

16th January, 1923

THE
LEGISLATIVE ASSEMBLY DEBATES
(Official Report)

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THIRD SESSION

OF THE

LEGISLATIVE ASSEMBLY, 1923.

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LEGISLATIVE ASSEMBLY.

Tuesday, 16th January, 1923.

The Assembly met in the Assembly Chamber at Eleven of the Clock.

Secretary of the Assembly: I have to inform the House of the unavoidable absence of Mr. President.

Mr. Deputy President then took the Chair.

QUESTIONS AND ANSWERS.

BIHAR AND ORISSA PROVINCE.

43. ***Mr. B. N. Misra:** (a) Has the attention of the Government been drawn to the Despatch of Lord Hardinge about the formation of the Bihar and Orissa Province in 1911?

(b) Is the Government aware that Orissa had no affinity to Bihar and was attached to Bihar to offer an opening to the Province because Orissa had considerable facilities for sea ports?

The Honourable Sir Malcolm Hailey: The Government of India are acquainted with the despatch of Lord Hardinge's Government, dated the 25th August 1911. They are aware that in that despatch it was stated that it was believed that the junction of Orissa with Bihar would be welcome to Bihar as presenting a sea board to that province.

RAILWAYS AND PORTS IN BIHAR AND ORISSA.

44. ***Mr. B. N. Misra:** Has the attention of the Government been drawn to the Report of the Director of Industries, Bihar and Orissa, regarding his observations:

(a) to extend the Amda-Jamda Railway line to further South;

(b) to open a port at False Point in the Cuttack District;

(c) and to join the said port to Cuttack by a railway line to facilitate trade in coal, iron and other products of Central India, Orissa and her Feudatory States?

The Honourable Mr. C. A. Innes: Yes.

PORTS ON ORISSA COAST.

45. ***Mr. B. N. Misra:** (a) Has the Government made any enquiries regarding the suitability or otherwise of opening a port at False Point or at any other place on the Orissa Coast?

(b) If so, will the Government be pleased to lay on the table of this House the result of such enquiries?

(c) If not, does the Government propose to make enquiries and take steps to open a port at False Point or at any other place on the Orissa Coast?

The Honourable Mr. C. A. Innes: The Devolttion Rules distinguish between Major Ports which are the concern of the Government of India and Minor Ports which are controlled by Provincial Governments. There is at present no port in Bihar and Orissa of sufficient importance to be notified as a Major Port and any steps therefore which are to be taken to develop the ports in that Province must be taken by the Local Government and not by the Government of India.

Mr. Braja Sundar Das: Has the Government received the report of Mr. Arkwright who was deputed by the Local Government as a port expert to express his views on the opening of a port at False Point or any other place on the Orissa coasts?

The Honourable Mr. C. A. Innes: I cannot say offhand whether any copy of the report has been furnished to the Government of India, but as I have said, if such report has been made, it is for the Local Government to consider it in the first instance.

ASSISTANT INCOME-TAX OFFICERS, UNITED PROVINCES.

46. ***Haji Wajihuddin:** Will the Government be pleased to state how many Assistant Income-tax Officers were selected by the Selection Board, United Provinces and how many were nominated directly by the Local Government in the United Provinces during the year 1921-22 and how many of them belong to each community—Hindus, Muslims, Sikhs and Christians?

The Honourable Sir Basil Blackett: Nine Assistant income-tax officers were selected by the selection committee and appointed by the Government. Nine direct appointments were also made by the Government. They comprised

Hindus	9
Muhammadans	7
Indian Christian	1
Anglo-Indian	1

ASSISTANT INCOME-TAX COMMISSIONERS, UNITED PROVINCES.

47. ***Haji Wajihuddin:** How many Assistant Income-tax Commissioners, according to the scheme published in 1921 were to be appointed in the United Provinces and have all of them duly been appointed, and to which community do they belong? If all the appointments have not been made why are some of them lying vacant and when are they likely to be filled up?

The Honourable Sir Basil Blackett: Four posts of Assistant Commissioner were sanctioned by the Secretary of State. There are at present two vacancies. It is hoped to make a third appointment shortly. The fourth post will remain vacant as it is not required at present. The two Assistant Commissioners appointed are Hindus.

EXAMINATION OF ASSISTANT INCOME-TAX OFFICERS, UNITED PROVINCES.

48. ***Haji Wajihuddin**: When and under whose control was the first examination of Assistant Income-tax Officers in the United Provinces held and with what result?

The Honourable Sir Basil Blackett: The first departmental examination was held in October 1921 under the control of the United Provinces Central Examination Committee. I lay a copy of the result on the table.

EXAMINATION DEPARTMENT.

MISCELLANEOUS.

The 4th November 1921.

No. 221-Exam—8-21.—The undermentioned assistant income-tax officers are declared by the Central Examination Committee to have passed the departmental examination of junior officers held on the 24th October 1921, and following days in the subjects specified below :—

URDU.

Passed by the higher standard.

Babu Binoy Krishna Mukerji.	Babu Avatar Krishna.
Pandit Ram Narain Sharma.	Babu Banke Bihari Lal Kapur.

Passed by the lower standard.

Pandit Dina Nath Sapru.

HINDI.

Passed by the higher standard.

Babu Binoy Krishna Mukerji.	Babu Avatar Krishna.
Maulvi Niaz Ahmad.	Babu Sukhdarshan Dayal.
Saiyid Muhammad Murtaza.	Babu Dwarka Nath Dhown.
Pandit Dina Nath Sapru.	Saiyid Abdul Hasan Rizvi.
Pandit Ram Narain Sharma.	Saiyid Mustafá Husain.
Mr. J. E. Edwards.	Babu Reoti Raman Bhargava.
Munshi Hafiz-ud-din Khan.	Babu Banke Bihari Lal Kapur.

Saiyid Bashir Husain.

Passed by the lower standard.

Mr. W. A. Hardie.	Babu Babu Lal Vaish.
Saiyid Shafaat Husain.	

MAHAJANI.

Passed by the higher standard.

Mr. J. E. Edwards.	Babu Dwarka Nath Dhown.
Munshi Hafiz-ud-din Khan.	Saiyid Mustafa Husain.
Babu Sukhdarshan Dayal.	Babu Banke Bihari Lal Kapur.
Saiyid Bashir Husain.	

Passed by the lower standard.

Babu Binoy Krishna Mukerji.	Babu Avatar Krishna.
Maulvi Niaz Ahmad.	Babu Babu Lal Vaish.
Pandit Ram Narain Sharma.	Saiyid Abul Hasan Rizvi.

INCOME-TAX LAW AND RULES.

Passed by the lower standard.

Mr. W. A. Hardie.	Babu Babu Lal Vaish.
Babu Banke Bihari Lal Kapur.	

BOOK-KEEPING.

Passed by the lower standard.

Mr. W. A. Hardie.	Babu Avatar Krishna.
Babu Banke Bihari Lal Kapur.	

PRACTICAL TEST.

Passed by the higher standard.

Mr. W. A. Hardie.	Babu Babu Lal Vaish.
Babu Sukhdarshan Dayal.	

Passed by the lower standard.

Maulvi Niaz Ahmad.	Saiyid Abul Hasan Rizvi.
Pandit Ram Narain Sharma.	Babu Dwarka Nath Drown.
Mr. J. E. Edwards.	Saiyid Mustafa Husain.
Babu Banke Bihari Lal Kapur.	

RIDING.

Mr. W. A. Hardie.	Babu Binoy Krishna Mukerji.
Babu Sukhdarshan Dayal.	Pandit Dina Nath Sapru.
Maulvi Niaz Ahmad.	Mr. J. E. Edwards.
Babu Dwarka Nath Drown.	Pandit Ram Narain Sharma.
Sd. Md. Murtaza.	Babu Avatar Krishna.
Saiyid Mustafa Husain.	Babu Banke Bihari Lal Kapur.
Babu Babu Lal Vaish.	Saiyid Shafaat Husain.
Saiyid Abul Hasan Rizvi.	

By order, etc.,

T. SLOAN,

*Secretary, Central Examination Committee,
United Provinces.*

EXAMINATION OF ASSISTANT INCOME-TAX OFFICERS.

49. ***Haji Wajhuddin:** (a) When and under whose control did the second examination of Assistant Income-tax Officers in the United Provinces take place and how were the successful candidates of each community disposed off?

(b) Is it true that one of the successful candidates was declared (by a responsible officer) to be appointed to Dehra Dun before the result of the examination was out?

(c) To what extent is it true that after the second examination was over, one of the high officers of the Income-tax Department, United Provinces, in contemplation of his being appointed the head of the Department under the Income-tax Act of April, 1922, collected all the young officers before him and said, "Mind that I shall be all in all from April next and that you people having no other opening like Deputy Collectors must be very careful" and that he lectured to certain Mohamedan officers individually that they would make good executive officers instead of entering into the Income-tax Department which was meant for the Hindus, especially "Vaishes"?

The Honourable Sir Basil Blackett: (a) The second departmental examination was held in March 1922 under the control of the United Provinces Central Examination Committee. A copy of the result is laid on the table.

(b) The officer in question was transferred to Dehra Dun as assistant income-tax officer, a position which he held at Cawnpore prior to the examination and, when the result of the examination has been declared, was appointed by the Local Government to be income-tax officer.

(c) No such language as that described in the question was used.

EXAMINATION DEPARTMENT.

MISCELLANEOUS.

The 16th March 1922.

No. 57-Exam.—The undermentioned Assistant Income-tax Officers are declared by the Central Examination Committee to have passed the departmental examination of

junior officers held on the 6th March, 1922, and following days in the subjects specified below :—

URDU.

Passed by the higher standard.

Pandit Dina Nath Sapru.

HINDI.

Passed by the higher standard.

Mr. W. A. Hardie.

Babu Babu Lal Vaish.

Saiyid Shafaat Hussain.

MAHAJANI.

Passed by the higher standard.

Babu Binoy Krishna Mukerji.
Maulvi Niaz Ahmad.
Saiyid Muhammad Murtaza.
Pandit Dina Nath Sapru.
Mr. W. A. Hardie.

Pandit Ram Narain Sharma.
Babu Babu Lal Vaish.
Babu Avatar Krishna.
Saiyid Abul Hasan Rizvi.
Babu Reoti Raman Bhargava.

INCOME-TAX LAW AND RULES.

Passed by the higher standard.

Mr. W. A. Hardie.
Babu Babu Lal Vaish.
Babu Avatar Krishna.

Babu Sukhdarshan Dayal.
Saiyid Abul Hasan Rizvi.
Babu Banke Bihari Lal Kapur.

Passed by the lower standard.

Pandit Dina Nath Sapru.
Pandit Ram Narain Sharma.

Mr. J. E. Edwards.
Saiyid Mustafa Hussain.
Babu Reoti Raman Bhargava.

BOOK-KEEPING.

Passed by the higher standard.

Mr. W. A. Hardie.
Babu Babu Lal Vaish.

Babu Sukhdarshan Dayal.
Babu Reoti Raman Bhargava.
Babu Banke Bihari Lal Kapur.

Passed by the lower standard.

Babu Binoy Krishna Mukerji.
Saiyid Muhammad Murtaza.
Pandit Dina Nath Sapru.
Pandit Ram Narain Sharma.

Mr. J. E. Edwards.
Babu Avatar Krishna.
Babu Dwarka Nath Drown.
Saiyid Abul Hasan Rizvi.

PRACTICAL TEST.

Passed by the higher standard.

Babu Binoy Krishna Mukerji.
Pandit Ram Narain Sharma.
Mr. J. E. Edwards.

Babu Avatar Krishna.
Saiyid Abul Hasan Rizvi.
Saiyid Mustafa Hussain.
Babu Banke Bihari Lal Kapur.

Passed by the lower standard.

Maulvi Niaz Ahmad.
Pandit Dina Nath Sapru.
Munshi Hafiz-ud-din Khan.

Babu Dwarka Nath Drown.
Babu Reoti Raman Bhargava.
Saiyid Bashir Husain.

RIDING

Munshi Hafiz-ud-din Khan.

Saiyid Bashir Hussain.

ASSISTANT COMMISSIONER, INCOME-TAX, MEERUT.

50. *Haji Wajihuddin: Is it a fact that a civilian was appointed to the post of an Assistant Commissioner in December, 1921 who was called back after a short time, that no one has been appointed in his place as yet and that the staff is still lying idle at Meerut? If so, why was one of the seniormost Income-tax Officers not promoted to fill up the vacancy?

The Honourable Sir Basil Blackett: The answer to the first part of the question is in the affirmative. No staff is lying idle at Meerut. The posts of Assistant Commissioners have only been gradually filled up as competent men became available. These posts carry great responsibility and are not automatically filled up on the basis of seniority.

POPULATION OF MEERUT.

51. *Haji Wajihuddin: Will the Government be pleased to lay on the table a statement showing the civil population of each community in each Bazar of Meerut Cantonment respectively?

Mr. E. Burdon: In order to obtain the information desired by the Honourable Member, it would be necessary to carry out a special census at considerable expense, and this could not be justified.

Only the total population of each bazar is known. The figures according to the census of 1921 are:—

Sadar bazar	11,840
British Infantry bazar	3,490
British Cavalry bazar	3,926
Royal Artillery bazar	1,476

WHARFAGE CHARGES ON FIRE ARMS.

52. *Haji Wajihuddin: (a) Will the Government be pleased to lay on the table a statement showing rates of wharfage charges recovered by the Port Trusts at Bombay, Calcutta, Karachi and Madras, respectively on Fire Arms, Percussion Caps and shot, also the reason of difference in rates?

(b) Do the Government propose to consider the advisability of fixing universal rates in all the Indian Ports?

The Honourable Mr. C. A. Innes: The information is being collected and will be supplied to the Honourable Member on receipt. It may be mentioned that under the various Port Trusts Acts the legal responsibility for fixing wharfage charges rests with the Port Trusts and the different Local Governments and not with the Government of India.

PURCHASE OF QUININE AND CINCHONA BARK.

53. *M. K. Reddi Garu: Will the Government be pleased to state—

(a) If it is a fact that the Government of India have been purchasing or negotiating for the purchase of large stocks of quinine and cinchona bark?

(b) If so, in what market and by what agency are these arrangements made?

Mr. J. Hullah: (a) Yes.

(b) Purchase of cinchona bark and quinine are made in Java and arrangements for these purchases were made by the Secretary of State

for India who executed agreements with Messrs. Howards of London and with a combine of Dutch Manufacturers for the purchase of cinchona bark and quinine sulphate respectively.

QUININE AND CINCHONA BARK.

54. *M. K. Reddi Garu: (a) Will the Government be pleased to put on the table a statement showing for each year since the inception of the scheme:

- (i) the quantity of quinine actually received and the amount paid or payable for the same in rupees per lb.;
- (ii) the quantity of cinchona bark received and the amount paid or payable?

(b) Will the Government of India be pleased to furnish a statement showing what further quantities, if any, of quinine and cinchona bark are deliverable under existing contracts and the price?

(c) Do the prices above referred to include the cost of delivery in India?

(d) What is the present stock of Government of India quinine (including quinine in bark form)?

(e) Is it the intention of the Government of India to increase this stock by further purchases and, if so, up to what limit and at what estimated cost?

Mr. J. Hullah: (a) The information required is as follows:

(i) Quinine Sulphate.

Year.	Quantity received.	Amount paid.
	Lbs.	Rs.
1921-22	52,910.4	20,78,768
1922-23	26,455.2*	8,75,801
Total	79,365.6	29,55,364

*Up to end of December 1922.

(ii) Cinchona Bark.

Year.	Net weight of bark in lbs.	Amount paid.
		Rs. A. P.
1920-21	85,213	... †
1921-22	1,482,890	1,68,959 10 8
1922-23	653,186	1,11,833 8 8
Total	2,221,379	3,00,793 8 4

†Payment for bark received in 1920-21 was made in 1921-22.

(b) and (c). Quinine and Cinchona bark are being purchased under the following two contracts:

- (i) *Contract with Howards*.—This agreement came into force in July 1920 and will expire in 1928. It provides for an annual supply of cinchona bark sufficient to produce a maximum of 37,500 kilos (82,500 lbs.) and a minimum of 6,666 kilos (14,665 lbs.) of quinine sulphate. The actual quantity to be supplied during a year varies according to the amount of bark supplied to Messrs. Howards by the producers in Java. The price also varies with the price to be paid by Messrs. Howards to the producers. It is payable in London in sterling and does not include the cost of delivery in India.
- (ii) *Contract with the Java Combine*.—This agreement provides for the supply of 60,000 kilos of sulphate during the years 1921 to 1923, after which it will come to an end. The quantity to be supplied each year is 20,000 kilos (44,000 lbs.). 30,000 kilos had been received up to the end of September 1922, leaving 30,000 kilos still to be delivered.

The price payable is the official London quotation of the Kina Bureau, Amsterdam, minus 10 per cent. The price is *c.i.f.* Calcutta payable in rupees at the current rate of exchange. According to our latest information this works out to about Rs. 24-6-0 per lb., after deducting the 10 per cent., and with the rupee at 1s. 4d.

