women-folk under the limited circumstances, I do not think there is any necessity of bringing forward any legislation to curtail that right unless the society is prepared to allow more rights to women-folk, as was remarked by Mrs. Ray. If the society is not prepared to concede more rights or bring about social changes in the distinct conditions of the women-folk, then it has got no right to penalise them for certain offence and bring about innovations that may still make their position worse. We have seen how any amendment of the existing law is treated with so much of hue and cry in the whole country. And the orthodox section amongst the Hindus have issued pamphlets accusing persons who had the good intention of bringing about wholesome changes in the society. We have seen

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how women-folk are struggling to have some elementary rights in the society and yet they are not granted to them. Their position today is not equal to that of man. What to say of equality, they are treated like chattel and they have got no independent right as human beings in the family.

An Honourable Member: Question.

Mr. Kailash Bihari Lall: My Honourable friend who questions this does not understand how widows are being treated in our families even today.

An Honourable Member: All women are not widows.

Mr. Kailash Bihari Lall: But if some of them are treated badly, the case is there. So, I say if this be the state of affairs in society, we should be careful in bringing innovations which may take them from the frying pan into the fire. Their rights are at least safeguarded to some extent by such provision of law where they are shown some mercy on account of their weakness or on account of their peculiar position in society. We will be really doing some haphazard work if we bring about such changes in it as to bring equality only in the matter of punishment to them. So far as conceding rights to women are concerned, we leave them where they are. It is for that reason we should be careful in bringing about any change in the existing law. As I have said, unless I hear some expert opinion about this, I am not prepared to risk any opinion on this for any haphazard change.

Mr. N. M. Joshi: Mr. President, I rise to oppose the motion made by my Honourable friend, Mr. Kazmi. Generally speaking, I have found that my Honourable friend brings forward measures for some kind of reform, but in this instance, he has introduced a Bill which is reactionary and retrograde in character. Sir, the relationship between man and woman should not create mutual rights of possession, or I may go even further and say, should not create mutual rights of contract. But that subject is not before us today. The ground on which the Honourable Member has based his Bill is that the inequality which at present exists in favour of woman should be removed on the ground that woman has sufficiently advanced now in the country so that she has the position of equality in fact in this country. Sir, the conditions in India as regards woman's position on account of education and social status have no doubt improved during the last few years, but certainly they have not improved to such an extent that woman has attained to a position of perfect equality. She has not attained the position of perfect equality even in law. It has been made clear that a man can marry several wives, but that a woman cannot. I am not saying that a woman should also marry more men. But the Honourable Member should have shown us that this inequality has been removed. Not only that has not been removed, but a man may even abandon or desert one wife and marry another wife, but a wife alone has to maintain faith with that man. Is that the right thing to do? If not, first remove that injustice. I, therefore, feel that the justification given by the Honourable Member that a woman's status has improved is not well founded. The woman in India is behind man in a hundred and one ways. In education, she is not equal to the man which is the basis of real equality. In social position, the woman is not equal to man. She is considered to be of much lower status; in law too she is not equal to man. Why, then, seek equality in a matter which is retrograde. I feel that the measure which has been introduced is reactionary.

Mr. President (The Honourable Sir Abdur Rahim): The House will now adjourn for lunch. The Honourable Member can continue his speech after lunch.

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

The Assembly reassembled after Lunch at Half Past Two of the Clock, Syed Ghulam Bhik Nairang (one of the Panel of Chairmen) in the Chair.

Mr. N. M. Joshi: Sir, before we adjourned for lunch I was saying that Mr. Kazmi's Bill is reactionary. The only justification that he gave was that the Bill is in accordance with Hindu and Muslim sentiment. I do not know what he really meant by Hindu and Muslim sentiment. If he meant that they once believed in punishing women along with men for adultery, he may be right. He relied on ancient texts but I do not know whether he has ascertained modern Hindu and Muslim thought on this question. The ancient religious books were good for ancient times but in my humble judgment they are not a very safe guide for modern times.

Then he also referred to the question of morality. If morality is to have any value it must be voluntary; but in India so long as child marriage prevails and children are married by their parents against their will or at least without taking their mature views into account, the question of morality on the part of children who are married by their parents does not arise at all. Therefore, I feel that from all points of view the Bill has no justification and the Mover himself has not made it quite clear whether he believes in freedom for both man and woman or merely tries to bring about equality between them. If he seeks to bring about equality I must say that the time for that has not yet come. In several other matters woman has not been brought on the same level as man and, therefore, he should not try to bring about equality in this retrograde and reactionary matter. Sir, I oppose the Bill.

Bhai Parma Nand (West Punjab: Non-Muhammadan): Sir, I am not a lawyer nor have I much experience of the application of sections 497 and 498, I. P. C. But I think this Bill deals mainly with human nature and taking my stand on that I must oppose the Bill. The main point of these sections is enticement of the other sex by man or woman. My view is that there cannot be any case of enticement by a woman of a man to commit adultery with her. I have not come across any case of a woman who has been guilty of doing it. On the contrary, in every case man is responsible for it and therefore the law has provided punishment for the male enticer, the reason is quite simple. Man's passion is active while the woman, as everybody knows, has got a passive nature. Therefore it is against the psychology of woman to become enticer of men.

We often find that children are seduced by certain people by means of threats or presents and they are abducted. Similarly, it is possible for men to seduce women by cajoling them or threatening them or appealing to their greed for supplying their requirements. These methods can be applied only by men. It is against the nature of woman to have recourse to these methods. My Honourable friend wants by this Bill that women should be tried and punished for enticement in the same way as men are. I have no objection to that if really there be a woman who is guilty of enticement. But the point is that for woman such a case is very rare, probably one in a thousand may be found guilty. It is not in their nature. Of course, there is an exception, it is practised by public women who have lost their status in society and adopted adultery for a profession. But no decent woman belonging to a society would ever think of doing such heinous act. A woman who is found enticing a man, would lose her place in society, while a man enticing a woman would not suffer much as a woman would; she would become an outcast and would be shunned by all decent people. Therefore, the moral obligation is far greater for women than for men. It is only just and fair that woman should have this moral protection rather than suffer any legal restraint.

If, however, some woman is found actually committing such a wrong, I think she is not at all responsible for it. Just as in the case of abduction of children it is not the children who are at fault but it is generally those abductors who commit the crime—children are only victims of their tricks in seducing them—similarly my view is that in the case of women also because

[**Bhai Parma Nand.**]

they are pursued and troubled by men, and they fall a victim, it is not their fault. Their nature is weak and on account of their weak nature they naturally become victims of those who hunt them. Therefore I say that women are not responsible in any way for enticement or for punishment. The law, as it stands at present, and as it has been found useful for all these centuries, is the best for the society constituted as it is.

Qazi Muhammad Ahmad Kasmi: The law is only 80 years old.

Bhai Parma Nand: There were certain rules of the society which have been in existence for all these hundreds of years which are the basis of this law. Law made these rules more secure. These rules should not be tampered with for the simple reason that certain people, as my Honourable friend has said, are in favour of this amendment. He perhaps believes that any change—good or bad—is a reform in the society. It is not so. Every change cannot be called a reform; it may be a retrograde step. If a few judges or magistrates here and there have given their opinions in favour of this amendment, there are many who are opposing it. The question is whether any good purpose would be served by this change. I think it is of no use and the Bill, therefore, should not go before the Select Committee. I oppose it.

Sir Syed Raza Ali: Mr. Chairman, Sir. I think I should make it quite clear that in speaking on the Bill which is before the House, I consider it my duty to express my own views and do not claim in any way to represent the Muslim League Party.

The matter is of great importance so far as social legislation in this country is concerned. The Bill raises directly the question of emancipation of the Indian woman: that is the main question that we have got to consider. Unfortunately, not only women are not emancipated in India but even men, so far as political rights are concerned, cannot claim to be emancipated human beings. All the same it is the desire, I take it, of most sections of this House that women should be emancipated. I certainly belong to that school of thought which considers that there is no hope for India unless women in this country enjoy the same rights as men politically, socially and economically. Now, Sir, if it is agreed that it is our duty to emancipate the woman, how is that object to be achieved. I believe we have to follow the course that has been followed by most of the progressive countries in doing away with the hardships and restrictions imposed upon any particular class of human beings. The method which suggests itself to me is this: If we are quite clear in our minds that the womanhood of India should be emancipated, the best way to bring it about is to remove those hardships—social and otherwise—to which Indian womanhood is subjected. The process, it seems to me, that has commended itself to the Mover of the Bill, is just the other way. He would like man, who, I make bold to say, has usurped the rights of women in this country, to continue to enjoy all those political, social and other rights, which his physical strength has enabled him to arrogate to himself and he would insist that in the matter of disadvantages women should be brought on a level with men. If there are any disadvantages which owing to his peculiar position are imposed upon men, those disadvantages should also be extended to women. That is the process that he recommends in this Bill.

Now, Sir, I need hardly expose the weakness of his position. This is not the way to achieve the object. In fact I have been noticing—and I have been in this House for more than five years now—that on social questions this House is roughly divided into two sections. There are those who would like the reforms to be thorough and who would like the hardships imposed on any particular section of the community, especially women, to be removed and who would like to deal with the problem boldly. Then there are those who pay lip service to the need of justice and fairplay being done to womanhood, but in their heart of hearts they do not mean what they utter from their lips. This is a typical case. May I ask my friend the Mover, without being personal, whether

Indian ladies of the social position to which he belongs, have got the right to argue cases in the High Court? How would he like the cases in the High Court to be argued by his wife and himself to be shut up in his house at Mangalore? How would he like it? This is a general question.

As a matter of fact, when we know that man has rendered the position of woman helpless and intolerable, and he has usurped all the rights that womanhood once enjoyed, is it right to claim that these privileges which have been usurped by man should continue, as also the hardships to which the woman is subject? I would go further and say: If there is any matter in which the woman occupies a privileged position and the man does not, both of them should be put on the same footing. My submission is this: put man and woman in India on the same footing politically, socially, economically and otherwise, and then if you find that there are any disadvantages to which man is subject, certainly you would be perfectly justified in imposing those disadvantages on the woman also. But till you have succeeded in putting both sexes on equal footing, it would be selfishness, it would be a display of the worst type of greed and tyranny to impose disadvantages on women without conferring on them the corresponding benefits at present enjoyed by man. It is not a matter to which the attention of any audience in India need be invited for the facts are well known, but I think it is my duty to invite the attention of the House to the position of women.