(d) The stock of Government of India quinine, including quinine in bark form was 298,172,794 lbs. on 22nd December 1923.

(e) It is not the present intention of Government to make any further purchases of quinine or bark over and above the quantities provided for in the agreements already referred to.

PRICE OF QUININE.

55. ***M. K. Reddi Garu**: Will the Government of India be pleased to state whether any loss will accrue on the purchase of quinine in respect of the quinine purchased, and if so, how much, if the Government of India sell at to-day's wholesale price in India?

Mr. J. Hullah: The price charged for quinine issued from Imperial stocks is the same as that fixed by the Governments of Madras and Bengal from time to time for supplies from their Provincial stocks. These prices are based on the current rates quoted for Howards quinine in the open market. The present price is Rs. 27 per lb. Sales of quinine from Imperial stocks during the two years 1919-20 (there were no sales prior to that year) and 1920-21 resulted in a net profit of Rs. 4,12,800 to the Central Government. There were no issues from Imperial stocks during 1921-22. During the two years 1922-23 and 1923-24 allowing for an anticipated demand of 10,000 lbs., per annum and a fall in price during the latter year from Rs. 27 to Rs. 20 per lb., it is estimated that a net profit of about Rs. one lakh will accrue. It should be understood that the object of Government in making these purchases of foreign quinine and bark was to build up a reserve of quinine sufficient for India's needs in all emergencies and not for the purpose of making as big a turn over and as big a profit as possible in as short a time as possible. It is quite impossible to say at present whether these transactions will ultimately result in a profit or loss to Government as this will depend entirely upon the course of prices.

QUININE AND CINCHONA.

56. ***M. K. Reddi Garu**: Will the Government be pleased to state—

- (a) If the Government of India before deciding to accumulate stocks, consulted the Governments of Bengal and Madras regarding provincial resources in the matter of quinine supplies?
- (b) If it is a fact that the Government of India have undertaken from the funds of the Central Government a large scheme for growing cinchona bark in Tavoy in Burma?
- (c) If so, will the Government of India be pleased to state the object of this scheme?

Mr. J. Hullah: (a) No. The plantations in Bengal and Madras are unable to supply the normal demand for quinine in India, still less to build up a reserve, and the Government of India have therefore taken steps to build up the reserve of quinine stocks which had been depleted by the war.

(b) Yes.

(c) The scheme for the establishment of large cinchona plantations in Burma was undertaken in consequence of a suggestion of the Home Government made during the war that the Government of India should examine the possibilities of extending the cultivation of cinchona and increasing the production of quinine within the Indian Empire on a scale sufficiently large to meet the future needs of the British Empire and the Allied countries. About 4th of the quinine consumed in the Empire is obtained from foreign sources. The Department of Public Health has advocated that malaria should be fought throughout India by active propaganda advocating the use of quinine and by the supply of quinine at reasonable cheap rates and has pointed out that if the population of India were to use quinine on the scale reached in Italy their consumption would exhaust the whole existing world production. In most of the provinces cinchona cannot be grown, and even if it could, it is more economical to grow it on a large scale. The Government of India therefore regard the provision of adequate supplies of quinine as a matter of first-rate importance, and for this reason they have started the new plantations in Burma.

REPRESENTATION OF COMMUNITIES IN THE PUBLIC SERVICES.

57. ***M. K. Reddi Garu**: Has the attention of the Government been drawn to the General Orders Nos. 613 and 658-Public of the Government of Madras, regarding the appointment of various communities not already adequately represented in the Public Services; and do this Government propose to consider the advisability of giving effect to the said General Orders as far as the Presidency of Madras is concerned, with reference to Services directly under the Government of India?

The Honourable Sir Malcolm Halley: Yes.

The conditions contemplated by the orders quoted are radically different from those of the services under the direct control of the Government of India and the Government of India do not consider it practicable to adopt the course suggested in the question.

EXPENDITURE ON SALT FOR FISH CURING.

58. ***Mr. Manmohandas Ramji**: Will the Government be pleased to state:

- (a) why the expenditure of Rs. 1,31,000, as stated in demand for grant No. 3, under the heading "Charges in connection with

export, import, etc., of salt for fish curing purposes", in page 17 of the detailed estimates and demands for grants for 1922-23, is incurred;

- (b) what the income against this expenditure is;
- (c) how the income is derived; and
- (d) if the cured fishes are sold, whether they are sold in India or abroad?

Mr. A. H. Ley: (a) The item of Rs. 1,31,000 is the budget estimate of the Central Government's share of the expenditure incurred in transporting salt from the factories to the fish-curing yards, where it is utilized in the fish-curing industry.

(b) and (c). The salt is sold to the fish-curers at a uniform rate of 10 annas per maund, the whole of the sale proceeds being credited to imperial revenues. The income on this account varies from year to year in accordance with the quantity of salt taken by the fish-curers; the estimated receipts for the current year are Rs. 1,63,000.

(d) The cured fish are the property of the curers and are sold both in India and abroad. Government has no information as to the local consumption, but understands that in the year 1921-1922 some 15,800 cwts. were exported coastwise and 172,400 cwts. to foreign countries.

APPOINTMENTS TO MEDICAL SERVICE IN INDIA.

59. ***Mr. T. V. Seshagiri Ayyar:** (a) Will the Government be pleased to state how many new appointments were made recently to the Medical service in India without the candidates undergoing any examination in that behalf?

(b) Will the Government be pleased to state the terms on which such appointments were made? Will the Government be pleased to lay on the table of the House a copy of a contract or letter of appointment, if any, in connection with these appointments?

Mr. E. Burdon: It is presumed that the Honourable Member's question refers to the Medical Service. If so, the answer is as follows:

- (a) The number of new appointments made in the Indian Medical Service by nomination in the last 2 years is:—

1921 . . . 27; 1922 . . . 19.

- (b) I will furnish the Honourable Member with a copy of the 'Regulations for the appointment of candidates to His Majesty's Indian Medical Service.' A copy of the 'letter of appointment' which is issued to those granted permanent commissions in the Indian Medical Service, is placed on the table.

From—The Director-General, Indian Medical Service.

I have the honour to inform you that the Right Hon'ble the Secretary of State for India has approved your appointment to a permanent commission in the Indian Medical Service, which will bear the date of this letter.

You are requested to complete and forward to this office, three copies of India Army Form Z.-2041, forwarded herewith.

It should be distinctly understood that not having undergone the usual probationary course, you will not be permitted to remain in the service, if as the result of any course of instruction on probation which may be arranged for you, your retention is considered undesirable (vide page 6, paragraph 6, of Memorandum attached to the regulations applying to the Indian Medical Service.)

Mr. T. V. Seshagiri Ayyar: A supplementary question, Sir. The Honourable Member would remember that yesterday I asked him whether any of these men would supersede the men from the Provincial Service who had been put to act in the Imperial Service. Is he in a position to give the information to the House now?

Mr. E. Burdon: Not at the moment. I will furnish the Honourable Member with the information in the course of the day.

CONSTITUTIONAL REFORMS IN INDIA.

60. ***Mr. T. V. Seshagiri Ayyar:** (a) Will the Government be pleased to state what action was taken on the resolution of Rai Bahadur Muzoomdar, C.I.E., about further constitutional reforms in India?

(b) Were the resolution and copies of the speeches made on the occasion forwarded to the Secretary of State for India as promised at the time of the discussion?

(c) Did the Government forward any recommendations of their own with reference to the resolution?

(d) Has any reply been received from the Secretary of State for India on the subject?

(e) Would Government be pleased to lay on the table of the House all the papers connected with the subject?

The Honourable Sir Malcolm Hailey: The Honourable Member is referred to the reply given by me on behalf of Sir William Vincent to Mr. Chaudhuri's question No. 231, dated the 7th September 1922, on the same subject and to the reply given by Sir William Vincent to Mr. Kamat's question No. 127 on the 16th January, 1922. The Secretary of State's despatch which has now been received by the Government of India will be laid on the table of this House on the 24th instant.

Mr. T. V. Seshagiri Ayyar: May I ask a supplementary question, Sir? Will the Honourable the Home Member be good enough to lay on the table of the House the despatch from the Government of India to the Secretary of State in respect of this Resolution? That is also one of the questions.

The Honourable Sir Malcolm Hailey: There was no despatch. The Resolution was merely forwarded to the Secretary of State.

OPIUM CHARGES.

61. ***Mr. Manmohandas Ramji:** Will the Government be pleased to lay on the table the details for the following items of expenditure, contained in demand No. 4, "Opium", in the detailed estimates of demands for grants for 1922-23:

- (1) Travelling allowance of Rs. 1,27,000, under District staff,
- (2) Tour charges of Rs. 15,000, under the same heading,
- (3) Travelling allowance of Rs. 10,000, under the heading "Opium Research Laboratory"?

The Honourable Sir Basil Blackett: A statement is laid on the table giving the details asked for:

	Rs.
(1) (a) Travelling allowance of officers	56,000
(b) Travelling allowance of establishment	71,000
	1,27,000
Total	1,27,000

Note.—The amount represents the ordinary charges incurred when travelling on duty in districts as well as the cost of transfers.

(2) Under tour charges (Rs. 15,700) are included cost of carriage of tents and records, cost of coolie hire and other incidental expenses connected with touring. It has not been found possible to obtain separate details of each of these.

(3) The amount of Travelling allowance under 'Opium Research Laboratory' is Rs. 1,000 and not 10,000 as stated in the question. The former comprises the lump allotment to cover the travelling allowance of the Agricultural Chemist and his staff. The total expenditure up to date is:

	Rs.	A.	P.
Agricultural Chemist	176	14	0
Staff	99	8	0
Total	276	6	0

GOVERNMENT ACTION ON RECOMMENDATIONS OF THE ASSEMBLY.

62. *Dr. H. S. Gour: Will the Government be pleased to state what action it has taken on the following recommendations made to it by this House, namely:

No.	Subject of Resolution.	Date of decision.	REMARKS.
1	Codification of Hindu Law	26th March 1921.	Resolution with- drawn on the Gov- ernment giving assurance of sym- pathetic considera- tion.
2	Creation of an Indian Bar	24th February 1921.	
3	Resolution regarding equality of status of Members of the two Houses.	2nd March 1921.	
4	Resolutions on the Esher Committee's Report	26th March 1921.	
5	Increase of listed posts	17th February 1921.	
6	Establishment of a Supreme Court in India	26th March 1921.	
7	Abolition of racial distinctions	29th Septem- ber 1921.	
8	Grant of further reforms	20th Septem- ber 1921.	
9	Removal of racial distinctions in criminal trials	26th January 1922.	
10	Abolition of the distinction between votable and non-votable items in the Budget.	23rd March 1922.	
11	Abolition of the Posts of Commissioners	8th February 1922.	
12	Revision of Arms Act rules—report to be submitted before the September session of the Assembly, 1922.	3rd February 1922.	
13	Appointment of a Retrenchment Committee to effect economy in the cost of Central Government.	9th February 1922.	
14	Equality of the status of Indians in Africa	11th February 1922.	
15(a)	Indianization of the services	11th February 1922 and on 23rd Febru- ary 1922.	
(b)	Provision for technical education in India to enable Indians to enter the technical services.		

Sir Henry Moncrieff Smith: The information is being collected and will be laid on the table.

Mr. T. V. Seshagiri Ayyar: May I ask a question, whether, having regard to the fact that this Assembly will disperse in the course of this year, any opportunity will be given for the discussion of the reports sent in by the various Committees appointed at the instance of this House.

The Honourable Sir Malcolm Halley: Will the Honourable Member kindly specify the reports for which he wishes us to give time for discussion?

WHITEHALL'S REFUSAL OF GOVERNMENT OF INDIA RECOMMENDATIONS.

63. ***Dr. H. S. Gour:** (a) Is it a fact as reported in the press that Whitehall have refused to accept the recommendations of the Government of India on several Resolutions passed by this House?

(b) If so, will the Government be pleased to lay on the table the entire correspondence between itself and the Secretary of State?

(c) And will it disclose to the House the action it proposes to take with a view to insure the acceptance by the authorities in England of its recommendations?

(d) And will the Government be pleased to state what further action, if any, it has taken or intends to take?

The Honourable Sir Malcolm Halley: The Honourable Member will I think recognize that it is impossible for me to answer a general question of this nature regarding what is said to be the attitude of His Majesty's Government towards recommendations made by the Government of India. I am further in doubt as to what the Honourable Member means when he refers to the action to be taken by the Indian Government to ensure the acceptance by His Majesty's Government of recommendations made by it. His Majesty's Government have definite statutory powers in regard to the Government of India and the Honourable Member does not, I assume, intend to suggest that these powers have been in any way exceeded. I may perhaps add that when the action which has been taken on various recommendations of the Government of India comes more fully to the knowledge of Honourable Members they will see that the alleged conflict of opinion between the Government of India and the Secretary of State in Council, if there is such a conflict, has been exaggerated in the Press.

Rao Bahadur T. Rangachariar: May I ask a supplementary question, Sir? Is the principle insisted upon, namely, that where the Legislature and the Government of India agree, the Secretary of State should not ordinarily interfere? Is that principle being acted upon?

The Honourable Sir Malcolm Halley: That is a very general question; but if the Honourable Member can specify instances within his knowledge in which that principle is not acted upon, I shall be glad to answer the question as far as it is in my power.

ATTITUDE OF WHITEHALL.

64. ***Dr. H. S. Gour:** Is the Government aware of the widespread feeling of distrust caused in the country by the reported attitude of Whitehall towards the reasonable demands of the two Houses?

The Honourable Sir Malcolm Halley: The Honourable Member is referred to my reply to his question No. 63 on the same subject.

SUPREME COURT IN INDIA.

65. ***Dr. H. S. Gour:** (a) Has the Government now considered the opinions of the Local Governments and the High Courts on the necessity of a Supreme Court in India?

- (b) If so, have the Government formulated their views on the subject?
(c) And what action do they propose to take thereon?

The Honourable Sir Malcolm Halley: The opinions are still under consideration but if the Honourable Member repeats his question later in the Session I may be able to supply him with more information.

ASSISTANT SECRETARIES AND REGISTRARS.

66. ***Mr. Manmohandas Ramji:** Will the Government be pleased to state what the duties of the Assistant Secretaries and the Registrars, in the different departments of General Administration in the Government of India, are?

The Honourable Sir Malcolm Halley: A detailed statement giving the information asked for by the Honourable Member has been prepared and will be supplied to him separately.

ADVISER TO LABOUR BUREAU.

67. ***Mr. Manmohandas Ramji:** Will the Government be pleased to state what the duties of the Adviser to the Labour Bureau, in the Department of Industries, are?

Mr. A. H. Ley: The appointment of the Adviser (Labour Bureau) in the Department of Industries will be, as a measure of retrenchment, abolished on the termination of a short period of leave that has been granted to the present incumbent.

ECONOMIES IN STATIONERY AND PRINTING.

68. ***Mr. Manmohandas Ramji:** Will the Government be pleased to state:

- (a) what the result is of the enquiry made by the officer who investigated into the economies that could be effected under 'Stationery and printing'?
- (b) what the total amount of annual saving effected is, if any?
- (c) whether the officer has made any report or recommendation, and
- (d) if he has, will the Government be pleased to lay on the table a copy of the same?

Mr. A. H. Ley: (a) Mr. F. D. Ascoli, I.C.S., who was placed on special duty for six months to examine all possible avenues of economy in the expenditure of the Central Government on stationery and printing has made various suggestions for the control of the issue of stationery and forms, the curtailment of the printing work of Government Departments and the re-organisation of the Government of India presses.

Effect has already been given to some of his proposals and others are still under consideration.

(b) The total amount of annual saving that he expects to result from his proposals has been estimated at approximately Rs. 23½ lakhs but until some experience has been gained of the working of his schemes it cannot be said how far this estimate is correct.

(c) and (d). Mr. Ascoli has furnished Government with a number of detailed reports dealing with the different subjects which he had under examination. As they are very voluminous, Government do not propose to lay a copy of them on the table of the House, but I shall be very glad to show them to the Honourable Member.

OPINIONS ON O'DONNELL CIRCULAR.

69. *Mr. Jamnadas Dwarkadas: Will the Government be pleased to state whether the opinions of all the local Governments have been received on the O'Donnell Circular issued by the Government of India as a result of the resolution moved by myself in February last and what further action it is proposed to be taken to give effect to the recommendation contained therein?

The Honourable Sir Malcolm Halley: The replies of all the Local Governments have not yet been received but it is expected that all replies will soon be complete and Government intend taking up the case without delay.

Mr. Jamnadas Dwarkadas: Are the replies of the Local Governments likely to be received while this Assembly is in session? If so, will the Government lay the replies on the table?

The Honourable Sir Malcolm Halley: As regards the first part of the Honourable Member's question, the Honourable Member might perhaps get more certain information from the local Governments who will send the replies, than from us who receive them. I cannot say at this stage whether they will be laid on the table or not. I must remind the Honourable Member that it was a confidential circular addressed to local Governments; he may draw some indications from that reply of how far it is possible that the replies should be laid on the table.

Mr. Jamnadas Dwarkadas: One more question. The Circular was sent as a result of a Resolution moved in the Assembly, and the amendment suggested by the Honourable Home Member was accepted on the ground that the opinions of the local Governments should be invited; and I thought that they should be made known to the Members of the Assembly.

The Honourable Sir Malcolm Halley: It does not necessarily follow. However, as I have told the Honourable Member, I can give no definite reply; and I hope that he will not at this stage of the proceedings try to bind me down to any definite course of action. Such action can of course only be settled after due consideration by the Government of India when the replies have been received.

SHIPPING COMMITTEE—NON-APPOINTMENT OF.

70. *Mr. Jamnadas Dwarkadas: (a) Are the Government aware that considerable dissatisfaction has been produced as a result of the non-appointment of a Shipping Committee this cold weather in spite of the fact that

a resolution on the subject was moved so early as January by Sir Siva-swamy Aiyer and accepted by the Government?

(b) Will they be pleased to state whether it is still their intention to carry out this recommendation at an early date?

The Honourable Mr. C. A. Innes: (a) As the Honourable Member knows a supplementary grant was necessary and it was obtained last September. Since then considerable difficulty has been experienced in getting gentlemen to serve on this Committee.

(b) I hope to be able to make an announcement in the course of the next few days.

Mr. K. Ahmed: (Inaudible.)

The Honourable Mr. C. A. Innes: Will the Honourable Member repeat his question. I did not catch him.

Mr. K. Ahmed: (Inaudible.)

The Honourable Mr. C. A. Innes: I am afraid I must ask the Honourable Member to put his question in writing.

MR. KEATINGE'S DISSENT TO REPORT OF BRITISH GUIANA DEPUTATION.

71. ***Mr. Jumnadas Dwarkadas:** (a) Will the Government be pleased to state whether it is a fact that Mr. Keatinge's minute of dissent to the report of the British Guiana Deputation was sent direct to the Government of India and not, as in the usual manner, through the Chairman of the Deputation?

(b) If the answer to (a) be in the affirmative, will they be pleased to explain whether there were any special circumstances to justify this departure from normal procedure?

Mr. J. Hullah: (a) Mr. Keatinge has neither signed the Report drafted by his Indian colleagues nor written a minute of dissent. He has submitted a separate minority report to the Government of India through the India Office.

(b) His reasons for adopting this procedure were as follows. In spite of the instructions of the Government of India that in order to prevent delay and facilitate agreement the Indian members of the delegation should remain in England till the report had been drafted and signed. Diwan Bahadur Kesava Pillai and Mr. Tewari left the country without even agreeing to draw up and sign a Memorandum of conclusions as a basis on which the report could be drafted. A draft report was prepared by the Indian members in this country and forwarded by them in September to Mr. Keatinge for signature with a request that he would make any corrections or suggestions of a verbal nature and append any notes of dissent that he wished to write. Mr. Keatinge found that there were many statements and opinions with which he could not agree. Owing to the impossibility of conferring personally on the points at issue, he declined to sign the report. During the period of six months which elapsed between the departure of the deputation from British Guiana and his receipt of the draft report, Mr. Keatinge, who was due to leave England for Rhodesia in October, prepared, with the approval of the India Office an independent report, while the results of the enquiry were fresh in his memory, for use in case he should find himself unable to sign the main report. It is this report that he has now submitted to the Government of India.

Mr. Jamnadas Dwarkadas: Can the Honourable Member cite a precedent where a member of a Commission has submitted a minute of dissent without letting it go through the Chairman of the Commission?

• **Mr. J. Hullah:** I cannot recall any instance.

DOOR-KEEPER IN BOMBAY PORT ESTABLISHMENT.

72. ***Mr. Manmohandas Ramji:** Will the Government be pleased to state why is it found necessary to maintain one European Door-keeper in the Bombay Port Establishment?

The Honourable Mr. G. A. Innes: The Government of Bombay consider that a European Door-keeper is absolutely essential. Hundreds of seamen, European, African and Indian attend the office daily and are not easy to control. In fact when the late incumbent of the post died and before the vacancy was filled, the police had constantly to be called in to keep order.

DRAWING OFFICE, GOVERNMENT OF INDIA SURVEY.

73. ***Mr. Manmohandas Ramji:** Will the Government be pleased to state:

(a) why six European Draftsmen are maintained in the Drawing Office at Simla, under the Government of India Survey?

(b) whether there is any difficulty in obtaining Indians to do those duties?

Mr. J. Hullah (a) Six British non-commissioned officers have been maintained in the Drawing Office at Simla since 1911, when this section was transferred to the Survey of India from the General Staff Branch, because they were found to be in regard to quality of outturn the cheapest agency available. The technical skill of Indian *ex*-soldier surveyors is not sufficiently high to enable them to turn out work of the standard demanded with the rapidity of execution which is essential to military requirements.

(b) The question of employing either Indian *ex*-soldier surveyors or Indian members of the Survey of India in this Office is again under consideration, and one post of European draftsman, which has fallen vacant has been kept unfilled pending a decision.

COUNCIL CHAMBER, LUCKNOW.

74. ***Lala Girdharilal Agarwala:** (a) Have the Government noticed a paragraph in the *Pioneer* of Allahabad, dated 30th November, 1922, at page 1, column 3, regarding the Council Chamber at Lucknow, the foundation of which is proposed to be laid by His Excellency the Governor of the United Provinces on the eve of his departure?

(b) Have the Government any power of control over Provincial Governments in such a case?

(c) If the reply be in the affirmative, will the Government be pleased to state what action if any, have they taken or propose to take in the matter?

• **The Honourable Sir Malcolm Hailey:** (a) Yes.

(b) and (c) The expenditure of funds on the erection of a Legislative Council Chamber is expenditure on the transferred subject of Public Works

and the question is therefore one for the local Government and its Legislative Council to determine. I would invite a reference by the Honourable Member to the powers of control vested in the Governor General in Council in relation to transferred subjects which are retained by Devolution, Rule 49.

ALLOCATION OF EXPENDITURE ON INDIA OFFICE.

75. ***Mr. K. C. Neogy:** (a) Will Government be pleased to state the details of the allocation of expenditure on the India Office, between India and the British Treasury, under the Government of India Act, 1919?

(b) Is it a fact that it was arranged that for a period of five years from the 1st April, 1920, the British Treasury should make to the India Office an annual lump sum contribution of £136,000 in addition to the salaries of the Secretary of State and the Parliamentary Under-Secretary, making a total of £142,500 per annum?

(c) Is it a fact that, as stated at page 96 of the Second Interim Report of the Committee on National Expenditure (Geddes Committee), in spite of the said arrangement, India has voluntarily offered to accept a reduced grant of £120,000 for 1922-23, and this offer has been accepted?

(d) If answer to clause (c) be in the affirmative, will Government be pleased to state when and on what grounds was this offer made on behalf of India, and to lay on the table a copy of the communication addressed to them in conveying the said offer?

The Honourable Sir Basil Blackett: Before I answer this question, I should like, with your leave and with the leave of the House, to express my sincere thanks for the very kind and flattering welcome which was extended to me yesterday. I should not have myself let 24 hours elapse had I realized that none of my questions would be reached yesterday. It is a great encouragement to be received in your midst as I was received yesterday, but my natural optimism, great as it is, will not rise to the idyllic picture of every Member of the House agreeing with every other Member and with the Finance Member on revenue and expenditure, or of a Finance Member who is loved by all. Nonetheless I look forward with great pleasure to sharing the labours of this House with them and facing with them the many financial problems which confront India at the present time: and I take the words that were spoken as an augury that, while we may sometimes perhaps differ after all on some points of detail, we shall all work together with one object, that is, to serve India.

(a) and (b) The arrangements under section 30 of the Government of India Act are as follows:

- (1) The salaries of the Secretary of State and the Parliamentary Under Secretary, amounting to £6,500 a year are borne by His Majesty's Treasury and included in the Home Civil Service vote.
- (2) The Treasury makes to the India Office an annual contribution equivalent to that part of the total estimated cost of the India Office (exclusive of the salaries of the Secretary of State and the Parliamentary Under Secretary) which is attributable to the administrative, as distinct from the agency, work of the Office.
- (3) Of this annual contribution, a sum of £40,000, which the Treasury was contributing towards the cost of the India Office

previous to the Government of India Act of 1919, in accordance with the recommendations of the Welby Commission, does not take the form of a direct payment, but has been indirectly allowed for in adjustments between the two departments in respect of certain divisible charges.

The direct contribution by the Treasury, *i.e.*, exclusive of the salaries of the Secretary of State and the Parliamentary Under Secretary and of the indirect contribution of £40,000 was fixed in 1920 at £90,000 a year for the period of five years from 1st April, 1920. It was subsequently raised with the concurrence of the Treasury to £136,000 a year. Contributions were made at the latter rate for the years 1920-21 and 1921-22.

(c) and (d) In pursuance of their policy of retrenchment in public expenditure the Treasury asked in 1921 that the above agreement should be modified in view of the reduction then anticipated in the cost of the India Office, as compared with the cost on which the contribution was previously fixed. The Secretary of State agreed to accept a contribution of £113,500 per annum (exclusive again of the salaries of the Secretary of State and the Parliamentary Under Secretary and of the indirect payment of £40,000) for 1922-23, 1923-24 and 1924-25 on the Treasury undertaking that no further reduction would be pressed for. The latest estimates for 1922-23 show that the direct contribution should have been about £122,000 for that year, the economy and reduction of staff anticipated by the India Office not having been fully realised. The provisional estimate of India Office expenditure for 1923-24 shows, however, a reduction of £20,000 in the above figure and this, together with the anticipated further reduction in 1924-25, should enable the deficiency in the contribution for 1922-23 to be fully recouped.

GRANTS REJECTED BY LOCAL LEGISLATIVE COUNCILS.

76. ***Mr. K. O. Neogy:** With reference to the answer to my starred question No. 40 of the 6th September, 1922, will Government be pleased to state the result of their examination of the extent of the authority of the Governor General in Council to instruct a Governor in regard to the exercise of his statutory powers for the restoration of grants rejected by the local Legislative Council?

The Honourable Sir Malcolm Hailey: The matter is still under consideration.

BILL RELATING TO EMPLOYMENT OF FIREARMS FOR DISPERSING ASSEMBLIES.

77. ***Mr. K. O. Neogy:** Will Government be pleased to state their intention with regard to the " Bill to provide that, when firearms are used for the purpose of dispersing an assembly, preliminary warning shall, in certain circumstances be given ", which was passed by the Council of State on the 19th September, 1921, withdrawn from the Legislative Assembly on the 28th September, 1921, and stated by Sir William Vincent on the 6th February, 1922, to be still under consideration of Government?

The Honourable Sir Malcolm Hailey: The Bill has been withdrawn because further examination has shown that it is not possible to provide satisfactorily by legislation for a principle which has hitherto been regulated by executive orders not only in India but also in England.

Mr. K. Ahmed: Is it a fact that in England 24 hours before firing takes place a proclamation is read that the mob must disperse?

The Honourable Sir Malcolm Hailey: No, Sir, it is most emphatically not the case.

Mr. N. M. Joshi: May I ask whether the executive order has been issued in regard to this question?

The Honourable Sir Malcolm Hailey: If I am correct, the discussion in the Council of State will show what executive orders have issued in this respect.

Mr. K. Ahmed: Isn't it stated in the text-books of constitutional law in England that firing will only take place after a lapse of certain time which is generally notified in a public place warning people to disperse within a certain time?

The Honourable Sir Malcolm Hailey: No, Sir, that again is quite inaccurate.

Mr. K. O. Neogy: How is it that this particular point as to the undesirability of having legislation of this character was not examined before the Bill was actually introduced and passed in the Council of State?

The Honourable Sir Malcolm Hailey: I think, Sir, that if Sir William Vincent was still here he would be better able to reply to that question than I.

WITHHOLDING OF PRESS TELEGRAMS.

78. ***Mr. K. O. Neogy:** (a) Will Government be pleased to refer to the answer to Unstarred Question No. 211 asked in the Bengal Legislative Council on the 31st August, 1922, and state the number of Press Telegrams offered for booking at the Barisal Telegraph Office by the accredited correspondent of the Associated Press of India and certain daily newspapers, that were refused to be sent or withheld by the Telegraph Master during the last two years?

(b) What is the total number of Press telegrams similarly refused or withheld in all the other places in the province of Bengal during the same period?

(c) Is it a fact that at Barisal no action was taken under section 5 (b) of the Indian Telegraph Act empowering censorship of telegrams under orders of the local Government, but that the Telegraph Master purported to act under clause 374 of the Post and Telegraph Guide which requires telegraph offices to refuse to accept any telegram which may be of a decidedly objectionable or alarming character?

(d) Is it a fact that the Telegraph Master of Barisal used to submit all Press telegrams to Mr. P. H. Waddel, I.C.S., the then District Magistrate, for censorship, and acted entirely under his instructions in this matter?

Colonel Sir Sydney Crookshank: (a) and (b) Telegraph Offices are required to report by telegram to the Postmaster-General concerned the fact of any telegram being refused or withheld and to forward a copy of the objectionable message to the Postmaster-General by post. But no separate record of such telegrams is maintained and the information required is consequently not available. The departmental rules require that the sender should be informed when transmission of a telegram has been withheld. If the withholding office has acted irregularly or indiscreetly, the Postmaster-General is empowered to take necessary action. If the Honourable Member

will give details of any instance in which a telegram is considered to have been improperly refused or withheld, the necessary enquiries will be made.

(c) Clause 374 of the Post and Telegraph Guide is for the information of the public. Telegraph Offices act under rule 15 of the Statutory Rules made by the Governor General in Council under section 7 of the Indian Telegraph Act and published in the *Gazette of India* dated September 18th, 1909.

(d) Under the Statutory Rule quoted above, the head of the Telegraph Office at Barisal was required, if the character of a telegram was open to doubt, to refer the telegram to the District Magistrate at Barisal and to act under his instructions.

Mr. K. Ahmed: In this particular question, Sir, I do not understand how they say they are 'decidedly objectionable and alarming in character,' in (c) and (d)?

Colonel Sir Sydney Crookshank: Sir, I do not quite follow what information the Honourable Member requires me to give him.

Mr. K. Ahmed: See the last line, Sir, of the paragraph 'decidedly objectionable or alarming in character.' Will you kindly discuss the justification for withholding them?

Colonel Sir Sydney Crookshank: Sir, that would be a matter of opinion.

GOVERNMENT STORES IMPORTED FROM ENGLAND.

79. ***Mr. Manmohandas Ramji:** Will the Government be pleased to state,

- (a) what arrangements as regards freight are in existence at present to bring Government stores from England to India?
- (b) whether there is any contract?
- (c) if so, with which line of steamer?
- (d) at what rate?
- (e) if there is no existing contract, whether they have considered or propose to consider the question of inviting tenders?
- (f) if there is no existing contract, what is the average rate of freight paid last year?
- (g) whether Government has considered the advisability of entrusting this work to an Indian Steamship Company? and
- (h) if not, whether they propose to consider the question now?

Mr. A. H. Loy: (a), (b), (c), (d) and (e) The attention of the Honourable Member is invited to the discussions which took place in the Council of State on the 15th March, 1922, in connection with a Resolution moved by the Honourable Mr. Lalubhai Samaldas on this subject. The system on which arrangements are made for the carriage of Government stores from England was fully described by the Honourable Mr. Lindsay in reply to that Resolution. There is no standing contract with any particular line of steamers and tenders are, as a matter of fact, invited on each occasion. Further particulars of the procedure followed are described in paragraph 9 of Appendix E to the Stores Purchase Committee's Report.

(f) The attention of the Honourable Member is invited to the reply given to the question asked by the Honourable Mr. Lalubhai Samaldas in the

Council of State on the 23rd March, 1922. Government have not the figures of the average freight rates paid during the last year. These rates are variable not only week by week, but also according to the nature of the material to be carried: they are, however, nearly always considerably below the open market rates.

(g) and (h) In a letter dated the 13th April 1922 Government communicated to the High Commissioner for India the Resolution which was carried in the Council of State on the 15th March, 1922, and instructed him specially to give Indian Shipping Companies opportunities of tendering for the carriage of Government Stores, where possible.

RAILWAY RISK NOTES.

80. ***Mr. Manmohandas Ramji**: Will the Government be pleased to state whether their attention has been drawn to the remarks made by Mr. Justice Stuart about railway risk notes in a recent appeal case before the Allahabad High Court, in which 184 bags of wheat flour sent by Lala Banarsi Das, proprietor of B. D. Flour Mills, from Ambala to Ballia, were concerned?

Mr. O. D. M. Hindley: The reply is in the affirmative.