Is it not a fact that woman, in spite of the progress within the past 20 or 30 years, is treated unfortunately in this country as chattel. She is an article of furniture so far as man is concerned. She is there to give all the enjoyment that a man can derive out of her. His only interest is to feed her and to give her some sort of clothing. So long as she has a *saree* on her back, good, bad or indifferent, the man's duty is over. May I ask when the Mover talks of women participating in the disadvantages to which man is subject, has he ever paid a visit to the Sipi Fair in Simla. The Fair is held in the month of May or the beginning of June every year about three miles from Mashobra. I would advise him to pay a visit to that Fair next time. That is held within seven miles of the location of the Government of India; and what is the state of things there? Women are actually sold, just as you can purchase a motor car, a table or any other article of furniture. What is the use of becoming sanctimonious and saying, well, so far as the law is concerned, there should be uniformity in the treatment of both men and women. Unfortunately that uniformity and equality of treatment will not be forthcoming until there is a change of heart. I know there is a particular significance attaching to that unfortunate expression. I am not using it in any political sense. Until there is an honest change of heart in man in India, it is impossible to effect any improvement in the position of women, by any legislation, howsoever well meant it may be.

My friend is a very active Member of this House. He fortunately studies important questions and brings forward Bills when he considers that his object would be better served by having legislation on particular points. I congratulate him on his activity and his alertness and on the way he is able to devote his time to the study of these important social questions. But may I ask him not to shut his eyes to facts as they are to be found in India today. I do not propose to dwell on the unfortunate position of women in India. The lady Member of this House, who I suppose represents her sex, has dealt with a portion only of the question, *viz.*, the rights and privileges enjoyed by man and the hardships imposed upon woman in the matter of marriage and divorce. Yet the position so far as the man's privileges and the woman's hardships are concerned is so very unequal that I think it must require the courage of a very bold man indeed like my friend, Mr. Muhammad Ahmad Kazmi, to bring forward a Bill of this character.

Sir, as I said, the only thing we can do in this House—and it is the duty also of all those who are interested in the question of women being emancipated in India—is to remove the disabilities of women. If you cannot do this, then for God's sake do not add to their disabilities and the restrictions

[Sir Syed Raza Ali.]
under which they are living today.

Sir, I do not propose to discuss this question from a Hindu, Muslim, Parsee or Christian point of view. I look upon this question as an Indian out and out. What is the position of Indian womanhood? I am surprised really that there should be a serious debate on a question of this character. Even a very hard-hearted man can feel nothing but pity for the unfortunate Indian woman. What have we given to her? Yet we want her to be a participant in our disadvantages. I think the best thing this House can do in the interest of its own fair name is to give an immediate burial to the Bill that is before the House.

The Honourable Sir Asoka Roy (Law Member): Sir, I oppose this motion. The question whether the wife who is a party to an act of adultery, or who instigates her own abduction, should be punished as an abettor along with the adulterer or abductor is one which every individual Member will answer in accordance with his own feeling. It is not a question on which it would be profitable for anyone to attempt a reasoned argument. But from a practical point of view, it seems quite clear that a change in this respect of what has been the law for a very large number of years should not be made in the absence of a definite public demand for such a change. Actually, the balance of opinion elicited in the course of the circulation of this Bill is definitely against the proposed change in the law as the Honourable the Mover himself realises; and in the circumstances I have no hesitation in asking this House to reject this motion.

3 P.M.
The House must have been interested to know that there are many in this country who hold the view that adultery ought not to be made a criminal offence at all, either for a man or a woman, and would like to see sections 497 and 498 removed from the Indian Penal Code. There are others who maintain firmly that so long as polygamy exists in this country there should be no change made in the law. That is in accordance with the view held by the authors of the Code. I do not wish to tire you with reading the various opinions or even any substantial portion of the opinions which were received in the course of circulation of the Bill; but I think it would interest Honourable Members to hear what a distinguished official has said in regard to this matter. I shall just read one paragraph from the opinion expressed by the Deputy Commissioner of Raipur: after quoting what the authors of the Code had said, the Deputy Commissioner proceeded:

"These very weighty reasons still hold good, and I fail to see how change in the law of the country is being sought to be introduced on the questionable argument that the condition of the females in this country has now much improved. This has not yet happened and will not happen until the personal laws of the communities are changed. It is no offence under the Indian Penal Code for a married man to have sexual intercourse with a woman who is a spinster or a widow, with her consent; but it would be an offence if a married woman has sexual intercourse with a bachelor or widower. This grave injustice is in itself a sufficient argument against the amendment."

There are probably many Members of this House who hold the same view. I should like to read one other opinion out of the numerous opinions received. Mr. Kazmi referred to what had been said by the Madras judges. He might have told you what the Judges of Bombay High Court have said. They said:

"Their Lordships do not usually offer their views upon social legislation. In the present case, however, their Lordships propose to make an exception and to say they are entirely opposed to this Bill, so long as polygamy exists and women have no right of divorce. The chivalrous and humanitarian considerations which actuated the framers of the Indian Penal Code still apply with equal force today."

Honourable Members will not expect me to read further opinions—it will be taking up the time of the House needlessly. But I think I ought to point out to Honourable Members that sections 497 and 498 were intended for the protection of husbands who alone under the law can institute proceedings for offences under them. Adultery, as the law stands at present, is not a crime against the State or against the public. It is an invasion of the husband's right. An invasion of the husband's right has been made a crime by section 497 of the Indian Penal Code if the husband complains. There are systems of law which

refuse to make such an invasion a crime. In England, as Honourable Members know, adultery is not a criminal offence.

The Honourable the Mover of this Bill seeks by his proposed amendments to make infidelity to the husband on the part of the wife a crime under the law. I should have thought if infidelity was to be made a crime, it ought to be dealt with as a separate crime, and not as an abetment of the crime of the adulterer. It seems to me that, section 497 having made adultery punishable as an invasion of the husband's right and the nature of the right sought to be protected being what it is, there is an incongruity in describing the consent of the wife as an abetment of a crime in regard to her own person. I would suggest to my Honourable friend the Mover, if he wants to make infidelity on the part of the wife a crime, he ought to bring in a Bill for that purpose. It will then be open to my Honourable friend, Mrs. Renuka Ray, to say that in that case, unfaithfulness on the part of the husband should also be treated as a crime. Mrs. Renuka Ray has in this House demanded equal treatment for husbands and wives, and it is not possible to say that there is not great force in her demand. She has made an offer to the Honourable Mover, Mr. Kazmi and has said that she would be prepared to support Mr. Kazmi's Bill after monogamy has been introduced in this country. It is open to Mr. Kazmi to introduce a Bill prohibiting polygamy in this country and if he does so, he will certainly receive the support, if of no one else, at least of Mrs. Renuka Ray

Mr. Lalchand Navalrai: Why is not the Government going to bring in that Bill?

The Honourable Sir Asoka Roy: The Government will wait to see what Mr. Lalchand Navalrai does in the matter.

I shall now deal with Mr. Lalchand Navalrai's observations very briefly. He has supported the motion for reference to Select Committee but he has given us no reasons for his support. I believe Mr. Lalchand Navalrai comes from Sind and he belongs to the Karachi Bar Association.

Mr. Lalchand Navalrai: Karachi Bar Council and not the Bar Association.

The Honourable Sir Asoka Roy: Honourable Members will be interested to know that opinions received from Karachi are all against the Bill

Mr. Lalchand Navalrai: Not all.

The Honourable Sir Asoka Roy: . . . with the exception of the Sessions Judge of one district.

Mr. Lalchand Navalrai: I believe, two.

The Honourable Sir Asoka Roy: The Government of Sind, the Chief Court of Sind, the Karachi Bar Association, of which I believe Mr. Lalchand Navalrai is a member

Mr. Lalchand Navalrai: As I said, I am not a member of that Association. I am the Vice-President of the Bar Council and I am not a member of this Bar Association.

The Honourable Sir Asoka Roy: There is a Bar Council at Karachi, but that has not thought fit to express any opinion at all.

Mr. Lalchand Navalrai: It was not sent any copy of the Bill.

The Honourable Sir Asoka Roy: I do not know what opinion Mr. Lalchand Navalrai held in Karachi, but I find that the majority of the people of that province, at any rate, those who have thought fit to send in their opinions are against the proposed amendment.

Mr. Lalchand Navalrai: Not all. I do not accept that.

The Honourable Sir Asoka Roy: I can assure my Honourable friend, Mr. Lalchand Navalrai, that I have before me the opinions received from the Government of Sind, from the Registrar of the Chief Court of Sind, from the Sessions Judge of Hyderabad, the Sessions Judge of Larkhana, the Karachi Bar Association—they are all against the Bill. There is only one Sessions Judge, that of Sukkur, who has simply said, "I am in agreement with the proposed amendment".

Mr. Lalchand Navalrai: I do not agree with the Sessions Judge there.

The Honourable Sir Asoka Roy: So much the worse for my Honourable friend.

Mr. Lalchand Navalrai: He has given no reasons at all.

The Honourable Sir Asoka Roy: As I said, I listened to my Honourable friend, Mr. Lalchand Navalrai, with great interest and I could not find any single convincing reason put forward for supporting this reference to Select Committee. All that he said was that the Bill should not be killed at this stage; but he does not realise that if Government agreed to a reference to Select Committee, the Government would be committed to the principle of the Bill.

Mr. Lalchand Navalrai: But the Honourable the Law Member has not given his own opinion on this Bill. I would like to have that.

The Honourable Sir Asoka Roy: I can assure my Honourable friend that in this matter he is getting my own views. I think it is an incongruity to try and make woman liable as abettor of a crime in regard to her own person when you bear in mind that sections 497 and 498 are intended for the protection of husbands and the law made an invasion of the husband's right a crime. It is open to any Honourable Member to bring in a Bill to make infidelity on the part of the husband or of the wife a crime. But that is not the motion we are considering.

I would now refer to the other speeches made on the floor of this House. Mrs. Renuka Ray has expressed the women's point of view. She would be gratified to learn that several opinions have expressed the same views as she has expressed in this House. Mr. Kailash Bihari Lall made a speech but his attitude was a neutral one. That shows that he is not in favour of a change. Mr. Joshi has made a forcible speech against the Bill, and so have Bhai Parmanand and Sir Syed Raza Ali.

My Honourable friend, Mr. Kazmi, the Mover of the motion, after a long speech said, do one of two things, either do away with sections 497 and 498, or accept my amendment. That indicates to my mind that Mr. Kazmi himself is not very serious in regard to his Bill. Mr. Kazmi's own attitude shows that in his view either course would be right, and that, I submit, proves that there is no real demand for the amendments proposed by him.

Qazi Muhammad Ahmad Kazmi: Be either an Englishman or an Indian, but do not mix both.

The Honourable Sir Asoka Roy: I repeat that in the absence of a definite public demand for a change the law should not be altered. That is all I have got to say.

Qazi Muhammad Ahmad Kazmi: Mr. Chairman, In so far as this Bill is concerned, I assure the House that I have tried from the very beginning to dispassionately study the merits and demerits of the amendments that are before the House. I have heard very patiently the points of view that have been urged on behalf of the Government. I have been told that as I uttered the sentence, either retain them or accept the amendment, therefore I am not serious about the amendment itself. But probably my Honourable friend forgot when I said that there were two separate civilisations, the western civilisation and the eastern civilisation. I do not want to say if one is good or bad, or the other is good or bad from any personal point of view. Each has got its own merits and demerits, but what I insist on is that you must restrict yourself to one civilisation, mingling of two civilisations proves to be more of evil than of good. I am sorry that Sir Syed Raza Ali is not here. He drew the attention of the House to the very miserable condition of women in India. I perfectly agree with him. There are suggestions that there must be a Bill for the abolition of polygamy. I have got every sympathy with such a proposition, but it has to be considered on its own merits and I do not want to enter into a discussion at the present moment. The question is whether the abolition of polygamy will itself be a reason for bringing about this amendment, I think not; because I find that countries which have got nothing but monogamy, where polygamy is a crime, are countries which think that adultery is a civil wrong and not a criminal offence. So, to put forward the plea that by bringing about monogamy we shall be able to make adultery a crime is a thing which cannot be reconciled because every country which has got monogamy also considers adultery to be a civil

wrong and not a criminal offence. I withdraw the words, every country, but some countries consider it only to be a civil wrong and not a criminal offence. If you take the English law, take the whole of it, and adopt monogamy, you must also make adultery a civil wrong and not try to make a criminal offence. The very words of the Honourable the Law Member give an idea of the place he is giving to the woman in life. He said that sections 497 and 498 are enacted to stop an invasion of the husband's right. This means to say that the husband has got a certain right in his wife and if it is challenged, it is not any wrong to the lady herself but it is a wrong to the proprietor, the husband. You are not giving any independent position to the woman herself. You think her to be a chattel or goods belonging to the husband. As she has been taken away or as that right has been encroached upon by another person, you think the husband has been wronged and not the wife. You say that the right of the husband has been taken away. The very expression connotes the idea that you don't consider a woman to be independent. What I maintain is that we have got to consider woman as an independent being. You must make the woman understand that she is not mere chattel. If she is taken away, her husband will be wronged and the other person will be imprisoned. She herself has no voice in the matter. No other person in the society has got any voice in the matter. It is only a private matter for the husband. As far as the wrong goes, the goods have been taken away forcibly by another person. What I maintain is that the wife is not the chattel of the husband. The wife also is to be made responsible if she does the thing voluntarily.

As regards the condition of women in India, we have got to see whether the stand taken by the Government is only based on the pitiable condition of the women. Now, Sir Raza Ali gave the instance of the fair in Simla. I myself know the conditions in Baluchistan. I asked some questions regarding the conditions in Baluchistan. I tell you that the condition of women there is really pitiable and I take this occasion again to bring it to the notice of the House. I had asked a question in this House:

"Is it or is it not a fact that decrees for the price of the person of a Baluchi widow in favour of the relatives of her former husband are passed against her second husband under the Frontier Crimes Regulation.

Is it or is it not a fact that a divorced Baluchi woman after divorce is sold against her consent to any other man by her former husband, and that if the woman does not marry the purchaser and marries another person, then money decrees for her price are passed by the Courts against the husband of her own choice in favour of the unsuccessful purchaser under the said Regulation.

Is it or is it not a fact that if a Baluchi girl after the appearance of signs of puberty gets her infant age *Nikah* cancelled under the law through a civil court by the exercise of her option of puberty, and that the husband gets decrees for the price of her person in his favour passed by Political Courts against her second husband as well as guardian and also gets a decree for damages for the breach of custom, and that orders for expulsion from the city of the girl and her husband are passed."

The answer of the Honourable Sir Sultan Ahmed was:

"It is a fact that the practices akin to those mentioned do exist. They are in accordance with Baluchi custom, and decisions given under the Frontier Crimes Regulation are merely enforcements of long-standing Baluch tribal custom, which is well understood and accepted by the persons principally concerned, although by modern standards and amongst more advanced communities they might be reprobated. But it is also a fact that although the woman's consent is not necessary to these transactions they are not normally performed against her will.

Baluchistan is a very backward place. But this exemption to the woman is not there. There we have got the Frontier Crimes Regulation in which the woman is as much responsible as the man himself. Section 30 of the Frontier Crimes Regulation provides that the woman is to be responsible. She is to be punished for adultery. She is to be responsible under section 498 also, if she runs away. Now, I ask is that the excuse of the Government of India. Are the Government prepared to withdraw the application of section 30 of the Frontier Crimes Regulation from Baluchistan. If you say that on account of the weakness of her sex you must have sympathy for the woman, you must withdraw section 30 of the Frontier Crimes Regulation. You should at least not enforce it in a place where women are admittedly in a very bad condition. (An Honourable Member: "What is the reply?") It is not to be done. Sir

[Qazi Muhammad Ahmad Kazmi.]

Raza Ali referred to the pitiable condition of the woman. Lot of sympathy was poured out for them and tears were shed. I have been asking questions to improve the position of women in this country. It is not a question of male or female. This is not going to punish the women community. Don't take it in that light. Don't say that women must be given the right of illegitimate connections, because they are oppressed personalities. Don't do that. For the sake of the improvement of society, please try to curb the conditions that are getting more and more prevalent in society. I have got some experience of the way in which people who have had the good fortune of having got good Western education are behaving. They cannot be tolerated in any decent society. It is only under the cover of Western ideas and Western standards that they say that they are able to move in good Indian society and have the appearance of gentleman. It is all right in English society. I have nothing to complain about English society, because they are brought up in that condition. They have got their own traditions from the very beginning. We have not got the training of English ideas. We really do not know what is right and wrong in them. We think that the liberty of women is the only thing to be copied from them and therefore women must be allowed to go and have free intercourse with all men. That is the only idea of Western civilisation, so far as our educated men are concerned. From their traditions and their environments Englishmen know what is right and what is wrong. (*An Honourable Member*: "Why don't you follow their system?") If you bring yourself to that condition, there is no harm. Their society is as good as yours. I want to save Indian society from the most loathsome aspects of Western civilisation, which are undermining our society. It is from this point of view that I commend my motion to the House.

Mr. Chairman (Syed Ghulam Bhik Nairang): The question is.

"That the Bill further to amend the Indian Penal Code for a certain purpose (*Amendment of sections 497 and 498*) be referred to a Select Committee consisting of the Honourable Sir Asoka Roy, Sir Muhammad Yamin Khan, Syed Ghulam Bhik Nairang, Mr. Lalchand Navalrai, Mr. K. C. Neogy, Kunwer Hajee Ismaiel Alikhan, Mr. Muhammad Azhar Ali, Mr. C. P. Lawson, Sardar Mangal Singh, Sir George Spence, Mr. Hooseinbhoj A. Laljee, Mr. Abdur Rasheed Choudhury, Mr. Muhammad Muazzam Sahib Bahadur and the Mover, and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five."

The motion was negatived.

THE ALIGARH MUSLIM UNIVERSITY (AMENDMENT) BILL.

Maulvi Muhammad Abdul Ghani (Tirhut Division: Muhammadan): Sir, I move for leave to introduce a Bill further to amend the Aligarh Muslim University Act, 1920, for a certain purpose.

Mr. Chairman (Syed Ghulam Bhik Nairang): The question is:

"That leave be granted to introduce a Bill further to amend the Aligarh Muslim University Act, 1920, for a certain purpose."

The motion was adopted.

Maulvi Muhammad Abdul Ghani: Sir, I introduce the Bill.

Mr. Chairman (Syed Ghulam Bhik Nairang): As it was not said that if the business on the agenda is finished earlier the adjournment motion will be taken up at once, therefore the House will adjourn till four O'clock.

The Assembly then adjourned till Four of the Clock.

The Assembly re-assembled at Four of the Clock, Mr. President (The Honourable Sir Abdur Rahim) in the Chair.

MOTION FOR ADJOURNMENT.

REPRESSION CARRIED ON UNDER THE COVER OF THE DEFENCE OF INDIA RULES.

Qazi Muhammad Ahmad Kazmi (Meerut Division: Muhammadan Rural): Sir, I move that the Assembly do now adjourn.

Sir, in moving this motion, my object is first to draw the attention of this Honourable House to the assurances that were given by the Government of

India at the time when this Defence of India Act was passed by this House. During the course of the discussion, Sir Muhammad Zafrullah Khan who was in charge of the measure at that time gave a definite undertaking and he said:

"But one of the reasons which he put forward for persuading the House to accept the emergency measure was the assurance which Sardar Sant Singh read out, and with all sincerity, on behalf of the Government, I proceed to give that assurance to this House in those very words :

"This is a war to establish and revise the status of man. Perhaps it may seem a paradox that a war undertaken in the name of liberty and right should require as a necessary part of its process the surrender for the time being of so many valuable liberties and rights. We are sure that these liberties will be in hands which will not abuse them and which will cherish and guard them and we look forward to the day confidently when our liberties and rights will be restored to us and when we shall be able to share them with people to whom such blessings are known."