The Honourable Member is aware that the Committee, appointed to consider the revision of Railway Risk Note Forms of which he was a Member, has submitted its report, copies of which have been placed in the Library. The recommendations of the Committee are under the consideration of the Government of India.

Mr. K. Ahmed: In view of the remarks which have fallen from the mouth of that distinguished judge Mr. Justice Stuart of Allahabad High Court, do Government propose to give effect to it in all other cases?

Mr. O. D. M. Hindley: I have already explained that the matter has been dealt with by the Committee and the recommendations of the Committee are under the consideration of Government.

APPOINTMENTS TO INDIAN MEDICAL SERVICE ON SPECIAL TERMS.

81. ***Rai Bahadur Bakshi Sohan Lal**: (1) Will Government be pleased to state how far is it correct that it is proposed to appoint 80 Europeans in the Indian Medical Service on special terms which include the right to retire on a gratuity of £1,000 with free return passages on the completion of five years service if they no longer desire to remain in the service?

(2) If so, will the Government be pleased to lay on the table for the information of this Assembly the proposal on the subject together with the legal authority for the same and all the correspondence between the Government of India and the Secretary of State which has led to the proposal?

(3) Will the Government be pleased to state:

- (a) for whose special benefit and at whose application or suggestion this special form of Indian Medical Service reserved for Europeans exclusively is to be introduced in this country,
- (b) whether any Indian or Anglo-Indian holding equal or higher qualifications is eligible for this service,
- (c) from what date men belonging to this service are to be engaged and whether they are to be engaged under the Covenanted

Indian Medical Service Regulations or under special contracts to be entered into with each individual?

(4) Whether it is proposed to obtain the sanction of any of the Indian or Provincial Legislatures in the matter before it is enforced in India.

(5) Whether the cost of this special Indian Medical Service is to be borne by the Indian Exchequer or by any European Exchequer.

Mr. E. Burdon: (1) The facts are as stated by the Honourable Member in this part of his question. The gratuity of £1,000 which is to be paid if the officer ceases to remain in the service after 5 years, will be in lieu of pension.

(2) The Government of India do not propose to lay the correspondence on the table. No special legal authority for the measure is required.

(3) (a) and (b) No special Indian Medical Service is being introduced. The measure which forms the subject of the Honourable Member's question is designed purely and simply to remedy the very serious deficiency in current recruitment of European officers for the Indian Medical Service.

(c) Officers will be selected and engaged under the special terms mentioned in the first part of the Honourable Member's question, as candidates present themselves. Apart from these special terms, the officers appointed will serve under the Indian Medical Service regulations as regards pay, allowances, etc.

(4) The answer is in the negative.

(5) The cost of these 30 officers for the Indian Medical Service, if obtained, will be borne by Indian revenues and will be met from the normal provision for expenditure on the service. They will be within the authorised cadre.

Mr. T. V. Seshagiri Ayyar: Why was it considered necessary to dispense with the ordinary examination in recruiting for this year?

Mr. E. Burdon: Because candidates were not forthcoming.

Rao Bahadur T. Rangachariar: Were the Ministers in charge of this Department consulted in this matter?

Mr. E. Burdon: Questions of recruitment do not come before the Ministers.

Rao Bahadur T. Rangachariar: Were they consulted?

Mr. E. Burdon: No.

Mr. T. V. Seshagiri Ayyar: If it was considered that by examination the Government would not be able to get a large number of men from England, why did they not have recourse to filling these posts by qualified men in this country and why should they have gone to England to recruit men without examination?

Mr. E. Burdon: As I have already explained, the sole reason for the measure was the necessity to remedy the very serious deficiency in current recruitment of European officers for the Indian Medical Service.

Mr. K. C. Neogy: Is there any fixed maximum proportion for Indians in the permanent cadre of the service?

Mr. E. Burdon: No; not at the moment, but I may mention that during the past 4 years 91 Indian officers have been appointed to the Indian Medical Service and 59 European officers.

Mr. K. O. Neogy: Will the Honourable Member refer to question No. 170 of the 15th of September 1921 and Question No. 485 of the 21st of September 1921 in reply to which it was stated that the question of fixing the maximum proportion for Indians in the permanent cadre was under the consideration of the Government of India and the Secretary of State. I want to know what has happened with regard to that matter.

Mr. E. Burdon: The matter is still under consideration.

Mr. K. O. Neogy: Is the Honourable Member aware that in reply to Question No. 485 of the 21st September 1921 it was stated that the policy of the Government of India is towards the liberal employment of Indians in the Indian Medical Service? How far has the present recruitment of Englishmen by nomination been in conformity with that principle?

Mr. E. Burdon: As I stated a few moments ago, in the last four years, 91 Indian officers and 59 European officers have been appointed to the Indian Medical Service.

Mr. K. O. Neogy: That adds nothing to my knowledge, I am afraid.

Mr. Harchandrai Vishindas: Is it not a fact that these 91 Indian officers were appointed as a special measure during the war and some of these officers have now been done away with?

Mr. E. Burdon: No. The 91 officers whom I mentioned have been given permanent Commissions in the Indian Medical Service. They are quite distinct from those temporarily employed in the Indian Medical Service, the number of whom is much greater.

Sir Deva Prasad Sarvadhikary: Will the Government state what their reasons were for giving these special terms, apart from the question of candidates not presenting themselves in sufficient number? Were there any special reasons why these markedly special terms had to be offered?

Mr. E. Burdon: It was merely a question of the market rate which it is necessary to give in order to obtain the officers.

Mr. B. S. Kamat: Were these appointments made with the full concurrence of the Government of India?

Mr. E. Burdon: The facts have already been fully stated.

Mr. K. B. L. Agnihotri: How long will this matter about the proportion of Indians in Indian Medical Service appointments be under the consideration of the Government.

The Honourable Sir Malcolm Hailey: Until we arrive at a decision.

Mr. N. M. Samarth: Is the beginning of the end of the consideration in view?

The Honourable Sir Malcolm Hailey: Of course the beginning is in view.

FOREST COLLEGE AT DEHRA DUN.

82. ***Mr. Jamnadas Dwarkadas**: Will the Government be pleased to state what action, if any, has been taken to give effect to the recommendation of the Legislative Assembly for the development of the Forest College at Dehra Dun into a Research Institute for higher education in Forestry?

Mr. J. Hullah: The recommendation of the Legislative Assembly has been communicated to the Secretary of State and is under the consideration of the Government of India.

AMENDMENT OF CODE OF CRIMINAL PROCEDURE.

83. ***Lala Girdharilal Agarwala**: (a) Has the attention of the Government been drawn to the decision of the Hon'ble Mr. Justice Stuart of the Allahabad High Court reported in the Allahabad Law Journal, Volume 20, page 909, Narain Prasad Nigam *versus* Emperor?

(b) Do the Government propose to amend the Code of Criminal Procedure so that the powers of the High Court may be extended in cases of revision and the High Court may interfere when totally wrong or illegal sentence or order is passed by a subordinate Court, although the High Court is moved by a person not party to the proceedings, as is the case of 55 Congress people referred to in the ruling of the High Court mentioned above?

The Honourable Sir Malcolm Hailey: (a) Yes.

(b) The Honourable Judge who decided the case in question did not find, as appears to be suggested by the question of the Honourable Member, that it was not possible for a High Court in the exercise of its powers of revision to interfere unless moved by a party to the proceedings with a totally wrong or illegal sentence or order. He found in fact that—I quote his words here—'there is nothing to show me that there has been any miscarriage of justice' and that it was—I quote again from the order in the case—'perfectly clear that under the very extensive powers contained in section 435 I can call for and examine the record of proceedings if the necessity for doing so has been brought to my notice in any manner.' In these circumstances the Government of India think that the decision affords no ground whatsoever for the amendment of the law in the direction suggested by the Honourable Member.

REPORT OF ARMS ACT COMMITTEE.

84. ***Dr. H. S. Gour**: (1) Will the Government be pleased to state when the Report of the Arms Act Committee will be published?

(2) And whether before taking any action an opportunity will be afforded to this House to express its opinion thereon?

The Honourable Sir Malcolm Hailey: 1. The Report will be published on the 20th January 1928.

2. Government do not propose to give any official time to the discussion of this report, but it is open to Honourable Members to call attention to any of its features by question or resolution.

IMPERIAL LIBRARY, CALCUTTA.

85. *Dr. H. S. Gour: (1) Will the Government be pleased to state whether it is a fact that the contents of the Imperial Library, Calcutta, are reported to be irretrievably perishing owing to the influence of climate there-upon?

(2) If so, what action does the Government propose to take to save them?

(3) Is the Government aware that a proposal has been made to transfer the Library to Delhi or some other more salubrious centre?

(4) Is the Government aware that the Library is maintained out of funds voted by the Legislative Assembly?

(5) Will it state what facilities do Members of this House enjoy in obtaining books from the Library for consultation?

(6) How many books were sent out from the Library to persons residing out of Calcutta?

(7) Is it a fact that the Library is scarcely patronized by any readers and that it does not serve the purpose of justifying its continuance as a charge upon the Imperial Revenues?

The Honourable Mr. A. C. Chatterjee: (1) and (2) The climatic conditions of Calcutta, as of most places in the tropics and sub-tropics, are bad for paper, and several of the older books in the Imperial Library have perished through decay. The same fate has befallen an old library at Meerut. The Government of India have the matter under scientific enquiry. Meanwhile every effort is made by careful supervision to curtail the damage.

(3) No such proposal is under consideration.

(4) The expenditure on the Imperial Library is voted expenditure.

(5) There are no special rules for Members of the Legislative Assembly. They enjoy the same rights and privileges in the matter of obtaining books as the general public.

(6) In the year 1918-19, 3,658 books were lent to the general public. Further or later information is not readily available.

(7) The answer is in the negative. The number of readers in the Imperial Library during the quarter ending 31st March 1922, was 11,445.

Mr. K. C. Neogy: Will the Honourable Member inquire from the Vice-Chancellor of the Delhi University as to what his experience is regarding the climatic effects of Delhi upon the books in the Delhi University Library which does not yet exist?

Mr. J. Chaudhuri: Is the Honourable Member aware that there is a department of the Bengal Government called the Bengal Historical Records, and also a department of the Government of India called the Imperial Record Department where records from the year 1773 are being preserved, and they are in good condition, and they are now being exhibited by the Asiatic Society?

The Honourable Mr. A. C. Chatterjee: I am aware of the existence of the two Departments, but I cannot say anything about the exact condition of the records.

Mr. J. Chaudhuri: May I ask a question? Is it not a fact that the Imperial Library was originally called the Calcutta Public Library, and the building in which it was accommodated was called Metcalfe Hall, and the Library was founded and the building erected by citizens of Calcutta as a memorial to Sir Charles Metcalfe who was Governor General of India in 1835 and Governor of Bengal also, and Lord Curzon took it over for the purpose of maintenance, and that the Government of India is only in the position of trustee with regard to the Library? Is he also aware that it is sadly wanting in accommodation?

The Honourable Mr. A. C. Chatterjee: May I ask whether I am expected to remember such a long question in order to answer it?

Mr. J. Chaudhuri: It is a fact which ought to be in the knowledge of the Education Member that it was the Calcutta Public Library and was taken over by Lord Curzon. That is in the Government of India records and the Education Member ought not to be ignorant of it.

Mr. K. C. Neogy: May I ask whether the Department of Education will ascertain from the citizens of Calcutta whether they would be willing to take back the Library?

Mr. J. Chaudhuri: Did I not show him (the Education Member) a letter from the Education Minister of Bengal saying that he was willing to take over the Library if the Government of India would transfer it?

(No reply was given.)

Mr. J. Chaudhuri: Am I not entitled to an answer?

Mr. K. C. Neogy: Will the Honourable Member inquire from the Vice-Chancellor of the Delhi University as to whether the Delhi University is expected to provide in Delhi a reading public much wider than exists in Calcutta?

Mr. J. Chaudhuri: Sir, I am entitled to an answer as to whether the Government of India are willing to transfer the Library to the Government of Bengal if the Government of India are not going to maintain it and provide additional accommodation for the Library. It is for want of accommodation that the books are suffering.

The Honourable Mr. A. C. Chatterjee: Sir, I have already said that no proposal for the transfer of the Library is under consideration. I do not know what led the Honourable Member to make the long speech which he has delivered. If the Government of Bengal offer to take the Library over, the matter will certainly be considered.

Mr. K. Ahmed: Sir, in view of the fact that there is no attraction for the Imperial Library, will the Government take proper steps to keep a Librarian at a moderate salary, say 250 rupees per month?

Mr. J. Chaudhuri: May I ask whether it is not a fact that books were lying in the godowns of Messrs. Thacker Spink for a number of years because there was not enough accommodation in the Imperial Library at Metcalfe Hall. If it is within the knowledge of the Honourable Member will he provide additional accommodation?

The Honourable Mr. A. C. Chatterjee: The answer is in the negative.

Mr. B. S. Kamat: When this Imperial Capital of Delhi is fully built up, will the Government consider the advisability of transferring this Imperial Library from Calcutta to Delhi?

The Honourable Mr. A. C. Chatterjee: The matter will be considered in due course.

Mr. J. Chaudhuri: The Government of India are only the trustees of the Library.

FACILITIES FOR STUDY OF MUSIC.

86. ***Dr. H. S. Gour:** (1) Is the Government aware that there is no facility for the study of music in this country?

(2) Is it aware that the faculty of music finds a place in almost all important universities of the United Kingdom such as Cambridge, Oxford and London?

(3) Is it aware that it was intended to open a faculty of music in connection with the University of Delhi?

(4) If so, will the Government be pleased to give effect to its intention?

The Honourable Mr. A. C. Chatterjee: (1) If, as appears to be the case, the question refers to the study of music in Indian Universities the answer is in the affirmative.

(2) Yes.

(3) and (4) It is for the authorities of the University, after considering its financial position, to take the initiative in this matter by submitting the necessary amendment to the statutes. Any such proposal will receive consideration.

DELAY IN PUBLICATION OF INDEX OF DEBATES.

87. ***Dr. H. S. Gour:** (a) Is the Government aware that inconvenience is caused to Members of this House by the fact that the Index to the Debates is not published for months after conclusion of the session?

(b) Is it aware that the Index to the September Debates was not published till December 5th when this question was sent in?

(c) Do the Government propose to take steps that the Title page and Index are got ready to be issued with the last number of the Debates or as soon thereafter as possible?

The Honourable Sir Henry Moncrieff Smith: (a) Government is not aware of any real inconvenience caused to Members of this House. There has hitherto been no complaint on the subject.

(b) Yes.

(c) Every endeavour is being, and will be, made to publish the Index as early as possible. Government recognise that there is room for some improvement.

DEVELOPMENT OF RAILWAYS.

88. ***Dr. H. S. Gour:** (1) Has the attention of Government been drawn to a statement reported to have been made in the course of his speech on unemployment in the House of Commons by Sir L. Worthington-Evans to the effect that 'it was possible to spend usefully anything between 80 and

50 millions pounds in developing and improving Railways in India, which would bring Britain enormous direct employment'?

(2) (a) Will the Government state to what development and improvement of the Railways does this statement allude?

(b) And whether it does not refer to the expenditure in England of the 80 crores of rupees voted by this House for the betterment of the Indian Railways?

(3) Will the Government state how much of this 80 crores has been spent and upon what objects, and how much of it has been spent in making purchases in England?

The Honourable Mr. C. A. Innes: (1) Yes.

(2) (a) and (b) The Government have no exact information. They were not consulted before the statement referred to was made. Sir L. Worthington-Evans is probably aware that Rs. 80 crores a year have been earmarked for the rehabilitation of Indian Railways and the Government of India presume that in the course of the debate he threw out a suggestion that it might help to relieve the problem of unemployment if arrangements could be made whereby the development of railways in India could be further facilitated.

(3) The Honourable Member is referred to the Demand Statement of Capital Expenditure for 1922-23 (Appendix C to the Demands for Grants) presented to the Assembly in March last. The actual expenditure follows the Demand Statement as far as circumstances permit. The total expenditure against capital and revenue works incurred up to the end of September last is Rs. 946 lakhs. Of this amount, roughly £4 million is in respect of purchases made in England and of this £4 million it is estimated that about £2 million is expenditure against the capital grant.

EMPIRE CONFERENCE.

89. ***Dr. H. S. Gour:** (a) Will the Government be pleased to state what is the object of the proposed Empire Conference?

(b) When will it be held?

(c) And will India be represented thereon?

(d) If so, will any of its cost be chargeable to the revenues of India?

The Honourable Mr. C. A. Innes: (a) The intention is that the proposed Imperial Economic Conference should study the possibility of co-operation in the development of the resources of the British Empire and the strengthening of economic relations between its constituent parts.

(b) As far as the Government of India are aware, nothing definite has yet been decided.

(c) The Government of India have informed the Secretary of State that if other Dominions agree to the proposed Conference India will also agree to take part.

(d) The question of cost has not yet been considered.