Sir, this was the definite undertaking that was given by the Honourable Sir Muhammad Zafrullah Khan at that time on behalf of the Government of India. I stress this point and I hope the Government would not plead that because that Honourable Member who gave the assurance has left the Government, therefore his assurance also is finished. Anyway, even if we consider that that undertaking was not given, that undertaking is inherent in the very fact that they have put forward the particular motion before the House. The peculiar plea that is always taken up by the Government is that they are not responsible for the acts of the Provincial Governments. Sir, under the Government of India Act, 1935, I quite agree that there is provincial autonomy that has been conferred upon the various Provinces. But the question is that in practice how far that provincial autonomy exists when the Provinces are not worked by democratic ministries, but are being worked by the permanent officials under Rule 93 of the Government of India Act. So far as the constitutional position is concerned, that has not been brought to light yet, but it may be that at some future date we may be able to know definitely whether the Provinces governed under section 93 of the Government of India Act by the officials appointed by the Central Government are under the Central Government or are still to be considered working as autonomous Provinces. Whether they are autonomous Provinces or not, the question is whether the responsibility for sponsoring this measure in this House and taking the responsibility that it will be administered in a proper way lies on the Government of India itself or is to be transferred to any other person or any agent who carries on those acts. In this connection, I would place one further consideration before the House, that so far as the Central Government is concerned, the Centrally Administered Areas are so few that if Government wants to bring in any legislation for the Centrally Administered Areas, they specifically say so. But when the Government of India bring legislation for the whole of India, the question still remains whether the Provincial Governments are to adopt that particular legislation or not. Still when they have brought that legislation, they are responsible for its proper working also.

Now, Sir, as to the actual working of the Defence of India Rules, there have been complaints time and again in this Honourable House as to how they have been worked. The ridiculous way in which those rules have been applied to things which have absolutely nothing to do with the Defence of India, all these things are quite well known and they have often been repeated in this House. A serious complaint that I have got to put before the House is that the Defence of India Rules are also applied to interfere with the administration of justice itself. At the time when the Defence of India Rules were framed, probably the Government of India had some consideration for the highest tribunals of the Provinces and of India, but gradually I find that the Government have started more or less distrusting the highest judiciaries of the Provinces also. Instead of listening to the advice of the Federal Court and also to the advice of the Honourable Judges of the High Courts, instead of trying to rectify the errors, the Government have tried to invent certain other things to overcome those particular defects. Sir, you will find that the powers that were given under section 2 of the Defence of India Act and according to Rule 26 of the Defence of India Rules—I do not want to bother the House by reading

[Qazi Muhammad Ahmad Kazmi.]

them at length, they cover more than 3 pages—you will find that the powers cover every possible aspect in which the executive government could stop people from carrying on anything which was against the peace and tranquillity of the country. But there was one thing which has upset them. The words are, "If the Central Government or the Provincial Government, if it has satisfied itself with respect to any particular person, with a view to prevent him from doing anything" The question was whether it was proved that the Government either Provincial or Central had been satisfied before an arrest was made. But really it was not the case of satisfying the Government, it was only a question of the whims of the lowest paid agents, the police and the constables, etc.; it is this practice which has been prevalent throughout the whole period. If the Government found it difficult to prove before Courts of Justice that they were satisfied, and because they want to persist in that attitude and detain persons without any "satisfaction" or without being able to prove any "satisfaction", therefore they have taken the circuitous way of bringing about Ordinance after Ordinance to oust the jurisdiction of the courts of justice. Then what is the use of having these courts of justice, the Federal Court and the High Courts, if these bodies are not to be trusted by Government. What right have Government to take all power in their own hands and pass orders according to their own will and for that purpose enforce Ordinance after Ordinance? They call them laws but in no sense of the word can they be called laws at all.

One of the present cases which has given rise to this adjournment motion is that of Pandit Baij Nuth of Agra, a leading advocate of that place, and his only offence was that he used to defend people charged with political offences and, as was observed by the Chief Justice of the Allahabad High Court, the police thought that the easiest way of removing him was to arrest the man so that there might be no further trouble. In the Punjab there was the case of Mr. Pardivala. Only because he came to appear on behalf of Mr. Jai Prakash Narayan he was arrested. It is only seldom that these cases come to light because it is not everyone who can afford to reach the High Court. Only recently in Ballia a peace committee was formed to defend accused people and a Muhammadan gentleman who was appointed for that purpose found himself behind the bars as soon as he reached there. Why are you so diffident about your own position? Why cannot you rely on your own laws which are sufficiently exhaustive? Even all the attempts made by people in the Federal Court and in so many High Courts have not succeeded in releasing any considerable number of persons. Why distrust Judicial Courts and create your own machinery? These are your own officials who have pointed out the way to do the correct thing. Still you think that any one who interferes with your way of doing things must be condemned and deprived of his powers. If that is the way of the Government of India the judiciary in this country cannot exist and people can have no confidence in the laws that are made either by you or by this House. Of course, these laws are not made by this House at all; it is an easy machinery which they have devised, to get Ordinances passed by the Viceroy. These, Sir, are the conditions in which we are living today. I think we are justified in calling upon the Government of India to fulfil their promises in a just and proper manner which can be justified by the courts and tribunals of any place in the world and not to act in this unjustifiable manner

Sir, I move.

Mr. President (The Honourable Sir Abdur Rahim): Motion moved: "That the Assembly do now adjourn."

Mr. Frank B. Anthony (Nominated Non-Official): Sir, I rise to support this motion as a lawyer and as a matter of principle. This motion is intended in part to expose the assault which is now being made by the executive in certain parts of the country on the rights and privileges of the bar. I have watched this attack on the position of the bar not only with concern but with the deepest

pain. One of the greatest scourges with which this country has long been afflicted is the fusion in magisterial hands of judicial and executive functions. All lawyers will agree with me when I say that in spite of the high-sounding judicial principles on which the administration of justice in this country is alleged to be based, at any rate in magisterial courts in this country which are implementing these Ordinances, and even in peace-time, British principles of jurisprudence are not only misapplied but are abused, travestied and prostituted. I venture to suggest, and I believe my estimate is a liberal one, that even in peace-time in magisterial courts in this country because of this fusion of judicial and executive functions, an innocent man has about one chance in a hundred of being acquitted; and that slender chance depends on the integrity, the independence, the courage and the ability of the bar. And, as I say, I view with deep concern the attack by the executive on the independence of the bar, an attack which if persisted in will tend to deprive the people of this country of their last bastion of civil liberty, of securing, through the services of an independent bar, an acquittal if they are entitled to it according to the principles of law and justice and equity. As I have said, under the present system we have a magistracy which is servile and nauseatingly servile, a magistracy which is characterised by its complete lack of independence. You cannot blame them; you have to blame the system. After practising for some time in England, it was my misfortune to suffer the bitter disillusion of appearing in benighted magisterial courts in this country. And it has been my painful experience to have magistrates confessing to me privately that because of the special conditions in this country, where they are virtually subordinate to the police they are against their better judgment often provoked to convict people when they would otherwise have acquitted them. Their promotion, their betterment, their bread and butter,—all these depend on the fact that they ingratiate themselves with the people responsible for instituting prosecutions. The only protection which the public have in the matter of securing acquittals, the slender chance which they have of securing justice, depends on the maintenance of the integrity and the independence of the bar. And if the executive is allowed to undermine that integrity and independence then the last vestige of civil liberty will be stripped from the people of this country. I do not believe that any lawyer who has practised to any appreciable extent on the criminal side would disagree with me when I say that sub-inspectors by whom cases are instituted are the real police authorities in this country. These sub-inspectors are usually uneducated, corrupt, oppressive and in addition they are not above bolstering up their cases with false evidence. These people are assured of securing 90 per cent. of convictions in cases instituted by them because they know that the magistracy in this country have not got the independence to sift and to decide cases in accordance with judicial principles. How can you blame the magistracy? A record is kept of their convictions and acquittals, and if the D. S. P. of a particular area feels that a particular magistrate is tending to show independent tendencies he promptly reports him to the District Magistrate who duly hands out a warning to the unfortunate magistrate and he in turn is obliged to maintain his record of convictions.

I agree that under the unusual conditions of the war it may be necessary, as it is even necessary in England, to have Ordinances and to have special laws, but however special the circumstances may be, however emergent they may be, they can never justify divesting an accused person of the absolute and elementary right of having himself defended, of securing the services of a lawyer who will defend him. We have the Defence of Realm Act in England; we have special Ordinances, but I wonder, Sir, if the Executive would be irresponsible enough to attempt to curb or to gag the bar in England as they are attempting to do in this country. It would lead to a revolution if they did so. An attempt to curb the independence of the bar, to gag it or to coerce it even indirectly by threats or prospects of arrest and of putting them in jail, any such attempt is an attempt of the Executive to establish a reign of terror. I do not say for one moment that the Government of India have deliberately devised such a policy, that they have deliberately inspired such a policy, but

[Mr. Frank R. Anthony.]

that such a policy is being pursued in certain areas appears to be undesirable as is obvious from the facts given in the adjournment motion about the cases of Pardivala and Baij Nath. And I would appeal to the Government of India that if they are in a position to do so they should issue a directive to the executive authorities throughout the country to see that the independence of the bar is not in any way, even indirectly, attempted to be curbed, and that the bar is not gagged. It is the only bastion, as I have said, of civil liberty in this country. If the Government of India allows the Executive authority in the different parts of this country to persecute the bar, to coerce it, as I have said indirectly, to prevent it from doing its duty, it will be an irreparable loss to the country. An accused person has a right of engaging a lawyer, and if we are engaged it is our duty to defend that man without any consideration of fear or favour. And it is to the interest of the country to have an independent and a courageous bar. It would be an eternal loss to this country for conditions to be created where the independence and integrity of the bar were undermined. Once again, Sir, I would appeal to the Government of India to see that they do not abuse their authority so as to undermine the independence of the bar. If the Government of India do not intervene in this matter then they will be branded not only in this country but before the eyes of the world for conniving at a system which cannot be distinguished from injustice or oppression.

Pandit Lakshmi Kanta Maitra (Presidency Division: Non-Muhammadan Rural): Sir, as a member of the legal profession I feel it my duty to intervene in this debate. I must at the outset express our deep sense of gratitude to you, Sir, for allowing us this chance to vindicate the honour and prestige of the legal profession.

Sir, the Honourable the Mover of the motion has pointed out the specific passage in which an assurance was conveyed to this Honourable House, when the Defence of India Act was passed in 1939, that the Act should not be utilized for any purpose other than that of securing the peace and tranquillity of this country, or for ensuring the effective prosecution of this war. As one who had to fight along with a few other friends, clause by clause, that monstrous Bill, called the Defence of India Act, I tried to bring at every stage to the notice of the House the dangers which lay ahead of making a legislation of that drastic character. I pointed out at that time and from time to time thereafter whenever enlargement of powers under this Act was sought in this House that this Act had potentialities for mischief which could not be viewed with equanimity by any publicman in this country. On many an occasion we have tried to voice the feelings of the people with regard to the manifold abuse of the powers under the Defence of India Act. We have been told that these are not the acts of omission or commission on the part of the Government of India, but that they belong to the realm of the Provincial Governments over which the Central Government had no powers. On one occasion I joined straight issue with the Government on this point and asserted that this was an entirely wrong view of law, and I do maintain that it is nothing but a subterfuge which the Government here at the Centre try to resort to whenever a point of this nature is raised in this House. Sir, the Government of India Act clearly provides that when an emergency is declared under section 102 of the Government of India Act, the Central Government at once takes seisin of the whole sphere of administration of the country—whether in the centrally administered areas, or in the provincial spheres. Then, Sir, there are clear specific provisions in the Government of India Act itself which lay down that when such an emergency is declared not only the Central Government has power to legislate over the whole field, but what is more, the Executive Government at the Centre becomes coterminous with that of the Provincial Government. In other words, the Executive of the Central Government at once becomes vested with full powers to interfere in all matters in the provinces as well. I was surprised today when the Honourable the Home Member was objecting to this motion in the morning on the same old

pretext—"that it is the responsibility of the provinces: we have nothing to do with it". But you, Sir, very rightly pointed out that the Government of India must be issuing directions to the Provincial Governments in this respect. Well, it was an awkward situation in which the Home Member found himself then. He said that the Government of India had got power only under section 126 of the Government of India Act, to issue directives to the Provincial Government. That is not the only section under which he can do that. The whole scheme of the Government of India Act is so framed that in the event of an emergency, the Central Government or the Federal legislature can have absolute right, power or jurisdiction over any and every unit composing this sub-continent.

Now, Sir, let me turn to the merits of the motion. It is not often that a case like this comes before this House which would provide an opportunity to us to focus public opinion upon. Here is one, and let me examine the case. The matter is a very simple one: An eminent lawyer of a district bar—I think he belongs to the provincial bar—has been incarcerated in jail by an order of the Executive. And what is his fault? What is the charge against him? None. Everyone of us in this part of the House knows to his cost that this is almost a common occurrence in the country. Under cover of the Defence of India Act this Government has really inaugurated a reign of terror and this has been going on for the last 4½ years. Barely 24 hours ago, the Honourable the Home Member was indulging in giving advice to the Indian people as to what they should do at this time. He was preaching a sermon yesterday in connection with the Resolution on the release of political prisoners.

The Honourable Sir Reginald Maxwell (Home Member): On a point of personal explanation

(Pandit Lakshmi Kanta Maitra was not giving way.)

Mr. President (The Honourable Sir Abdur Rahim): The Honourable the Home Member wants to give a personal explanation.

The Honourable Sir Reginald Maxwell: The Honourable Member has misquoted me. I said most explicitly that I would not attempt to give any advice to Indians as to what they should do next.

Pandit Lakshmi Kanta Maitra: That is absolutely no explanation. I can draw my own conclusions. You have broken the thread of my argument.

Yesterday, the Honourable Member seemed to give the impression that he was a man more sinned against than sinning: that people were charging him with heartlessness ruthless autocracy, hypocrisy and things like that. He said that the Government of India had not taken action against Indian nationalism as such. All their actions have been in the nature of a precaution. They have not been vindictive.

Mr. President (The Honourable Sir Abdur Rahim): The Honourable Member is replying to the speech of the Home Member. You had better stick to this motion.

Pandit Lakshmi Kanta Maitra: I am now asking him, what is this action? Is it not vindictive? Is it not reactionary? Is it really precautionary? If he contends that it was a precautionary measure, then by implication he can clap into prison all the 400 million people in this country, because that would be the safest form of precaution. Nobody can go wrong.

Nawabzada Muhammad Liaquat Ali Khan (Rohilkund and Kumaon Divisions: Muhammadan Rural): There would not be enough room in jails.

Pandit Lakshmi Kanta Maitra: They are going to convert the whole sub-continent of India into a jail. I do not know whether the observations of the Honourable the Chief Justice of the Allahabad High Court have gone home to him. He poignantly remarked that "the Defence of India Rules have paralysed us". Sir, I cannot conceive a worse condemnation of the bureaucratic autocracy in this country than this observation of the Honourable the Chief Justice of the Allahabad High Court. I find from the Press reports that His Lordship threw out certain observations, as a result of which if this Government had any sense of decency left in it, it should have released Pandit Baij Nath, but His Lordship

[Pandit Lakshmi Kanta Maitra.]

was surprised to find that he was not even so released. His Lordship observed that when he had made the remarks in the case of Pandit Baij Nath, he was extremely unhappy about the case and he hoped that the authorities would see their way to remove his unhappiness. He thought that the Advocate would be released, but recently on making an inquiry he was told that the Advocate had not been released.

Now, Sir, if the observations of the Chief Justice of an Indian High Court are lightly brushed aside by the Executive in this way, does the Honourable the Home Member think that we shall be here to sing his eulogies and raise him to the skies for the magnificent performance he has been able to put into this country during the last 4 years? Some people in this country had lost all faith in order but they had some lingering faith in their judiciary, and the High Courts in this country used to be looked upon as the palladium of justice. Today we find that even the Chief Justice is speaking in the language I have quoted. By their naked autocracy they have frozen the fountain heads of justice in this country. They have immobilised the Judges of the High Courts, they have sterilised the Judiciary of this land. If that is an achievement, if that is a record of which the Honourable the Home Member can feel proud, I won't grudge him that gratification. But, Sir, as public men, as members of the legal profession, we want to tell him, and through him his bosses, that they have given far too long a rope to the Executives in this country and perhaps they do not realise that ultimately they may hang themselves by that. Sir, the effect of this order on the people at large can be easily realised. Sometime ago when things were going on in this way, these illegal detentions reached a stage when even the Federal Court had to intervene, and it passed a judgment in vindication of the liberties of the unfortunate victims. At once Sir Reginald Maxwell's hand was active and he would not give the Honourable Judges any quarter. Immediately the rules were so amended that the victims who had been groaning under the rigours of repression could not get a chance to avail the relief which was administered by the Federal Court.

Sir, I think we all realise that if an order like this can be passed on a member of the legal profession, whose only crime has been to tender legal professional advice to people who come to him, and if for this he must incur the wrath of the proteges of my Honourable friend, Sir Reginald Maxwell, then I think the less he talks about Government's intentions, honesty and integrity, the better for all concerned.

Mr. President (The Honourable Sir Abdur Rahim): The Honourable Member has one minute more.

Pandit Lakshmi Kanta Maitra: I say that this order is designed to demoralise the Bar, the public and the Judges of this country, and as such it deserves the strongest condemnation of every part of the House; and I appeal to all Members to condemn with one voice this atrocious Executive onslaught on the civil liberties of the people.

Sir, I support this motion.

Mr. Akhil Chandra Datta (Chittagong and Rajshahi Divisions: Non-Muhammadan Rural): This case of the arrest of a lawyer when trying to defend an accused has, I think, no parallel. I am an old man but I do not think that even the oldest man in the country has ever heard of such executive action. What is this arrest of a lawyer? Is it an attempt merely upon an individual lawyer? I should rather think it is an assault by the executive on the whole of the legal profession; it is an attack upon the bar; but it is not only an attack on the bar but it is an assault upon the Bench also. Let us look at the implication of the remark made by the Honourable Chief Justice of the Allahabad High Court; he says :

"It seems to me that these Defence of India Rules have paralysed us and we have got no power."

Paralysed whom? Not the ordinary citizen, not the lawyers, but the Judges themselves. "It has paralysed us" and "We (meaning the judges) have got no

'power'. I cannot conceive of a greater condemnation of the Government of India than this observation of the Honourable Chief Justice of the Allahabad High Court. This motion seeks to censure the Government but the greatest censure has already been passed by the Chief Justice before the whole world. We have heard of instances of people acquitted by subordinate courts but were rearrested immediately after they were acquitted. We have heard of arrests of people acquitted even by the Honourable High Court of Calcutta and rearrested immediately after within the very precincts of the High Court. This is all in defiance of the judiciary; but such a thing has never occurred before, namely, the arrest of a lawyer when he was about to defend an accused person. This is a typical case to show how the executive in this country is all powerful, and even the judiciary cannot give any relief to the victims of the vagaries of the police and of the executive. All this is being done under the Defence of India Rules. I wonder if these rules are really intended for the defence of India? Is it the defence of India? Whose India is that which is sought to be defended by these rules? The India of the bureaucracy? Certainly not the India of the Indians. These rules are being abused or prosecuted in the interests of the bureaucracy and used against the people of this country. The most elementary right—and what right can be more elementary—is the right of an accused to be defended in a court of law by lawyers. It appears to us that not only these things were done—if they have been done there might be some explanation that it was done by somebody in the province—but has it been condemned by the Government of India? That is the whole question. I can well understand one single individual in one solitary place doing something wrong; but it is for the Government of India to put things right. But they are sitting tight over it and they do not raise even their little finger to condemn these things or put a stop to these things. Therefore, as a member of the legal profession, as an ordinary citizen, as a man who has got the profoundest faith in the integrity of the bar and the independence of the Bench and the judiciary, I feel that we cannot but condemn this action of the Government of India.