Mr. T. V. Seshagiri Ayyar: If a representative from India is appointed, will he be appointed after consultation with the Legislative Assembly?

The Honourable Mr. C. A. Innes: That question will require consideration.

COUNCIL OF STATE AND RESERVING OF COMPARTMENTS.

90. ***Dr. H. S. Gour**: Will the Government be pleased to lay on the table a statement showing the names of the Members of the Council of State and the amounts drawn by them on account of reserved compartments allowed to them, session by session, since the inauguration of the Council of State?

CHARGES OF MEMBERS OF INDIAN LEGISLATURES.

91. ***Dr. H. S. Gour**: Will the Government be pleased to lay on the table a statement showing the amounts drawn by Members of the Council of State and of the Legislative Assembly on account of travelling and halting allowances paid to them, session by session, since the inauguration of the reformed Councils, and for their attendance on the various committees?

The Honourable Sir Henry Moncrieff Smith: The information required is being collected and will be laid on the table in due course.

MR. ANDREWS' SPEECH AT ALL-INDIA RAILWAYMEN'S CONFERENCE REGARDING COMFORTS OF 3RD CLASS PASSENGERS.

92. ***Rai Bahadur Lachmi Prasad Sinha**: (a) Has the attention of Government been drawn to the presidential speech of Mr. Andrews (as published in *The Tribune*, dated the 26th November 1922), at the second All-India Railwaymen's conference?

(b) If so, will the Government be pleased to state what steps have been or are being taken to increase the comforts of third class passengers?

(c) Will the Government be pleased to state when was the present pay of the menial staff of Railways fixed and whether Government propose to take any action to ameliorate their hardships.

Mr. C. D. M. Hindley: (a) Yes.

(b) Information on this point will be found in the Administration Report for 1921-22, copies of which have been placed in the Library.

(c) The pay of most of these servants was revised in 1920 and the wages bill in respect of this class has gone up 75 per cent since 1913-14. Apart from pay proper railway menials get free quarters, free passes, free medical attendance, etc., and in some cases free clothing.

EMPLOYEES ON NORTHERN INDIA RAILWAY.

93. ***Rai Bahadur Lachmi Prasad Sinha**: (a) Is it a fact that Government employ on principle a larger proportion of Anglo-Indians and Europeans on Northern Railways for strategical purposes of defence?

(b) If the answer be in the affirmative, do Government propose to appoint more Indians, on those Railways in vacancies created by retirement or otherwise of Europeans and Anglo-Indians.

(c) Is it a fact that in both the Traffic and Loco Branches of the Railway staff there are two different grades of pay for Indians and Anglo-Indians? If so, will the Government give reasons for such differences on racial basis?

Mr. C. D. M. Hindley: (a) The reply is in the negative.

(b) The policy of Government is stated in the preamble to the Government of India Act of 1919.

(c) I would refer the Honourable Member to the reply given on the 6th September 1922 to question No. 92 asked by Lala Girdharilal Agarwala.

PROBATIONARY PAY IN SECRETARIAT.

94. *Rai Bahadur Lachmi Prasad Sinha: (a) Is it a fact that Rs. 80 is the minimum probationary pay and Rs. 100 on confirmation for a Lower Division clerk in the Government of India Secretariat?

(b) If so, will the Government be pleased to state the number of Anglo-Indians actually drawing this pay in each of the Departments of the Government of India Secretariat?

The Honourable Sir Malcolm Hailey: (a) Yes, except in the case of girl-clerks who draw Rs. 100 per mensem during probation and Rs. 120 per mensem on confirmation.

(b) The information asked for is given in the statement laid on the table.

Department.	NO. OF ANGLO-INDIANS.		NO. OF EUROPEANS.		TOTAL.	
	On Rs. 80 per mensem.	On Rs. 100 per mensem.	On Rs. 80 per mensem.	On Rs. 100 per mensem.	On Rs. 80 per mensem.	On Rs. 100 per mensem.
Home Revenue and Agriculture	...	1*	...	1*	...	2
Industries	1	...	...	...	1	...
Finance	...	...	...	...	...	...
Legislative	...	...	...	...	...	...
Education and Health	...	...	...	...	...	...
Foreign and Political	...	...	...	...	...	...
Public Works	Nil.	Nil.	Nil.	Nil.	Nil.	Nil.
Commerce	...	...	...	...	...	...
Army	...	...	...	...	...	...
Railway	...	...	...	...	...	...
Military Finance	...	...	...	...	...	...
Total	2	1	...	1	2	2

* Girl clerks.

QUESTIONS REFERRED TO STANDING COMMITTEES.

95. *Rai Bahadur Lachmi Prasad Sinha: Will the Government be pleased to state whether all establishment questions either of selection or of promotions in the Ministerial Staff of the Government of India Secretariats are going to be placed before the respective Standing Committees which have been attached to each of the Departments of the Government of India Secretariat?

The Honourable Sir Malcolm Hailey: The answer is in the negative.

P OF POSTAL SUPERINTENDENTS.

96. *Rai Bahadur Lachmi Prasad Sinha: (1) Is it a fact that the duties of the Superintendents of the Post Offices have considerably increased since

the amalgamation of the Post and Telegraph Offices and that they have been invested with greater power and responsibilities in the matter of postal administration?

(2) Is it a fact that recruitment of such officers is conducted almost in the same way as in the other Provincial Services, i.e., Provincial Educational Service, Excise Service, Income Tax, etc., and that the selection is made from the same class of candidate with similar qualifications?

(3) Is it a fact that the scale of pay of the Postal Superintendents is much below the scale of officers of the Provincial Services; if so, will the Government be pleased to state the reason of such difference?

(4) Is it a fact that a memorial had been submitted by the Superintendents of the Post Offices to His Excellency the Viceroy praying for a revision of the time scale pay of their posts; will the Government be pleased to state what action has been taken thereon?

Colonel Sir Sydney Crookshank: 1. The reply is in the negative. Prior to the amalgamation of the Post and Telegraph Departments, Superintendents of post offices were required to inspect combined post and telegraph offices, and in order to enable them to perform this work efficiently, a short training in telegraphy was made compulsory. With the amalgamation there was no material change in this respect; but they have since been relieved of half of their purely postal inspection. Their duties and powers in respect of postal matters have been revised, but such revision has not added appreciably either to their powers or responsibilities, and will, it is anticipated, decrease their work.

2. For the appointment of Superintendent of post offices the procedure is to fill up half the vacancies in the cadre by the promotion of qualified officials from the subordinate ranks, leaving the remaining half for persons who are recruited direct as Probationary Superintendents. The educational standard required of a candidate for the post of Probationary Superintendent is a university degree or its equivalent. The conditions of service of Superintendents of post offices are not the same as those of other Provincial Services.

3. Superintendents of post offices were formerly on graded rates of pay with Rs. 200 minimum and Rs. 600 maximum. In June 1920, a time-scale of Rs. 250—700 was introduced with retrospective effect from the 1st December 1919 with due regard to the recommendations of the last Public Services Commission and in view also of the increase of pay sanctioned for other services. In April 1921, the matter was very carefully reviewed by Government but it was decided not to make any further improvement in pay. An exact parallel cannot be drawn between Superintendents of post offices and officers of similar position in other Provincial Services.

4. Yes; the Government of India have given careful consideration to the representations and have decided that the scale of pay which was introduced with effect from December 1st, 1919, is adequate.

Rai G. O. Nag Bahadur: Is the Honourable Home Member aware that in my Province of Assam two months ago, while the people were crying for abolition of the Divisional Commissioner, there were in one Division actually two officers working as Commissioners simply because there was no room for one, and the other was expected to come to this Assembly as a Member.

The Honourable Sir Malcolm Hailey: I was not aware of the fact and I am afraid I cannot take it from the Honourable Member without examination; but it is in any case a question for the Assam Government and not for us.

DATES OF GOING ON AND RETURNING FROM LEAVE OF HIGHER GRADE OFFICERS.

97. ***Rai G. C. Nag Bahadur:** Has the attention of Government been drawn to the fact:

- (a) That in those departments of the public service which in the higher grades are officered wholly or mainly by Europeans, the practice is that these officers while going on long leave are allowed to consult their own convenience rather than that of the State as to the date of going on, and returning from, leave;
- (b) That none of these high officials will, if they can help it, ever go on long leave except from the close of the cold weather, nor will any such, if they can possibly help it, return from such leave except at the beginning of the cold weather;
- (c) That as the result of the above practice there is a surplus of officials in every cold weather?

The Honourable Sir Malcolm Hailey: (a) and (b) The fact is not as stated by the Honourable Member. Officers are not allowed to consult their own convenience, and leave cannot be claimed as a right. As far as the Government of India are concerned, leave is only granted with due regard to the public interests and at a time and for periods convenient to the State. The grant of leave is mainly the concern of Local Governments, who may be trusted to exercise a similar discretion.

(c) This fact is not as stated. Recruitment to the public services is so ordered as to provide for the periodical absence of officers on leave. If the Honourable Member will supply me with any facts which would substantiate the imputation contained in this part of his question, in regard to the services under the Government of India, I shall be glad to investigate them; in the meanwhile I can only repudiate it.

REGULATION OF LEAVE RULES OF OFFICERS.

98. ***Rai G. C. Nag Bahadur:** Do Government propose in the interest of economy:

- (a) to insist, as practically all private employers do, on their servants going on, and returning from leave on dates which suit their employers, and which may be so arranged as to prevent overlapping; and
- (b) to guard against such arrangements being upset by the existing practice of the Secretary of State granting extensions of leave, on medical certificate or otherwise, to officers on leave in Europe, to rule that officers who so obtain extensions shall not be allowed to return to duty until such date as the Government, under which they are serving, shall direct, or in the event of their being permitted to return to duty, that they shall continue to draw leave-pay until a vacancy for their re-employment occurs?

The Honourable Sir Malcolm Hailey: (a) The Honourable Member's attention is invited to the reply just given to question No. 97.

(b) Extensions of leave are in practice only granted after the Local Governments concerned have been consulted, except extensions on medical certificate which entail appearance before the Medical Board at the India Office. The further safeguards mentioned by the Honourable Member are not therefore required. The Honourable Member appears to overlook the fact that ordinarily an officer on leave must hold a lien on a post, and that frequently officers are compulsorily recalled from leave.

COBRA ANTI-VENOM.

99. ***Rai G. C. Nag Bahadur:** (a) Are the Government aware that the Cobra anti-venom made at the Pasteur Institute at Saigon, Indo-China, has been developed to a high degree of certainty, and has been saving many lives in that country?

(b) Is it true that the Pasteur Institutes in India are in possession of the Cobra anti-venom? If so, how is it that the knowledge of its use, or even of its existence is not widespread enough to do any substantial good?

(c) Regard being had to the fact that the yearly toll of lives taken by venomous snakes is so very great in India (a hundred people dying in India from snake-bite to one from hydrophobia), do Government propose to see that the Pasteur Institutes in India at Kasauli, Coonoor, and Shillong are enlarged and made to give more attention than they seem to do at present to the manufacture and distribution of the Cobra anti-venom?

The Honourable Mr. A. C. Chatterjee: (a) The Government of India are aware that cobra anti-venine is made at the Pasteur Institute at Saigon, Indo-China, but have no information as to how many lives are saved by the use of this anti-venine.

(b) Pasteur Institutes in India are in possession of cobra anti-venine. This anti-venine in which are combined both cobra and viper anti-venine has been in use in India for nearly 20 years and has been supplied during that period to all large civil and military hospitals which require it.

(c) Anti-venine is prepared for the whole of India at the Central Research Institute, Kasauli, which is at present capable of dealing with all demands. The Government of India have at present a special research officer inquiring into the possibility of reducing the bulk of the anti-venine that has to be administered and of improving the serum so as to make it available throughout India and suitable for use by inexperienced persons.

BIRKMYRE'S CONTRACT—INDIAN STORES DEPARTMENT.

100. ***Mr. Manmohandas Ramji:** Will the Government be pleased to state:

(a) the reason why a commission of Rs. 60,000 is allowed on purchases under Birkmyre's Contract, in Demand 86, for 1922-23, under the head "Indian Stores Department";

(b) the rate of commission,

(c) what the nature of the Contract is, and what is the article for which the contract was made, and

(d) what the total value of the Contract is?

Mr. A. H. Loy: Messrs. Birkmyre have acted since 1919 as the agents and advisers of the Central Government in respect of the purchase of certain classes of textile goods.

(a) The provision represents the amount expected at the time of the preparation of the estimates to be payable to the firm during the current year. Owing to a revision of the contract with the firm and to purchases falling short of anticipation the actual sum payable will be substantially less than the amount provided.

(b) The rate fixed by the original contract was $1\frac{1}{2}$ per cent. on the actual invoiced price of goods supplied through the firm, other than goods manufactured in their own mill, after the deduction of all discounts, rebates and brokerage received by them. Goods manufactured by Messrs. Birkmyre Brothers themselves were, under the original contract, to be supplied to Government free of commission at the rate at which the firm were supplying the outside market at the date of the purchase by Government.

During the course of the current year Government revised the contract with the firm. Under the new terms commission is now payable to the firm at 1 per cent. on articles manufactured from jute by the Calcutta jute mills other than goods manufactured in the firm's own mill on which no commission is paid.

(c) The contract represents a temporary arrangement which was devised to obviate the necessity of employing a Government purchasing staff. It is proposed to review it again when the Indian Stores Department has developed further. Under the original contract the firm arranged for the supply to Government of their requirements in respect of:

- I.—Articles manufactured from jute by the Calcutta jute mills,
- II.—Articles manufactured from flax, hemp and cotton canvas.

Under the revised agreement now in force the firm act as advisers and purchasers for Government only in respect of articles manufactured from jute by the Calcutta jute mills. The other classes of goods covered by the original contract are now obtained in the open market by the Indian Stores Department.

(d) The value of the contract is indefinite and depends on the demands of the consuming Departments of Government. The value of goods purchased through the firm from April to November 1922, inclusive, was Rs. 15,05,184.

URDU FOR INDIAN CIVIL SERVICE EXAMINATIONS.

101. ***Khan Bahadur Sarfaraz Husain Khan:** With reference to the following reply to my question *re*: "Urdu for Indian Civil Service Examination syllabus" No. 57, page 1563 asked in the Assembly on the 16th January, 1922, given by the Hon'ble Sir William Vincent: "The Government of India agree that Urdu is a better term and will convey to the Secretary of State, who frames the rules under Section 97 (1) of the Government of India Act, the suggestion that the term 'Urdu' should be substituted for 'Hindustani'":

(a) Will the Government be pleased to state if the suggestion referred to has been conveyed to the Secretary of State?

(b) If so, has any reply been received?

The Honourable Sir Malcolm Halley: (a) and (b) The term 'Urdu' has been substituted for 'Hindustani' in the regulations.

PILGRIMS DURING THE HAJ SEASON.

102. ***Khan Bahadur Sarfaraz Husain Khan:** Will the Government be pleased to state:

- (a) the number of Indian pilgrims during the last Haj Season?
- (b) the number of such pilgrims as have not returned to India as yet?

The Honourable Mr. A. C. Chatterjee: (a) According to information furnished by the Government of Bombay, 8,575 pilgrims left Bombay and 3,975 Karachi for the Hedjaz during the last Haj season, making 12,550 in all. Of those leaving Bombay 6,953 were from India (including Burma) and Indian States. No information is available from Karachi.

(b) According to figures furnished by the Government of Bombay 11,410 pilgrims returned from the Hedjaz to Bombay and Karachi during the last season. No information is available as to how many of these were Indians. The mere comparison of outgoing and returning figures does not however give a correct indication of the number of pilgrims yet to return since a certain number of pilgrims who do not touch India on the outward journey return this way.

FUND FOR HAJ PILGRIMS.

103. ***Khan Bahadur Sarfaraz Husain Khan:** Will the Government be pleased to state:

- (a) If a fund from the Mohammedan Community for the benefit of pilgrims has actually been started as proposed?
- (b) If so, what amount has been collected and where has it been deposited?

The Honourable Mr. A. C. Chatterjee: (a) Yes.

(b) According to information furnished by the Honorary Secretary of the Central Haj Committee of India, the amount collected up to the 31st December, 1922, is Rs. 32,067-12-6. Out of this Rs. 10,270-11 have already been paid to the British Agency in Jeddah for the repatriation of 359 destitute Indian pilgrims and a draft for a further sum of Rs. 19,394 has also been received for payment from the same Agency on account of the repatriation of 695 additional pilgrims. When this sum has been paid the balance available will be Rs. 2,408-1-6. The funds of the Central Haj Committee have been deposited with the Imperial Bank of India, Delhi.

COMPLAINT OF MR. SAHNEY AGAINST A GUARD.

104. ***Khan Bahadur Sarfaraz Husain Khan:** With reference to the reply given to the question of Mr. Jamnadas Dwarkadas, No. 3, Volume III, page 23, by the Hon'ble Mr. C. A. Innes that "Departmental action has been taken against the guard of the train and the Stationmaster," will the Government be pleased to state as to what was the Departmental action that was taken against the guard of the train and the Stationmaster?