Some of us have spoken about the assurance that was given at the time the Act was passed. I do not know why my friends should refer at all to that assurance. Even supposing no assurance was given, what then? We do not stand in this matter on the assurances given. Assurances or no assurances, they had no right to go on doing a thing like this under the cloak and cover of the Defence of India Rules.

It is no good dilating on this because I cannot pass such a strong censure in this House as the censure that has been passed by the Honourable Chief Justice of the Allahabad High Court. If they do not feel ashamed of that censure and that condemnation, I do not think any censure motion passed in this House will improve the situation. It seems to me that all sense of decency and justice has disappeared from this ill-fated land of India.

Maulana Zafar Ali Khan (East Central Punjab: Muhammadan): Sir, I extend my whole-hearted support to the motion before the House. The conditions under which four hundred million people are living in India at the present moment are, to use a very mild expression, intolerable. We are being ruled, not by law, not by justice, but by an enactment of the executive called the Defence of India Rules. The Defence of India Rules are being used for purposes for which they were never intended. At the present moment, whoever talks of independence in India is looked upon as an offender. But I should like to ask those who hold our destinies in the palms of their hands whether they are not guilty of that offence themselves. Was it not Mr. Amery, the Secretary of State for India, who said in so many words that the right of self-determination shall be conceded to India, that India shall be emancipated. So, if he talks of independence and emancipation of India, he ought to be hauled up as an offender just the same and should be clapped into jail. Mr. Amery told us very recently that the principles of the Atlantic Charter were applied to India long before this Charter was signed in the Atlantic Ocean. How was this principle applied to India? In this way: Pandit Baij Nath, a legal practitioner who dared to defend

[Maulana Zafar Ali Khan.]

the case of a political suspect, was clapped into jail. The High Court coming to learn of this, when the case was brought before the Allahabad High Court, acquitted him and ordered him to be released; but they came to know afterwards that he was not released. This is how the law is being respected; this is how British traditions of justice and fair play are being maintained and respected. This war, we are told, is being fought for the emancipation of the weak nations of the world, for the independence and rights of civil liberty being exercised by all the nations of the world; but unfortunately India is an exception to this general rule. Russia, of which we used to think as a dictator-country, has recently extended the fullest liberty to all its component parts; sixteen soviets have been declared independent in foreign affairs as also in military affairs.

Mr. President (The Honourable Sir Abdur Rahim): The Honourable Member is talking of matters which have no relevance to this motion.

Maulana Zafar Ali Khan: All right, Sir; I shall not apply the laws of Russia to India.

I should like to know whether we are not fit to be treated as human beings. Are there no laws in this country which are going to defend us? Certainly you have the right to limit the liberties of the subjects during the pendency of the war to a certain extent, but here the scope is widened and nobody is safe. The police is all powerful, the executive are all powerful, the High Courts are paralysed, paralysis has seized the judiciary, and nobody considers himself safe. I think this is a state of affairs which requires the earnest and sympathetic consideration of my learned, honourable and dear friend, Sir Reginald Maxwell, before he leaves India. He is shortly to vacate his high office. (Interruption.) I should personally like his reign to extend because sometimes when I speak to him, he speaks to me as a friend. But if unhappily, unfortunately he leaves this country, he should carry with him the satisfaction that he did something at least for the civil liberties of the peoples of India. With these few words I extend my support to the motion.

The Honourable Sir Reginald Maxwell: I had hardly expected on an adjournment motion to be in the position of having to defend the distribution of responsibilities between the Central Government and the Provincial Governments under the Defence of India Act and Rules, but since certain allusions have been made to that subject, I might first say a few words about it.

My Honourable friend, the Mover, said that, while the Central Government was not responsible for acts of Provincial Governments enjoying provincial autonomy, the situation was different in the case of provinces administered under section 93. I should like to point out that the introduction of section 93 administration in any province in no way lawfully alters the distribution of responsibilities between the provinces and the centre. The use of section 93 in any province does not transform this Legislature automatically into a provincial legislature competent to deal with the subjects which are properly allotted to that province under the schedule of the Government of India Act. Then the Honourable the Mover advanced the argument that, because the Government of India had brought in certain legislation—he was referring to the Defence of India Act—therefore, they are also responsible for its working. But I should like to point that the responsibility for any legislation does not necessarily confer on the Central Government the executive authority which is required for carrying out that legislation, and in any legislation the distribution of executive authority remains and must remain as provided under the Government of India Act.

Let us consider the question of conferment of powers on the Provincial Governments under the Defence of India Act and Rules. It has taken place under section 2(4)(b) of the Defence of India Act,—that is, the Act itself and not any rules framed by the Central Government. The Act provides that the Central Government may confer powers on a province. Whether or not the power or duty conferred relates to a matter with respect to which a provincial legislature has power to make laws, the Central Government may direct that those powers

may be exercised or discharged by any Provincial Government or by any officer or authority subordinate to such Government. The point has been raised before in this House and discussed here and I have explained that in the administration of such a thing as the Defence of India Rules detailed control by the centre would not be possible. It could be effected only in one of two ways; either by retaining all the powers under the rules with the Central Government itself, and that is a completely impossible undertaking. From the very nature of these rules, many of them have to be exercised as matters of urgency, and it would defeat the whole purpose of the rules if each and every exercise had to be retained in the hands of the central secretariat. If we dismiss that expedient the only other way in which the centre could exercise control is by revision or by exercising the power of an appellate authority in every case. That is not provided for by the Act as passed by this House, and logically it would mean that the Government of India would have to deal almost automatically with every case; in fact, Provincial Governments, in all cases where they thought orders were necessary, would have to refer them first to the Central Government. That again would mean an enormous volume of work coming to the centre. We should have to multiply our central secretariat ten times in order to deal with it, and, in fact, concentrate at the centre all the secretariats which are dealing with these matters in the provinces. We are always being pressed to exercise influence on or make suggestions to Provincial Governments on particular matters which have been left to them. I can remember instances in which we have been asked to press the Provincial Governments to give family allowances to persons detained, or to release individuals on parole, or to control their action in respect of the press, and even to intervene where it is alleged that M.L.A.'s have been detained by the Sind Ministry in order to prevent them from performing their functions. I do not know what attitude the Muslim League would take up if the Central Government or this House attempted to interfere with the Muslim League Ministry in the discharge of its ordinary powers under the Defence of India Rules and subject their action to a review in this House. (Interruption.) Nor, again, do I know what view they would take if this House arrogated to itself the power to discuss in detail the action taken by the Bengal Government in regard to its press. These are instances in point: where we have Ministerial Governments, they have their own local legislatures in which those aggrieved by the working of the rules can make their complaints and ask questions and they are the proper forum for any such complaints. As I have pointed out, although there are no legislatures working in section 93 provinces, the situation is not in principle altered by the fact that they have no legislatures working.

Sardar Mangal Singh (East Punjab: Sikh): What about the centrally administered areas? The position is the same.

The Honourable Sir Reginald Maxwell: May I be allowed to go on? Where powers have been properly conferred on the provinces—and no other expedient would have been possible—the Central Government can only be censured if it can be shown that they have omitted to do something which they ought to have done in any particular case. They cannot be censured merely because as a result of conferment of powers something has been done in this or that province.

I should like to give the House certain facts which happen to be within my knowledge as regards the two cases which have caused such concern in this House, because one of them has been alluded to in a paragraph which appeared in the newspapers. First, I will deal with the case of Mr. Pardivala who is mentioned in the adjournment motion. There was no interference by
5 P.M. the Punjab Government with this gentleman's professional activities. My information is that he came to Lahore only to supply a barrister engaged in a certain case with documents bearing on the habeas corpus petition which was to be filed before the High Court. His arrest took place after he had completed his professional engagement and after the habeas corpus application had been filed in the High Court.

Mr. K. S. Gupta (Ganjam *cum* Vizagapatam: Non-Muhammadan Rural): He was arrested because of it.

The Honourable Sir Reginald Maxwell: There was no interference with his professional duties.

An Honourable Member: Then why was he arrested?

The Honourable Sir Reginald Maxwell: The reason for his arrest was that the Provincial Government had good reason to believe that he was connected in a way, which I cannot explain openly to this House, with the underground Congress organisation and that he had come to Lahore for quite other purposes than his professional engagement.

An Honourable Member: Then why was he released immediately?

The Honourable Sir Reginald Maxwell: He was released after a very short interval—four days after his arrest, after a brief interrogation—because he stated that he did not wish to remain in the Punjab; and as the Punjab Government found that he did not wish to remain there, they released him and he went away. That is all I can tell the House about his case.

In the case of Pandit Baij Nath of Agra, in regard to whom these remarks of the Allahabad High Court have been quoted, the reason for his arrest again had nothing to do with his professional activities. The United Provinces Government had good reason to suppose that he was connected with a dangerous gang which had already committed several acts of sabotage involving the use of explosives. This happened a year ago. That was the reason for his detention. (*An Honourable Member:* "A year ago?") Yes, at the height of the Congress disturbances.

An Honourable Member: Why was he not arrested then and there?

The Honourable Sir Reginald Maxwell: They also had good reason to believe that he was rendering financial assistance to this gang and acting as a link between the security prisoners in the jails and subversive workers outside.

Mr. Lalchand Navalrai (Sind: Non-Muhammadan Rural): It is very easy to say that.

The Honourable Sir Reginald Maxwell: The order in his case, which was passed by the Commissioner of Agra, was quite recently reviewed by the United Provinces Government and they were quite satisfied that the grounds for detention were proper.

Pandit Lakshmi Kanta Maitra: You are very easily satisfied.

The Honourable Sir Reginald Maxwell: The detention had nothing to do with his professional activities.

Now, the remarks of the Allahabad High Court which have been quoted were passed at a stage of the case when the merits of the case were not before them. The only matter before them at this stage was the validity of section 2 of Ordinance XIV of 1943. At that stage, the Government Advocate submitted to the Court that the case was for decision on the law point only and he promised to argue the merits later when that point had been decided. The law point was subsequently decided by the Court. But with a view to the further proceedings which were to come before the Court, the Commissioner of Agra was instructed by the Provincial Government to swear an affidavit stating that the order of detention had been passed after full consideration of the case on its merits and that affidavit has already been transmitted to the High Court. I do not know what the result of that case is. That is not the case referred to in *Dawn*. The case referred to in *Dawn* is quite a different case and the remarks quoted are mostly remarks in connection with the pending miscellaneous proceedings in regard to the case of Pandit Baij Nath, and the case may at this moment be *sub judice*. I could not take that ground against the adjournment motion but I know that on the 31st of December, the case was still *sub judice*, because the miscellaneous application relating to the merits of the case had then not come before the High Court at all.

Well, now, I have explained to the House what I know about these cases. We cannot be expected to have details of every case in all the provinces but I have been able to give the House some information about it and I ask once more what action the Central Government could have taken at this stage of the case and what action ought they to have taken which they did not take. It is only if they failed to take any such action that they can be legitimately censured in this House.

There is one other point which I should like to bring to the notice of the House, That is the remark of the High Court that they had been paralysed by the Defence of India Rules. Actually the provision to which they must be alluding, and the only one which in any way restricts their power, is not based on the Defence of India Rules at all. It was part and parcel of the Defence of India Act as passed by this House. The section in question is section 16 of the Defence of India Act which reads:

"No order made in exercise of any power conferred by or under this Act shall be called in question in any Court."

That section was passed by this House.

Mr. Akhil Chandra Datta: Are you referring to the observation of the Chief Justice?

The Honourable Sir Reginald Maxwell: Yes, Sir, and I would remind the Honourable Member that we have no authentic copy of what the High Court actually said. That is only a statement quoted in the adjournment motion. It says that the High Court said that they were paralysed by the Defence of India Rules and not by the Act. I am pointing out to the House that there is nothing in the Rules by which the High Court are paralysed or gagged or debarred in any way whatever. It is the Act itself as passed by this House, which constitutes a bar to the revision of the proceedings by the High Court. I would therefore submit to the House that the Honourable the Deputy President was quite wrong in calling upon the House to condemn this action, as he alleged, of the Government of India.

There is one other thing which I should like to add. That is, I must deplore the remarks made by Mr. Anthony in which he cast certain aspersions on the magistracy of this country. He described it as a servile magistracy virtually subordinate to the police and taking orders from the executive. (*Honourable Members:* "Perfectly correct".) I must protest in this House against such aspersions on an honourable body of Government servants.

An Honourable Member: You may protest. You are absolutely ignorant.

The Honourable Sir Reginald Maxwell: These magistrates do not become monsters or servile creatures merely because they have entered Government service. They are drawn from respectable classes of the population and they are Indians. (Interruption.) I must deplore any general aspersions cast upon a very respectable class of the population on whom the public depend in very many matters for their every day protection. Sir, I oppose the motion.

Nawabzada Muhammad Liaquat Ali Khan: The speech which the Honourable the Home Member has made is not only not convincing but is a weak defence of the Governments' position which has been placed before this Honourable House. His argument was that the execution of the Defence of India Act and the rules made thereunder was the responsibility of the Provincial Governments, and the Government of India, as such, had neither any control nor anything else to do with it. Sir, by way of example, he was good enough to remark how would the Muslim League Party feel about it if the Government of India interfered with the affairs of the Muslim League Ministry in Sind or the Ministry in Bengal. Surely, my Honourable friend does not think that we on this side of the House are so ignorant of the constitutional position. He knows fully well that the special responsibility for the maintenance of law and order in every province is that of the Governor, who is the creature of the British Government. What is the use of saying that the responsibility is of these Ministries. My Honourable friend and the Government of which he is a Member do not hesitate to send directives to these Ministries when there are matters of very trivial importance,—matters whether there should be 200 rationing shops controlled by Government or there should be 250 shops controlled by Government. But when there is the question of the liberty of the people, my Honourable friend takes shelter under the Government of India Act. It was this Legislature and the Central Government which were responsible for the passage of the Defence of India Act. It is this Government which is responsible for framing the rules under that Act. And if this Government feels that the Provincial Governments are incapable of applying that Act judiciously

[Nawabzada Muhammad Liaquat Ali Khan.]
and fairly, then it is their duty to withdraw that Act. If they feel that they cannot interfere even when grossest injustice is done by any Provincial Government under this Act and these Rules, then it is like handing over a live bomb to a child and then leaving him free to create a disaster. The responsibility is of the parent who takes such a foolish action.

Sir, war is the responsibility of the Central Government; the prosecution of war is the responsibility of this Government and it is under that excuse that these wide powers have been taken by the Executive. I say that in the interests of winning this war, which is your responsibility and not that of the Provincial Governments, and in the interests of creating confidence and goodwill amongst the people, it is your duty to see that no agent of yours does anything which is likely to prejudice the people against you and against your war effort. From that point of view alone I submit that in order to see that this Act and these Rules are executed judiciously, justly and fairly it is the duty of this Government to keep a constant watch over the activities of Provincial Executives.

Two instances have been quoted by my Honourable friend who moved this adjournment motion. Although this adjournment motion has been moved with special reference to these two particular instances, who does not know that there are a number of instances like these happening every day in this country. For every one case that comes to the notice of this House, there are scores of cases that do not see the light of the day. Who is there in this House or outside it with a fair mind who does not know that the Executive, especially the underlings of the Executive, are using these powers most unjudiciously. I am putting it very mildly.

I need not say anything about the case that has been quoted except this that my Honourable friend the Home Member stated that this lawyer who came from Bombay was arrested after he had discharged his professional duties of handing over the documents to the lawyer in Lahore. The charge that is being made on the floor of the House is that the action that was taken against this particular lawyer and the lawyer from Agra was not so much to prevent the discharge of their legal or professional duties but was to create a terror in the mind of the legal profession, namely, that if they have the audacity to come forward and interfere in the proceedings that the Executive may choose to take against any individual, then they must be prepared to face similar actions as have been taken against the accused himself. The charge is not that they were prevented from discharging their professional duties. The charge is that this action that was taken in these two particular instances was taken with the object of terrorising the members of the bar. It reminds one of the time when India was still far away from the constitutional position which it occupies today.

[At this stage, Mr. President (The Honourable Sir Abdur Rahim) vacated the Chair which was then occupied by Mr. Deputy President (Mr. Akhil Chandra Datta).]

Who does not remember that in the olden days it was difficult to find lawyers to defend patriotic Indians? Who does not know that it were only men like Mr. C. R. Das and Mr. Jinnah who could have the audacity or the courage to defend men like Mr. Tilak and others? They want to repeat the same thing today. India has advanced since then. Let me tell you that it is not wise and it is not in the interests of the object which you have in view of mobilising the resources of the country and of winning the good-will of the people of the country to win this war to exercise these powers which have been given to you in the manner in which they are being exercised. I would request the Central Government that in the cause of winning the war which is dearest to their heart, in the cause of mobilising the resources of this country and in the cause of winning the good-will of the people of this country, they should issue strict injunctions to their underlings and to their subordinate Governments—whatever my Honourable friend may say about these Provincial Governments, they are subordinate to the Central Government—and impress upon

them that they should take the greatest possible care when the question of executing these Rules comes in. When a man has got wider powers, his responsibility becomes all the greater. These Provincial Governments and their executive officers should realise that the powers with which they have been entrusted have not been given to them to terrorise and demoralise the people of India but to protect them and guard them against any mischief that may be done. I am sure, Mr. Deputy President, if the Central Government succeed in bringing this home to these provincial executives, there will be no occasions of a similar kind to censure this Government. My Honourable friend cannot escape his responsibility and I think when we are censuring the Central Government, we are censuring the whole administrative machinery which is responsible for the exercise of these powers. I support the motion which has been moved by my Honourable friend Mr. Kazmi.

Mr. K. O. Neogy (Dacca Division: Non-Muhammadian Rural): Sir, I should like very briefly to examine the points that have been made by the Honourable the Home Member in replying to this motion. The Honourable Member first dealt with the scheme of the Defence of India Act and the rules, and pointed out that having regard to the distribution of responsibilities thereunder between the Centre and the Provinces, it is difficult for the Central Government to interfere in the detailed administration of those rules. He further said that no powers of revision or appeal have been provided for in the Defence of India Rules and the Act, and it is not possible for that reason also for the Government of India to interfere with the administration of those rules in the Provinces. Now, Sir, if that be the real difficulty, why does not the Honourable Member bring forward an amending Bill to amend the Defence of India Act so as to invest the Central Government with the necessary authority either for giving detailed instructions or for revising the orders of the Provincial Governments in, say, certain given circumstances. The Honourable Member reminded the House that the Act was an Act of this Legislature. It has been pointed out that when the Act was passed certain assurances were given; the Act was not passed without opposition, and if now, the House feels that the intentions of this House have not been carried out in practice, it is certainly open to this House to call upon the Government either to bring forward an amending Bill so that in future the intentions of this Legislature might be correctly carried out; or the House might call upon the Executive Government so to amend the rules which they have been authorised to frame under the Act as to carry out those intentions. Now, Sir, my Honourable friend says that there is no distinction as regards the constitutional position of a Province which may be administered under section 93 of the Government of India Act and the position of a Province where a Ministry may be functioning. So far as that point is concerned, I am reminded of a little difference and that is this. As an incident of the operation of section 93-A of the Government of India Act in the case of a particular Province, the Governor who is invested with the authority of the Provincial Government is placed under the control of the Governor General. I admit that the Governor is not in terms of the constitution placed under the control of the Governor General in Council, but I do maintain, Sir, that the Governor General in Council are not altogether strangers to the Governor General; and that if they so choose they can whisper a few words of advice to the Governor General, if need be, so that the erring Governors of Provinces might be pulled up and restrained from their mischievous activities as illustrated in this particular instance.

Now, Sir, my Honourable friend said that even if it were desirable or possible to have powers of appeal or revision provided for in the Government of India Act, even if it were possible for the Central Government to be invested with the authority of interference with the decision of the Provincial Governments, it would lead to such an enormous volume of work, it would lead to such great expansion of the Secretariat that it would be undesirable, perhaps, on financial grounds. We do not know that the Government of India are very chary of expenditure being undertaken for the expansion of the

[Mr. K. C. Neogy.]