Mr. C. D. M. Hindley: The guard and stationmaster were reduced.

ADMISSION OF INDIANS INTO THE ROYAL AIR FORCE.

105. ***Khan Bahadur Sarfaraz Husain Khan**: With reference to the answer given by Sir Godfrey Fell, to question No. 58 asked by me on the 16th January, 1922, in this Assembly that "no reply has yet been received from the Secretary of State for India":

- (a) Will the Government be pleased to state if the reply has been received?
 (b) If so, will it be pleased to communicate the reply to the Assembly?

Mr. E. Burdon: (a) and (b), No reply has yet been received from the Secretary of State.

"PRINCIPAL PLACE OF BUSINESS" AS USED IN INCOME TAX ACT.

106. ***Khan Bahadur Sarfaraz Husain Khan**: Will the Government be pleased to state whether the question of the interpretation to be placed on the words "Principal place of business" used in the Income-Tax Act is under the consideration of the Government of India?

- (a) If so, will the Government be pleased to state whether they have come to any decision in the matter?
 (b) If so, will it be pleased to state what that decision is?

The Honourable Sir Basil Blackett: The question was considered by the various Committees which dealt with the amendment of the Income-tax Act, 1922, and their recommendations are embodied in section 64 of that Act. Under the provisions of that section where any question arises as to the principal place of business, the question is determined by the Income-tax Commissioner of the province, or where the question is between places in more than one province, by the Commissioners concerned, or if they are not in agreement, by the Board of Inland Revenue. But before any such question can be determined, the assessee must be given an opportunity of representing his views.

LISTED POSTS.

107. ***Khan Bahadur Sarfaraz Husain Khan**: With reference to the reply given to the starred question 141 asked by Rai G. C. Nag Bahadur, in the meeting of the Assembly held on the 6th February, 1922, by the Hon'ble Sir William Vincent that "the Local Government had submitted certain proposals regarding listed posts which were under consideration"—

- (a) Will the Government be pleased to state whether they have come to any decision in the matter?
 (b) If so, will it be pleased to state what that decision is?

The Honourable Sir Malcolm Halley: (a) The answer is in the affirmative.

(b) Two superior posts on the executive side have been notified as open to members of the Assam Civil Service.

GULZARIBAGH STATION PLATFORM.

108. ***Khan Bahadur Sarfaraz Husain Khan**: (a) Are the Government aware that at Gulzaribagh station of the East Indian Railway the platform

is much lower than the foot-board and many people, specially females, and children feel great inconvenience in alighting from the train?

(b) Do the Government propose to consider the advisability of making raised platform on this station for the benefit specially of women and children?

Mr. C. D. M. Hindley: (a) and (b) The general question of providing high level platforms at all stations on Broad Gauge Lines has recently had the careful consideration of Government. They are of opinion that the expenditure involved is so great that at present, with money so difficult to obtain and with so many other works more essentially required to increase traffic facilities, it would not be advisable to embark on the scheme. Railway Administrations provide high level platforms wherever passenger traffic is sufficiently heavy to justify their provision. The convenience of this form of platform for passengers who are old and feeble and for females and children is fully recognised, but Government propose for the present to leave it to the discretion of Railway Administrations to provide high level platforms at stations where the requirements of the passenger traffic justify them.

STEAMER SERVICES BETWEEN JEDDAH AND YAMBOO.

109. ***Khan Bahadur Sarfaraz Hussain Khan:** With reference to the reply given to the starred question No. 247 (b), asked by Haji Wajihuddin in the meeting of the Assembly held on the 6th March, 1922, by Mr. Denys Bray that enquiry will be made whether any Company is prepared to undertake a fortnightly Steamer Service between Jeddah and Yamboo as a commercial value, will the Government be pleased to state whether enquiry had been made; and if so, what is the result?

Mr. Denys Bray: The Government of Bombay were asked to make enquiries, but could find no Steamship Company willing to undertake a service between Jeddah and Yamboo as a commercial venture.

PUSA AGRICULTURAL INSTITUTE.

110. ***Khan Bahadur Sarfaraz Hussain Khan:** With reference to the reply given to the starred question No. 70, regarding the Pusa Agricultural Institute put by Rao Bahadur Lachhmi Prasad Sinha, in the meeting of the Assembly held on 6th September, 1922, by Mr. Hullah that "The information asked for is being collected, and will be furnished to the Honourable Member as soon as possible:

(a) Will the Government be pleased to state whether the information has been collected, and furnished to the Honourable Member?

(b) If so, will Government be pleased to lay the information furnished on the table?

Mr. J. Hullah: (a) Yes.

(b) Our papers containing the information are at present with the Agricultural Adviser at Pusa, on return from him, the papers containing the information will be laid on the table.

BARRISTERS AND VAKILS IN HIGH COURTS.

111. ***Mr. K. C. Neogy:** (a) Have Government ascertained the opinions of the Local Governments, the High Courts, the legal profession and other authorities, in regard to the question of removing all distinctions enforced by statute or by practice between Barristers and Vakils in pursuance of the resolution of this House on the creation of an Indian Bar, or otherwise?

(b) If so, will Government be pleased to publish the said opinions, or circulate them to the Members of the legislature, at an early date?

The Honourable Sir Malcolm Hailey: The Government have received the opinions of the local Governments and others consulted and these opinions are now under consideration. It is hoped the examination of the matter will be concluded without much delay, and the question of placing copies of the opinions received in the Assembly library will then be considered.

CITY CIVIL COURT IN CALCUTTA.

112. ***Mr. K. C. Neogy:** (a) Will Government be pleased to refer to a resolution adopted by the Bengal Legislative Council on the 7th April, 1915, recommending the establishment of a City Civil Court in Calcutta for the trial of suits valued at Rupees ten thousand, or under, which may be instituted within the original civil jurisdiction of the Calcutta High Court; and state whether the said resolution formed the subject of any correspondence between the Government of Bengal and the Government of India?

(b) Is it a fact that in 1902, the Secretary of State suggested the establishment in Calcutta of a Court on the lines of the Madras City Civil Court, and that the Government of India were favourably inclined at that time towards the said proposal?

(c) Will Government be pleased to indicate their present attitude towards this question, particularly in view of the resolution of the Bengal Legislative Council referred to above?

The Honourable Sir Malcolm Hailey: The Resolution referred to was forwarded by the Government of Bengal to the Government of India. The opinions of the Calcutta High Court were obtained by the Government of India and submitted to the Government of Bengal in April 1917. Since then there has been no correspondence on the subject. The matter is one on which the initiative should come from the local Government and Government therefore do not propose to make any statement with regard to (b) and (c) of the question.

REDUCTION IN DELHI PROVINCIAL GRANT.

118. ***Dr. H. S. Gour:** (1) Will the Government be pleased to state how the Assembly's cut of one lakh of rupees in the Delhi Provincial Grant was effected?

(2) Is it a fact that 14 District Board Schools have been closed down during the current year and if so, why?

(3) Will the Government be pleased to state what reductions were made in the Grants-in-Aid to educational institutions in the Delhi Province in consequence of the Assembly's retrenchment?

The Honourable Sir Malcolm Hailey: (1) A statement is laid on the table

(2) 15 newly opened schools were closed by the Delhi District Board through want of funds to maintain them. District Board schools are, of course, maintained from the funds of the District Board itself.

(3) The information is contained in the statement to which I have just referred.

DEMAND No. 48.

DELHI.

Modifications in grant.

Net modification in the grant as finally passed in Budget.

	Rs.
Non-voted	—14,000
Voted	+26,000
Total	+12,000

	Non-voted.	Voted.	TOTAL.
5. Land Revenue—			
Land Records—Pay of Establishment		—2,000	—2,000
23. General Administration—			
Heads of Provinces, Executive Councils, etc.—			
Allowances, etc. . . . .	...	—500	—500
Supplies and services . . . . .	...	—200	—200
Contingencies . . . . .	...	—1,000	—1,000
		—2,100	—2,100
District Administration—			
Pay of Officers	—13,500	—3,000	—16,500
Pay of establishment . . . . .	...	—7,500	—7,500
	—13,500	—10,500	—24,000
Total	—13,500	—12,600	—26,100
24. Administration of Justice—			
Civil and Sessions Courts—			
Pay of establishment		—2,000	—2,000
Criminal Courts—			
Pay of Officers . . . . .	...	+5,720	+5,720
Total . . . . .	...	+3,720	+3,720

	Non-voted.	Voted.	TOTAL.
25. Jails and Convict Settlements—			
Jails—Supplies and Services	—4,120	—4,120
26. Police—			
District Executive Force—			
Pay of establishment	+58,000	+58,000
30. Scientific Departments—			
Museums—			
Pay of establishment	—4,440	—4,440
Allowances, etc.	—2,100	—2,100
Contingencies	—3,130	—3,130
Hydro-Electric Surveys	—6,400	—6,000
Total	—15,670	—15,670
31. Education—			
University. Grants-in-aid, etc.		—35,000	—35,000
Secondary. Grants-in-aid, etc—			
Building and furniture grants	—10,000	—10,000
General—Pay of Officers	—9,000	—9,000
Allowances, etc.	—1,000	—1,000
Total	—55,000	—55,000
33. Public Health—			
Expenses in connection with bubonic plague—			
Pay of Officers	—3,000	—3,000
Pay of establishment	—1,000	—1,000
Total	—4,000	—4,000
34. Agriculture—			
Establishment charges payable to the Punjab Government	—100	—100
Veterinary charges—			
Establishment charges payable to the Punjab Government	—1,200	—1,200
Total	—1,300	—1,300

	Non-voted.	Voted.	TOTAL.
35. Industries— Establishment charges payable to the other Government . . . . .	...	-1,171	-1,171
41. Civil Works— In charge of Civil Officers— Grants-in-aid, etc.— Additional contributions to local bodies . . . . .	...	-20,000	-20,000
47. Miscellaneous— Contributions . . . . .	...	-20,000	-20,000
Total	-13,500	-74,141	-87,641
For rounding	-500	+141	-359
GRAND TOTAL	-14,000	-74,000	-88,000
Omit— Lump reduction shown in the original demand . . . . .	...	+1,00,000	+1,00,000
Total net modification in the previously sanctioned allotments	-14,000	+26,000	+12,000

Mr. Jamnadas Dwarkadas: Will the Honourable Member inform the House whether it did or did not affect the grant of Rs. 75,000 made to the newly started Delhi University?

The Honourable Sir Malcolm Hailey: It was reduced to the best of my recollection by Rs. 35,000.

DIVISIONAL COMMISSIONERSHIPS, C. P.

114. ***Rai G. C. Nag Bahadur:** (a) Is it true that the Secretary of State for India has rejected the proposals of the Central Provinces Government regarding abolition of the Divisional Commissioners of that Province?

(b) If so, will the Government kindly lay the correspondence between Government of India and the Secretary of State for India on the subject on the table?

The Honourable Sir Malcolm Hailey: The Secretary of State has not yet been addressed on the subject.

AMALGAMATION OF ASSAM WITH BENGAL.

115. ***Rai G. C. Nag Bahadur:** (a) Has the attention of the Government of India been drawn to the Memorandum regarding amalgamation of Assam with Bengal presented to the Inchcape Committee by certain leading men of Assam?

(b) Do Government propose to consult the local Governments concerned as to the feasibility of carrying out the proposals?

The Honourable Sir Malcolm Halley: (a) The Government of India have seen the memorandum.

(b) They do not propose to take the action suggested. The matter is one in which the initiative should come from the local Governments concerned.

EUROPEAN VAGRANTS.

116. ***Mr. Manmohandas Ramji:** Will the Government be pleased to state under what circumstances is it necessary to incur the following charges in the Demand for Grants for 1922-23:

1. Demand 47.—Baluchistan: Under 47 Miscellaneous, charges on account of European Vagrants, Rs. 220.
2. Demand 48.—Delhi: Under 47 Miscellaneous, charges on account of European Vagrants, Rs. 400.
3. Demand 50.—Ajmer-Merwara: Under 47 Miscellaneous, charges on account of European Vagrants, Rs. 50.

The Honourable Sir Malcolm Halley: The information asked for by the Honourable Member is being collected and will be communicated to him when available.

POSTAGE INCOME.

117. ***Munshi Mahadeo Prasad:** Will the Government be pleased to state what was the income from Postage in the current financial year up to December, 1922, and for the same period up to December, 1921, in the last financial year?

Colonel Sir Sydney Crookshank: The necessary information is being collected and will be supplied as soon as it is available.

STATISTICS OF RAILWAY EMPLOYEES.

118. ***Mr. B. N. Misra:** (1) Will the Government be pleased to state:

(A) the number of employees in the (a) Officer's grade, (b) Upper Subordinate grade, (c) Lower Subordinate grade, in the years 1910 and 1920, respectively, in the (i) East Indian Railway, (ii) Bengal-Nagpur Railway, (iii) Great Indian Peninsula and (iv) North-Western Railways?

(B) the total amount spent on each grade referred to above in the years 1910 and 1920 respectively by each of the Railways?

(2) Will the Government be pleased to state the number of (a) Europeans, (b) Anglo-Indians, (c) Indians, in grades referred to in (a) and (b) to question (1) in each Railway?

Mr. C. D. M. Hindley: It is not known what the Honourable Member means by Upper and Lower Subordinate grades and the question, therefore, cannot be answered.

Mr. B. N. Misra: I wish to put a supplementary question. Generally, there is the officers' grade and then the drivers, conductors and guards are regarded as being in the subordinate grade, as upper subordinates and

lower subordinates. They begin in the lower subordinate grade and rise to the upper subordinate grade in the railways.

Mr. O. D. M. Hindley: May I ask what the question is? If the Honourable Member will specify the different grades in which he wants the employees classified, we will be able to supply him with the information, but there is no definite difference between the upper and lower subordinate grades.

Mr. B. N. Misra: What will be the total number of employees in the lower and upper subordinate grades?

Mr. O. D. M. Hindley: I can have that information collected and given to the Honourable Member.

RAISED PLATFORMS AND WAITING ROOMS ON RAILWAYS.

119. ***Mr. B. N. Misra:** (1) Does (a) a raised platform or (b) provision for waiting room depend on the income of a Railway Station?

(2) If so, will the Government be pleased to state if the different companies have a uniform standard of income for the purposes of (a) and (b) in question (1)?

(3) If not, will the Government be pleased to state what amount of income induces each of the said companies to provide (a) a raised platform, (b) a waiting room in a station?

Mr. O. D. M. Hindley: (1) (a) and (b) The provision of a raised platform or waiting room accommodation at a station does not directly depend upon its income. These facilities are provided as the number of passengers using the particular station justifies them and it is generally left to the Railway Administrations concerned to decide whether such facilities are or are not required at individual stations on their systems.

(2) and (3) In view of the answers given to (1) (a) and (b) these questions do not arise.

RAISED PLATFORMS AND WAITING ROOMS BETWEEN HOWRAH AND PURI.

120. ***Mr. B. N. Misra:** Will the Government be pleased to state:

(A) the total number of stations between Howrah and Puri, and

(B) the number of stations which have not got (a) a raised platform, (b) a waiting room and the reason in the latter cases?

Mr. O. D. M. Hindley: (A) There are 61 stations between Howrah and Puri.

(B) (a) 15 stations are without raised platforms.

(b) All the stations have third class waiting halls, while 9 of them have also first and second class waiting rooms.

High level platforms or waiting room accommodation at a station are provided when the number of passengers using the particular station justifies their use.

WIRE FENCING ON RAILWAYS.

121. ***Mr. B. N. Misra**: Will the Government be pleased to state how many railways have got a wire fencing throughout the line for the protection of cattle?

Mr. C. D. M. Hindley: There are no railways which are provided with wire fencing for the protection of cattle throughout their entire length.

GRIEVANCES OF TELEGRAPH CHECK OFFICE STAFF.

122. ***Mr. K. Ahmed**: (a) Are the Government aware of the article in the editorial column of the "Amrita Bazar Patrika" dated the 18th October, 1922, and a number of other correspondences that appeared in the issues of that paper dated the 6th and 23rd October, 1921, the 2nd November, 23rd September, 14th April and 12th March, 1922; of the "Bengalee" dated 15th October, 20th September, 2nd September, and 31st March, 1922; of the "Indian Daily News" dated 7th December, 22nd November, 29th August and 27th July, 1922 and of the "Servant" dated the 30th August, 1922, regarding the grievances of the Telegraph Check Office staff?

(b) If so, do Government propose to enquire into the matter and take immediate steps for the removal of the grievances, if there be any?

The Honourable Sir Basil Blakett: The information is being collected and will be supplied to the Honourable Member as early as possible. This answer applies not only to question No. 122, but to all the questions down to No. 133 inclusive.

TYPISTS IN TELEGRAPH CHECK OFFICE.