Departments of Government. There are Departments, I understand, where the officers and the staff find it very difficult to get seating accommodation in the Secretariat and even then, I understand, officers are being employed afresh to swell their number. It seems to me that after all the Central Government is not so powerless as the Honourable Member sought to make out. He seems to have obtained full information in regard to both these specific cases which were referred to by my Honourable friend the Mover, from the Provincial Governments concerned and he utilised that information for the purpose of prejudicing those two Members of the legal profession who will have no opportunity of defending themselves of the charges that have been brought against them. Let the Honourable Member utilise his influence, the influence that he exercises for the purpose of obtaining the version of the Provincial Governments in regard to these two cases, let him utilise that influence for the purpose of restraining these Governments from undertaking such adventures in future and dealing fairly with these two Members of the legal profession, at least one of them who is still in detention. If in any case the Honourable Member finds himself unable to intercede in the particular case now under discussion, will he give the guarantee to this House that he will see to it that that gentleman will be placed upon his trial on the charges which he has read out to this House? It would otherwise be a most cowardly action on his part to have said things which would go to prejudice an honourable member of society, an honourable member of the legal profession, without giving him a proper chance of clearing himself of the charges that have been read out to us today. We all know that the legal profession is considered to be a sort of tolerated nuisance by the executive government. My Honourable friend, Mr. Krishnamachari, has given me instances which are well-known in his own Presidency, where very drastic action has been taken against lawyers with the result that there is such a state of demoralisation prevailing in certain districts of the Madras Presidency that it is very difficult to get lawyers to come forward and defend people who are accused of political crimes or charged under the Defence of India Rules. That is certainly not an achievement of which any Englishman can be justly proud. It is also a very well-known fact that when lawyers are convicted of political offences, or are dealt with under the Defence of India Rules, they are also proceeded against under the disciplinary jurisdiction of the Bar Councils and their names in some cases at least are sought to be removed from the rolls of the profession. The executive government have done all they can to demoralise and terrorise the legal profession and I should like to utter a note of warning in this connection. The Honourable the Home Member may not be aware of the fact that one of the bulwarks of the British Government in India, perhaps the greatest bulwark of the British Government in India, has been the judicial system that was established by the predecessors of the Honourable Member; and if by any action which he or his lieutenants may take, and which may have the effect of prejudicing that institution, it will not be doing a service to the cause which he has so much at heart, namely, the cause of maintaining the sway of the British Government over this country.

Sir, I am reminded in this connection of a well-known case reported in the law journals, which occurred not very long ago in Calcutta. The case arose out of a decision which a Division Bench of the Calcutta High Court had given ordering the release of certain persons who had been detained under the provisions of the Defence of India Rules. And in the course of the proceedings under section 491 of the Criminal Procedure Code in the nature of habeas corpus the learned Judges set those persons at liberty. They were not allowed to leave the court precincts but were immediately rearrested under Regulation 3, because the Bengal Regulation 8 of 1818 contains a provision which ousts the jurisdiction of the High Courts under section 491 of the Criminal Procedure Code. And the police who were under the control and orders of a man called Janvrin, Deputy Commissioner of Police in Calcutta, exhibited such an indecent haste in taking hold of these people barely after they had left the court room that contempt proceedings were initiated against him and

other police officers concerned. And this is what a learned Judge says in describing what took place on that occasion, in his judgment reported at page 375 of the 47th volume of the Calcutta-Weekly Notes. Referring to a particular person who was rearrested in this fashion the Judge says:

"He was arrested a few minutes after we rose. Just before the order of release was passed, because the policemen present in the court room showed such a degree of alertness which indicated that they would close up on the aetenus immediately after the order of release, I directed the policemen present in the court room to move out *atde*."

They did not care very much for the dignity of the court and the Judge had to order the police to get outside because they were showing this indecent alertness even before the judgment had been pronounced. That order was, of course, obeyed. Then the Judge proceeds:

"The obedience to that order cannot lead to the only inference that all the policemen had, irrespective of their instructions, a genuine desire to obey all lawful orders of the court. They had to move out, for otherwise they would have been guilty of contempt in the face of the court and there would have been no scope of inventing explanations. The description of the proceedings of the court as '*tamasha*' by Javrin, a statement which has not been denied by him, showed which way the wind was blowing."

This Javrin said "Well, well, the *tamasha* is over," when he was putting these people under arrest: that is how he described these proceedings in the High Court of Calcutta. The Judge proceeds:

"To say the least, it is the height of impudence on his part to describe proceedings in this court in that manner, and that itself constitutes contempt."

The rest of the judgment does not bear much on the present discussion. Now, Sir, how is it that policemen in the provinces find it possible to defy the authority of the High Court, in the manner they did in the case to which I have made reference? It is due to the fact that wide and uncontrolled powers have been given to the executive, and the executive think that the judiciary is really a subordinate branch of the administration which can be trampled upon just as the executive likes because of the present emergency of the war. The war is being trotted out as an excuse for many of the outrages which we have been witnessing day after day; and the grossest outrage that one can imagine is that which is now being perpetrated, and that is upon the temple of justice.

Several Honourable Members: The question may now be put.

Qazi Muhammad Ahmad Kazmi: Sir, I listened very carefully to the speech of the Honourable the Home Member and I sympathise with him in the predicament in which he has been placed by his subordinates.

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

I do not say for a minute that these are the instructions of the Home Member that the legal profession must be terrorised and arrested because they defend persons who are charged with political offences. I know very well that on account of the extraordinary amount of work he has to do he cannot be expected to know all that is done by his subordinates. But he should look to the working of the Act, specially in view of the promise that was given to this House at the time of enactment of the Act. I do not want to enter into a discussion of section 93 or other sections at this stage,—and I said at the outset of my speech that I have no desire to enter into that discussion,—but I have not heard one word of explanation by the Home Member as to how he intends to fulfil the pledge that was given to this House. If he was not in a position to fulfil that pledge, it ought not to have been given and the promise ought not to have been made. So, in spite of the Government of India Act and the way in which they are issuing directives to the executive of the provinces I think it is only fair that he should look to the functions and duties and take the responsibility for what is done in the provinces.

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

"That the Assembly do now adjourn."

The Assembly divided:

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AYES—43.

Abdul Ghani, Maulvi Muhammad.
Abdul Qaiyum, Mr.
Anthony, Mr. Frank R.
Azhar Ali, Mr. Muhammad.
Banerjee, Dr. P. N.
Chattopadhyaya, Mr. Amarendra Nath.
Choudhury, Mr. Muhammad Hussain.
Dam, Mr. Ananga Mohan.
Das, Mr. B.
Dutta, Mr. Akhil Chandra.
Deshmukh, Mr. Govind V.
Essak Sait, Mr. H. A. Sathar H.
Fazl-i-Haq Piracha, Khan Bahadur Shaikh.
Gupta, Mr. K. S.
Gupta Mr. R. R.
Hans Raj, Raizada.
Hegde, Sri K. B. Jinaraja.
Hoosani, Mr. S. K.
Ismail Khan, Hajee Chowdhury Muham-
mad.
Joshi, Mr. N. M.
Kailash Bihari Lall, Mr.

Kazmi, Qazi Muhammad Ahmad.
Krishnamachari, Mr. T. T.
Lahiri Chaudhury, Mr. D. K.
Lalchand Navalrai, Mr.
Lalljee, Mr. Hooseinbhoj A.
Liaquat Ali Khan, Nawabzada Muham-
mad.
Maitra, Pandit Lakshmi Kanta.
Mangal Singh, Sardar.
Mehta, Mr. Jamnadas M.
Misra, Pandit Shambhudayal.
Naidu, Mr. G. Rangiah.
Nairang, Syed Ghulam Bhik.
Neogy, Mr. K. C.
Pande, Mr. Bedri Dutt.
Ramayan Prasad, Mr.
Raza Ali Sir Syed.
Sham Lal, Lala.
Siddique Ali Khan, Nawab.
Srivastava, Mr. Hari Sharan Prasad.
Yamin Khan, Sir Muhammad.
Yusuf Abdoola Haroon, Seth.
Zafar Ali Khan, Maulana.

NOES—42.

Ahmad Nawaz Khan, Major Nawab Sir.
Ambedkar, The Honourable Dr. B. R.
Azizul Huque, The Honourable Sir M.
Benthall, The Honourable Sir Edward.
Bewoor, Sir Gurunath.
Bhagchand Soni, Rai Bahadur Seth.
Caroe, Mr. O. K.
Daga, Seth Sunder Lall.
Dalal, Dr. Sir Ratanji Dinshaw.
Dalpat Singh, Sardar Bahadur Captain.
Greenfield, Mr. H.
Gwilt, Mr. E. L. C.
Habibur-Rahman, Khan Bahadur Sheikh.
Haidar Khan Bahadur Shamsuddin.
Imam, Mr. Saiyid Haidar.
Inskip, Mr. A. C.
Ismail Alikhan, Kunwer Hajee.
James, Sir F. E.
Jawahar Singh, Sardar Bahadur Sardar
Sir.
Khare, The Honourable Dr. N. B.
Krishnamoorthy, Mr. E. S. A.
Kushal Pal Singh, Raja Bahadur.
Lawson, Mr. C. P.

Maxwell, The Honourable Sir Reginald.
Miller, Mr. C. C.
Muazzam Sahib Bahadur, Mr. Muham-
mad.
Mudaliar, The Honourable Dewan Baha-
dur Sir A. Ramaswami.
Ogilvie, Mr. C. M. G.
Piare Lall Kureel, Mr.
Raisman, The Honourable Sir Jeremy.
Richardson, Sir Henry.
Roy, The Honourable Sir Asoka.
Shahban, Khan Bahadur Mian Ghulam
Kadir Muhammad.
Spence, Sir George.
Srivastava, The Honourable Sir Jwala
Prasad.
Stokes, Mr. H. G.
Sukthankar, Mr. Y. N.
Sultan Ahmed, The Honourable Sir.
Thakur Singh, Capt.
Trivedi, Mr. C. M.
Tyson, Mr. J. D.
Zahid Husain, Mr.

The motion was adopted.

The Assembly then adjourned till Eleven of the Clock on Thursday, the 10th February, 1944.