123. ***Mr. K. Ahmed**: (a) Is it a fact that in accordance with the Auditor General's Circular letter, typists in all offices excepting the Telegraph Check Office, under the Accountant General, Posts and Telegraphs, were placed on the Upper Division Time Scale of pay and allowed the benefit of their entire length of service on that scale with effect from the 4th November, 1919, the date of the introduction of the New Time Scale of pay, and that in the Telegraph Check Office alone, typists have been placed in the Upper Division Scale of pay not earlier than 16th July, 1921, and without the benefit for their past length of service on that scale?

(b) If the answer be in the affirmative, will the Government be pleased to state the reason for such deviation from the General Rule in the case of typists in the Check Office only?

(c) Do Government propose to recognise that the nature of typists work in the Check Office is similar to that of all other offices under the Accountant General, Posts and Telegraphs?

RECRUITMENT OF CLERKS IN UPPER AND LOWER DIVISIONS.

124. ***Mr. K. Ahmed**: (a) Is it a fact that some outsiders as well as clerks though failed in the competitive examination for recruitment of clerks for the Upper Division, have directly been given appointment in, or promoted to, that Division in preference to some successful candidates and that the latter are being retained in the Lower Division?

(b) If so, will the Government be pleased to state:

- (i) the circumstances under which the same has been done, and
- (ii) the numerical position of the successful and the unsuccessful candidates in the several examinations held since the introduction of the "Recruitment Examination," showing which and how many of them were selected for the Upper and how many for the Lower Divisions; and in the cases of those promoted to the Upper Division without any further departmental test the references as to the antecedents regarding their past services, educational qualifications, the conditions of appointments when they were first taken in and the reason for their promotion to the Upper Division?

(c) Is it a fact that amongst the successful candidates some were recruited for the Upper Division and some for the Lower Division?

CLERKS APPOINTED AFTER RECRUITMENT EXAMINATION.

125. *Mr. K. Ahmed: (a) Are the Government aware that in the cases of the clerks, selected for the Upper Division on the result of the competitive Recruitment Examination, who could not be provided in that Division, it was ruled by the Auditor General that they should have their initial pay fixed on the Upper scale when promoted to the Upper Division, as if their entire services had been rendered in that (Upper) Division?

(b) If the answer be in the affirmative, are the Government aware that clerks selected for the Upper Division, but sent to the Telegraph Check Office and subsequently transferred to Upper Division, have been deprived of the benefit?

GRIEVANCES OF UPPER DIVISION CLERKS.

126. *Mr. K. Ahmed: Is it a fact that a memorial was submitted to the Viceroy and Governor-General on the 16th August 1922, stating that the clerks employed on the Upper Division work, got the Lower Division rates of pay; and that the Auditor General remarked in his letter to the Government of India that the grievances of the clerks were "legitimate and long standing"?

TIME SCALE IN CHECK OFFICE.

127. *Mr. K. Ahmed: (a) Is it a fact that in July 1921, Government sanctioned an Upper Division Time Scale of pay for 140 of the clerical appointments in the Check Office and that it was intended by the Auditor General that this change should come into operation at once?

(b) If so, what steps, if any, were taken till January, 1922 to give effect to that change and whether it was with the concurrence of the Accountant General, Posts and Telegraphs?

(c) Is it a fact that about half the number of the Upper Division appointments were not filled up till November, 1922 and that some clerks submitted a representation dated 16th August, 1922 stating their grievances that the Auditor General had already recommended for promoting clerks to the Upper Division according to the efficiency and length of service actually rendered, as will appear from the said representation in paragraph 2, *viz.* "I should like to add that this is not a revision of establishment in the

ordinary sense my proposals are designed to secure that pay should bear some relation to the nature of work done and thus remove a long-standing and legitimate grievance of the clerks ""?

RECRUITMENT OF TELEGRAPH CHECK OFFICE.

128. *Mr. K. Ahmed: Will the Government be pleased to state under what circumstances the new method of departmental examination has been brought in for filling up the vacancies in the Telegraph Check Office when a memorial was pending regarding the grievances of the clerks and when the orders are that the present incumbents may be brought on to the new scales ""?

CANDIDATES FOR DEPARTMENTAL EXAMINATIONS.

129. *Mr. K. Ahmed: In the matter of the departmental examination held on the 26th and 27th October 1922, will the Government be pleased to state:

- (a) The number of clerks who abstained from the examination, and
- (b) The number of clerks appearing in the examination specifying whether "Permanent" or "Temporary" with the dates of their original appointments and how many of them were recruited for the Lower Division?

CANDIDATURE OF TEMPORARY CLERKS.

180. *Mr. K. Ahmed: (a) Is it a fact that under the rules only such clerks as have rendered not less than 4 years' service and can reasonably be expected to pass, are eligible for appearing at the departmental examination?

(b) If so, will the Government be pleased to explain how and under what circumstances the candidature of temporary hands, if any, for the examination was approved?

POSTAL AUDIT OFFICES MANUAL.

181. *Mr. K. Ahmed: (a) Is it a fact that the rules in the Manual for guidance of Postal Audit Offices framed by the Accountant General, Posts and Telegraphs, regarding the filling up of substantive appointments in the Audit Offices under his control as embodied in paragraph 1457 of Chapter XVIII of the Postal Account Code, Volume II, provide that promotions in the clerical establishment should be given to men who will, in the judgment of the Deputy Accountant General be found qualified by

- (1) Efficiency
- (2) Suitability by temper,
- (3) Ability to draft clearly,
- (4) Command over subordinate clerks, and
- (5) Seniority,

and that one of the conditions *inter alia*, is that unless one possesses these qualifications, he cannot be promoted, though he may have passed the departmental examination?

(b) If so, will the Government be pleased to state whether these rules have since been abolished?

(c) If not, was it followed in the Telegraph Check Office in making the selection of suitable candidates for filling the 140 posts for the Upper Division sanctioned for that office in July, 1921?

GRIEVANCES OF CLERKS IN TELEGRAPH CHECK OFFICE.

182. ***Mr. K. Ahmed:** (a) Will the Government be pleased to enquire whether there were representations regarding their grievances submitted by the clerks of the Telegraph Check Office in the months of September and October 1921, and March, July, August and October, 1922, and state what replies were given thereto, if there be any?

(b) Do Government propose to lay on the table a copy of each of those representations if there had been any?

RECRUITMENT IN CHECK OFFICE.

183. ***Mr. K. Ahmed:** If the Check Office clerks have been styled as "specifically recruited lower grade clerks", will the Government be pleased to state at whose instance the remark has come to be applied?

LIGHTING OF RAILWAY STATIONS.

184. ***Rai Bahadur Lachmi Prasad Sinha:** (a) Has the attention of Government been drawn to the judgment of the Madras High Court against the Madras and Southern Mahratta Railway published in the *Tribune*, dated the 7th December, 1922?

(b) Is the Government aware that in most of the Railway Stations on all the Railways, the station premises are kept unlighted?

(c) If not, will the Government be pleased to state what steps do they propose to take in the matter so that station premises may be kept well lighted?

Mr. C. D. M. Hindley: (a) The reply is in the affirmative.

(b) and (c) The Honourable Member is referred to the answer given on 15th September 1921 to item (ii) of question No. 220 asked by Mr. K. Ahmed in a similar connection.

ANGLO-INDIANS IN GOVERNMENT DEPARTMENTS.

185. ***Rai Bahadur Lachmi Prasad Sinha:** Will the Government be pleased to state the number of Anglo-Indians employed in each of the Departments of the Government of India and the number of them employed solely in the lower division without even getting a chance of officiating in the Upper Division?

The Honourable Sir Malcolm Hailey: The information asked for is given in a statement which is being sent to the Honourable Member.

PROVISION OF GOVERNMENT QUARTERS.

186. ***Rai Bahadur Lachmi Prasad Sinha:** Will the Government be pleased to state the percentage of Anglo-Indians provided with Government quarters either for self or for family and the percentage of Indians provided with quarters either for self or for family?

Colonel Sir Sydney Crookshank: The number of Anglo-Indians and Indians employed as Assistants and Clerks in the Government of India is 546 and 1,450 respectively.

The building scheme for New Delhi now makes no distinction between unorthodox Indians and Europeans and Anglo-Indians. The number of quarters for migratory clerks built and under construction is 641, of this number 385 are for those who live in the orthodox style and 256 are those who are unorthodox.

RAISINA CHUMMERIES.

187. ***Rai Bahadur Lachmi Prasad Sinha:** (a) Is it a fact that four nice Chummeries well fitted and well furnished have been built at Raisina for European clerks and Assistants of the Secretariat living single?

(b) If so, will the Government be pleased to state whether any such chummeries have been built for Indian clerks and Assistants living single: If not, why not?

(c) Will the Government be pleased to state the reasons why two of these cannot be reserved for Indian clerks living single?

(d) Is the Government aware that if such a step is taken then scarcity of quarters for Indians will to a great extent be obviated?

Colonel Sir Sydney Crookshank: (a) Four chummeries accommodating 72 bachelors have been built. These are available for occupation by unorthodox Indians and Europeans.

(b), (c) and (d) Four chummeries accommodating 104 bachelors are under construction. These are meant for occupation by orthodox Indians but one or more blocks will, if necessary, be used for unorthodox Indians.

RENTS IN DELHI.

188. ***Rai Bahadur Lachmi Prasad Sinha:** (a) Is it a fact that the rent of the quarters at Delhi either of officers or of clerks of the Imperial Secretariat have been raised abnormally?

(b) If so, will the Government be pleased to state the percentage of increase in rent in each type of quarters at Raisina for the officers and for the clerks (Indian and European)?

(c) Is it a fact that such increase in rent was announced to the tenants after they occupied the quarters (either of officers or of clerks and Assistants)?

Colonel Sir Sydney Crookshank: (a) and (b) The statement laid on the table shows the assessed rents and recoveries in 1921-22 and 1922-23.

The increase in recoveries is due to the introduction of the Fundamental Rules which have superseded the concession rates of rent which prevailed last year. These concessions gave a rate of rental recovery of 4 to 6 per cent. of the salary of the occupants, whereas the rental recoveries are now based upon 10 per cent. of the minimum pay of each class.

(c) Yes.

Statement showing the assessed rents and the rents sanctioned for recovery in respect of officers' bungalows and clerks' quarters in New Delhi during the winter of 1922-23 as compared with the last year's rents :

	1921-1922.			1922-23.					
	Class.	Average salary.	Assessed rent.	Rent fixed for recovery.	Class.	Average salary.	Assessed rent.	Rent fixed for recovery.	
Officers' bungalows at Raisina	I	Rs. 3,500 and upwards.	Rs. 260	From 5 to 6 per cent. of salary.	A	Rs. 4,000 to 5,000	301	315	
	II	2,500 to 3,499	222		B	2,750 to 2,999	238	250	
	III	1,750 to 2,499	185		C	2,000 to 2,749	194	206	
	IV	1,250 to 1,749	138		D	1,350 to 1,999	143	154	
	VI	Below 1,250	96/8		E	900 to 1,349	121	108	
						F	700 to 899	116	83
				G	600 to 699	98	72		
Clerks' quarters, New Delhi	I	350 to 500	54	21/8	A	425 to 500	55	52	
Unorthodox	II	251 to 349	41	16/8	B	300 to 424	43	37	
	III	250 and below	No quarters	..	C	200 to 299	No quarters	..	
Orthodox	Type—B	350 to 500	45	From 3-9 to 5-5 per cent. of salary.	A	425 to 500	41	41	
	C	251 to 349	29/8		11/12	B	300 to 424	27	27
	D	151 to 250	21/8		8/8	C	200 to 299	21	21
	E	150 and below	13/14		5/8	D	100 to 199	14	13

10 per cent. of the maximum pay of class.

10 per cent. of the minimum pay of class.

N.B.—There has been no increase whatever in the assessed rents of the quarters at Timarpur. The rate of recovery in each year is based on the floor area basis with reference to the rents of the quarters in the New Capital.

INDIANS ON I. C. S. CADRE.

139. ***Rai Bahadur Lachmi Prasad Sinha:** Will the Government be pleased to state what steps do they propose to take to bring the Indians belonging to the Indian Civil Service Cadre as Secretary, or Deputy Secretary of the different departments of the Government of India?

The Honourable Sir Malcolm Hailey: The Government of India follow the principle in the appointment of Secretaries and Deputy Secretaries that the man best fitted for the post should be selected regardless of racial considerations. Indians have been and are appointed to these posts.

APPOINTMENT OF INDIANS TO REVENUE AND INDUSTRIES DEPARTMENTS.

140. ***Rai Bahadur Lachmi Prasad Sinha:** Will the Government be pleased to state whether they propose to bring Indians belonging to Indian Civil Service Cadre as Secretary of the Department of the Revenue and Agriculture, *vice* Mr. Hullah about to retire and of the Industries Department *vice* Mr. Chatterjee appointed Member of His Excellency's Executive Council. If not, why not?

The Honourable Sir Malcolm Hailey: The Honourable Member is referred to the answer given to his other question on the same subject.

INDIANS IN RAILWAY COMPARTMENTS RESERVED FOR EUROPEANS.

141. ***Rai Bahadur Lachmi Prasad Sinha:** (a) Will the Government be pleased to state whether Indians with European dress are allowed to travel in the compartments reserved for Europeans on Railways?

(b) If the answer is in the affirmative, will the Government be pleased to lay on the table a copy of the orders issued to different Railway authorities on the subject?

(c) If the answer is in the negative, will the Government be pleased to state the reasons?

(d) Is it a fact that Indians even with European dress when travelling by European compartments can be evicted out of the compartment by a Railway Guard according to his sweet will or when a so-called European objects to travel with an Indian in European costumes?

(e) If so, is the Government aware that such cases of evictions of literate and high class Indians are one of the main causes for the movement for the abolition of such reserved compartments for Europeans?

Mr. C. D. M. Hindley: Government have no information what the practice in this matter on the different railways is.

APPOINTMENTS TO RAILWAYS.

142. ***Rai Bahadur Lachmi Prasad Sinha:** Is it a fact that Anglo-Indians and Europeans will henceforward be taken to be Indians for the purposes of appointments on Railways as a result of the resolution about Indianisation of appointments?

Mr. C. D. M. Hindley: I would refer the Honourable Member to the reply given in this Assembly to Question 201 put by Mr. K. Ahmed on the 7th September 1922 on the subject.

IMMOVABLE PROPERTIES IN INDIA.

148. ***Mr. K. Ahmed:** (1) Is it a fact that there is no compulsory registration of judgment and decree recognized by any Act of Legislation regarding the immovable properties in India?

(2) Are the Government aware that in England, the Land Charges Act, 1900, lays down that unless the judgment or decree concerning immovable properties be registered under the Act of 1888, the judgment or the decree will not operate as a charge on the immovable properties?

(3) Do Government propose to introduce such Legislation in the country immediately for the benefit of the public?

The Honourable Sir Malcolm Hailey: The Honourable Member will excuse me if I do not enter into an exposition of the law of registration in answer to a question. It will be sufficient to say that Government do not propose at present to introduce legislation amending the existing law relating to the registration of decrees or orders of a Court.

Mr. K. Ahmed: Is not that system in existence in the civilised western countries, for instance, England?

The Honourable Sir Malcolm Hailey: I hope that the Honourable Member will not deny to India the title of a civilised country.

Mr. K. Ahmed: Is it not a fact that that system is in existence in England?

The Honourable Sir Malcolm Hailey: It is. The Honourable Member is well aware that it is, without asking me this question.

Mr. K. Ahmed: Will the Government be pleased to take any steps to introduce that system without any more denial to India?

The Honourable Sir Malcolm Hailey: I have already replied that the Government does not propose to do so.

12 Noon.

INCONVENIENCES ON EASTERN BENGAL RAILWAY.

144. ***Mr. K. Ahmed:** (a) Are the Government aware that in the Southern Section of the Eastern Bengal Railway most of the carriages are in damaged and dilapidated condition, that rain-water falls inside through the roof of the carriages, the trains are seldom lighted, especially the Inter class and Third class carriages, the Railway platforms are not properly lighted, no latrines are provided in most of the Inter class and Third class carriages, and the trains seldom run punctually and that in general, the Southern Section is uncared for and not properly looked after and that the passengers are greatly inconvenienced thereby?

(b) Do Government propose to take proper steps for removing the above defects and thus redressing the grievances of the travelling public?

Mr. C. D. M. Hindley: (a) and (b) Government is informed that while some of the carriages on the Southern Section of the Eastern Bengal Railway are in need of repairs and re-painting, the statement that most of the carriages are in a damaged and dilapidated condition conveys an unduly pessimistic impression.

The provision of new rakes for this section is contemplated, and when these are completed the new stock should bear favourable comparison with the stock of any Railway in India.

Complaints were received at the beginning of the rains of leaky carriage roofs, and the carriages were immediately attended to, and the complaints ceased.

The statement that carriages and platforms are not properly lighted is incorrect, and owing to the short length of the train runs on this section, the Diamond Harbour run being only 37 miles, the Canning Branch 28 miles and the Budge Budge Branch 16½ miles, the provision of bathrooms and latrines in the carriages of the trains over these suburban lines is not considered necessary.

During the first half of 1922, the punctual running of the trains over this section was affected unfavourably by the failure of water supply and prevalence of high winds. Consequently it was found advisable to revise the time table from the 15th July 1922 to a lower rate of speed.

Mr. K. Ahmed: May I ask what sort of light gas, kerosene oil or electric lights are supplied to these places, and if there be electric light, will the Honourable Member be good enough to state from the statistics of units the exact amount of the consumption of current?

Mr. C. D. M. Hindley: I shall require notice of that question.

UNSTARRED QUESTION AND ANSWER.

WORKING OF RAILWAYS WITH REGARD TO FINANCIAL RESULTS.

86. Rai G. O. Nag Bahadur: With reference to the answer given on 9th September 1922 to my unstarred question No. 14, do Government propose to modify the conditions so as to reserve power in the case of future railways to assume working, if the railway entails payment of guaranteed interest for three consecutive years?

Mr. C. D. M. Hindley: Government are afraid that the suggestion contained in the Honourable Member's question is impracticable.

THE INDIAN MINES BILL.

The Honourable Mr. C. A. Innes (Commerce and Industries Member): Sir, I beg to present the report of the Joint Committee on the Bill to amend and consolidate the law relating to the regulation and inspection of Mines.

THE INDIAN PENAL CODE (AMENDMENT) BILL.

The Honourable Sir Malcolm Halley (Home Member): Sir, I beg to move:

'That Rao Bahadur T. Rangachariar be nominated to serve on the Select Committee to consider and report on the Bill to amend sections 362 and 366 of the Indian Penal Code.'

The necessity for my making this application to the House, and for further calling on Mr. Rangachariar for an increase of the heavy labours

[Sir Malcolm Hailey.]

which he already undertakes on our Select Committees, is this—that under the rules we need a Chairman for our Committee. He must be either the Law Member, if he is a Member of the Assembly, or the Deputy President if he is a Member of the Committee. Neither of these requirements being complied with, the rules next provide that we should have as Chairman a gentleman who is a Chairman of the House. But unfortunately there is no such gentleman on the Select Committee, and it is for that reason that I have had to make an application to the House to add to the Committee the name of Rao Bahadur Rangachariar.

The motion was adopted.

THE CODE OF CRIMINAL PROCEDURE (AMENDMENT) BILL.

Mr. Deputy President: We will now proceed with the further consideration of the amendments to the Bill further to amend the Code of Criminal Procedure.

Mr. K. B. L. Agnihotri (Central Provinces Hindi Divisions: Non-Muhammadan): Sir, I beg to move:

“ That in clause 10 (i) (a), insert the following at the beginning :

‘ After the word ‘ occupier ’ where it occurs for the second time, the words ‘ in charge of management of that land ’ shall be inserted and .’ ”

Sir, my amendment refers to the agents of the owners or occupiers of land. So far as the owners and occupiers are concerned, it has been found necessary that they should have connection with the land and that has been provided for in the section; but as far as the word ‘ agent ’ is concerned, there is no qualification put down in that section; ‘ Agent ’ as it stands in the clause and as is well known is a very wide and comprehensive term. Sometimes it extends even to vagueness. It may apply, for example, even to servants. I therefore suggest to the House that the word ‘ agent ’ should be qualified and made definite in such a way, that only such agents be made liable to give information under section 45 as may be connected with the land, or be in charge of the management of that land the occurrence on which is to be reported. The word ‘ agent ’ is very comprehensive and vague, for instance there may be agents for various purposes, they may be for the collection of land revenue, they may be for looking after the cultivation of that land, they may be for the construction of buildings on that land or for conducting and defending suits for title of such lands and so on. And to make any such agents liable would be to make the term very wide and troublesome, so it is necessary to restrict it only to such persons as are in charge of the management of the land, and who may be in a better position to know about the occurrences on that land. I therefore put my amendment for the consideration of this House.

Mr. H. Tonkinson (Home Department: Nominated Official): Sir, the Honourable Member has explained that the object of his amendment is to restrict the application of the word ‘ Agent ’ in section 45 of the Code. I venture, Sir, to suggest that it is quite unnecessary to take this course. We have had this word in the Code in its present position exactly since 1872. There have been numerous rulings of the Courts to indicate what persons are covered by that term, and I would submit, Sir, that all the Courts now have the case-made law on the subject, and that it is most

undesirable to introduce such words as those proposed by the Honourable Member in this case. He has suggested that the word standing by itself may have too wide an application. I will merely remark that in one of the rulings it has been held that the liability of a resident Agent arises only when the owner is absent. In these circumstances, Sir, I would venture to suggest that it is quite unnecessary to accept the amendment moved by the Honourable Member.

Mr. Deputy President: The question is that the amendment* moved by Mr. Agnihotri be made.

The Assembly then divided as follows:

AYES—40.

Abdul Majid, Sheikh.
Abdulla, Mr. S. M.
Agarwala, Lala Girdharilal.
Agnihotri, Mr. K. B. L.
Ahmed, Mr. K.
Ahmed Baksh, Mr.
Akram Hussain, Prince A. M. M.
Asad Ali, Mr.
Asjad-ul-lah, Maulvi Miyan.
Ayyar, Mr. T. V. Seshagiri.
Bagde, Mr. K. G.
Bajpai, Mr. S. P.
Basu, Mr. J. N.
Chaudhuri, Mr. J.
Das, Babu B. S.
Ghulam Sarwar Khan, Chaudhuri.
Ginwala, Mr. P. P.
Gulab Singh, Sardar.
Ibrahim Ali Khan, Col. Nawab Mohd.
Ikramullah Khan, Raja Mohd.

Jatkar, Mr. B. H. R.
Kamat, Mr. B. S.
Lakshmi Narayan Lal, Mr.
Man Singh, Bhai.
Misra, Mr. B. N.
Mukherjee, Mr. J. N.
Nabi Hadi, Mr. S. M.
Nag, Mr. G. C.
Nand Lal, Dr.
Neogy, Mr. K. C.
Rangachariar, Mr. T.
Reddi, Mr. M. K.
Sen, Mr. N. K.
Sircar, Mr. N. C.
Sohan Lal, Mr. Bakshi.
Srinivasa Rao, Mr. P. V.
Subrahmanayam, Mr. C. S.
Venkatapatiraju, Mr. B.
Vishindas, Mr. H.
Yamin Khan, Mr. M.

NOES—33.

Aiyar, Mr. A. V. V.
Blackett, Sir Basil.
Bradley-Birt, Mr. F. B.
Burdon, Mr. E.
Cabell, Mr. W. H. L.
Chatterjee, Mr. A. C.
Cotelingam, Mr. J. P.
Davies, Mr. R. W.
Faridoonji, Mr. R.
Haigh, Mr. P. B.
Hailey, the Honourable Sir Malcolm.
Hindley, Mr. C. D. M.
Holme, Mr. H. E.
Hullah, Mr. J.
Hussanally, Mr. W. M.
Innes, the Honourable Mr. C. A.
Jamnadas Dwardkadas, Mr.

Joshi, Mr. N. M.
Lindsay, Mr. Darcy.
Mitter, Mr. K. N.
Moncrieff Smith, Sir Henry.
Muhammad Ismail, Mr. S.
Percival, Mr. P. E.
Pyari Lal, Mr.
Samarth, Mr. N. M.
Sarvadhikary, Sir Deva Prasad.
Singh, Mr. S. N.
Spence, Mr. R. A.
Stanyon, Col. Sir Henry.
Tonkinson, Mr. H.
Webb, Sir Montagu.
Willson, Mr. W. S. J.
Zahiruddin Ahmed, Mr.

The motion was adopted.

Mr. K. B. L. Agnihotri: I beg to withdraw my second amendment†

The amendment was, by leave of the Assembly, withdrawn.

Mr. J. Ramayya Pantulu (Godavari *cum* Kistna: Non-Muhammadan Rural): Sir, in clause 10 (i) (a) I propose to omit the words 'or obtain. . .

Mr. T. V. Seshagiri Ayyar (Madras: Nominated Non-Official): Mine has not been moved yet—No. 11 on the list.

* Vide p. 1114 of these Debates.

† In clause 10, sub-clause (ii), omit all the words after the word 'inserted', i.e., omit the words commencing from 'and' to the words 'other law'.

Mr. Deputy President: I think it will be more convenient to take Mr. Pantulu's amendment first.

Mr. J. Ramayya Pantulu: The clause provides that for the word 'obtain' the words 'possess or obtain' shall be substituted in section 45; under the Code as it is, a person is bound to give any information that he may obtain; clause 10 amends it by substituting 'obtain or possess' for the word 'obtain.' I propose that the words 'or obtain' should be omitted; so this clause will read, as I amend it, 'bound to give information which he may possess.' We had a good deal of discussion upon this clause yesterday on the amendment proposed by my friend, Mr. Rangachariar. He objected to landholders being called upon to give information to the police, and the offending portion of the section so far as that is concerned is that the landholder would be called upon to give information which he may possibly obtain but which he may not have in his possession. Now, if we take away the words 'or obtain' and simply leave the word 'possess' it comes to this, that the landlord is bound to give information which he possesses and not information which he may possibly obtain by making inquiries. If my amendment is carried, it will be incumbent upon the prosecution to show that the accused had that information in his possession and not merely that he might have obtained it. Therefore, I think that, if this amendment is carried, the sting will be taken out of that section. So, I submit my amendment very strongly to this House for its acceptance.

The Honourable Sir Malcolm Hailey (Home Member): Sir, I will explain to the House in the first instance how we came to suggest an alteration in the existing law. The word in the existing law, as the Mover has explained, is simply 'obtain.' In 1904 the Madras Government found that this did not cover information obtained by personal observation. There was therefore some difficulty in making certain that information obtained by personal observation such as for instance, the discovery of a corpse on the ground, came within the scope of the law. At the same time I am quite willing to agree with Mr. Pantulu that on the whole the word 'possess' has a sufficiently extensive meaning for the purposes of the Act; and though I am not aware exactly what view my friend, Mr. Seshagiri Ayyar, who has also tabled an amendment on this clause, will take of the suggestion, for my part I am willing that the word 'possess' should stand by itself without 'obtain.'

Mr. T. V. Seshagiri Ayyar: Sir, in view of the assurance given by the Honourable the Home Member, I do not mean to press mine. Of course, it would have been much better to use the word 'have' having regard to what the Madras Government said, because if a man sees a corpse in the way and he gets that information, he will be having that information. It may be doubtful as to whether this is simply *possessing* the information. That is apparently the view taken by the Madras Government. The word 'have' would cover both the cases of obtaining or possessing information. That is why I have suggested the word 'have' which would cover both the cases. However, I have no doubt that the deletion of the word 'obtain' is absolutely necessary, because it implies an obligation to seek the information. After all, we are not making law for the highest judiciary; we are making law which would be administered by the magistrates and they are likely to be misled by the use of the word 'obtain,' they may come to the conclusion that it is obligatory on them to obtain information. I do not very much care what you substitute, but I certainly think that the

word 'obtain' should be deleted, but it would conduce to the better understanding of the section if you have the word 'have,' that would certainly meet the objection which the Madras Government seem to have had for the original word. I leave it to the Government to say whether they would like to have the word 'possess' or 'have'; anyhow, the word 'obtain' must go.

Mr. Deputy President: The amendment moved.

In clause 10, sub-clause (i) (a), omit the words 'or obtain'.

The question is that that amendment be made.

The motion was adopted.

Bhai Man Singh (East Punjab: Sikh): I do not propose to move this amendment,* Sir.

Rao Bahadur T. Rangachariar (Madras City: Non-Muhammadan Urban): Sir, my motion runs as follows:

'In clause 10 (ii) after the word 'inserted,' insert the following: 'After the word 'persons' the words 'with his or their consent' shall be inserted'.

This relates to the appointment by Government for the purposes of this section village headmen. The section reads:

'The District Magistrate may from time to time appoint one or more persons to be village headmen for the purposes of this section in any village for which there is no headman appointed under any other law.'

The amendment now proposed by Government is to appoint one or more persons to perform the duties of the village headman under this section where a village headman has or has not been appointed for that village under any other law. My amendment would only remove any misconception there may be as to the power of the District Magistrate to appoint persons against their will, and it is for that reason that I have inserted this clause that when they are so appointed, it should be with his or their consent; it should not be that a person is appointed as village headman for the purposes of this section even without his consent. As it is, it is open to the District Magistrate to do that. I know that in the case of enlisting special police, people without their consent are enlisted. This ought not to degenerate into such a provision. It must be a voluntary duty to be performed by people who are given a certain status. People may not like to be appointed as village headmen, and the District Magistrate may appoint them as such even without their consent. I therefore propose, Sir, that in clause 10 (ii), after the word 'inserted,' insert the following: 'after the word 'persons' the words 'with his or their consent' shall be inserted.'

The Honourable Sir Malcolm Halley: I have in this case also to explain to the House how these words came to be placed in the Bill. In the Central Provinces it appears there is a class of persons known as *mukaddams* or Kotwars. These are not regular village headmen, although they discharge on occasions the work of the village headman, and the Central Provinces wrote some years ago that in their province there are not a few sets of villages and villages comprising several scattered hamlets for which only one *mukaddam* is appointed. It would be useful to have power to appoint for a particular village or hamlet in such cases a headman for the purposes of section 45 only. That is the reason why the drafting Committee thought it was advisable to give a Local Government power to

* "Omit clause 10, sub-clause (ii)."

[Sir Malcolm Hailey.]

appoint a village headman where none existed. Secondly as to the necessity of inserting the words 'with his or their consent,' I think it will be the experience of every one in this House who has had knowledge of revenue work that so far from a man refusing to become a headman, there is on the other hand very keen competition for the post. I think that Mr. Rangachariar might in the circumstances well be free of any apprehension on that subject. I personally can hardly conceive the circumstances in which a man would be appointed to a post so highly valued in the countryside without his consent. It would, therefore, make very little difference to the Act one way or the other. But from our point of view the words are for practical purposes unnecessary.

Mr. K. B. L. Agnihotri: Sir, it will appear from the speech of the Honourable the Home Member that the proposal for the inclusion of this clause originated from the Central Provinces Government. I come from a district in which there are many villages for which one *mukaddam* is appointed to look after and perform the statutory duties. Thus it is necessary certainly that some persons be appointed in these hamlets or individual villages who should be made responsible to report. But unfortunately, the fear or the apprehension that has been put forward by our leader, Mr. Rangachariar, is absolutely well-founded. There may arise cases in which it may enter the head of the District Magistrate or the Deputy Commissioner to appoint as a punitive measure any person to give such report and that will create a hardship. I do realise and admit that in the revenue Courts we find that there is often a regular competition for the appointment as *mukaddams*, *lambardars* or headmen of villages, but there is no reason why we should not make the law clear so as to do away with the apprehensions that exist in our minds that this power is likely to be utilised sometimes as a weapon against people in the bad books of the officers. The *mukaddams* are appointed and remunerated for their duties. In this case the fear of the appointment of these men as a punitive measure should be done away with and I support the amendment moved by my friend, Mr. Rangachariar.

The Honourable Sir Malcolm Hailey: Has the Honourable Member any experience of such a case? It will interest us to know.

Mr. K. B. L. Agnihotri: Yes, just as always happens under the Police Act, sections 15 and 16, where special constables are appointed.

The Honourable Sir Malcolm Hailey: That is quite a different case.

Mr. K. B. L. Agnihotri: Not in the least. The object under that Act is a salutary one, but sometimes respectable persons are harassed and troubled, and we do not want to put in anything of an ambiguous or indefinite nature which may in future give rise to hardships to the public.

Mr. Deputy President: Amendment moved:

'In clause 10 (ii) after the word 'inserted' insert the following: 'after the word 'persons' the words 'with his or their consent' shall be inserted'.'

The question is that that amendment be made.

The motion was adopted.

Clause 10, as amended, was added to the Bill.

Rai N. K. Sen Bahadur (Bhagalpur, Purnea and the Santhal Parganas: Non-Muhammadan): Sir, may I have your permission to take up both the amendments* Nos. 16 and 17 together because they practically refer to the same section and the same clause?

The Honourable Sir Malcolm Hailey: We should be obliged, Sir, if you would kindly let us discuss both parts of the amendment separately.

Rai N. K. Sen Bahadur: Rather the second one first: 17 ought to come first and 16 ought to come next; because 16 is practically a corollary of 17.

Sir Henry Moncrieff Smith (Secretary, Legislative Department): Sir I would point out that, if No. 16 is carried, then No. 17 does not arise. The Honourable Member will have achieved his object.

Rai N. K. Sen Bahadur: All right: as you please.

Mr. Deputy President: I think it would be much more convenient for the House if the amendments were taken in two parts as we have hitherto done with every amendment.

Rai N. K. Sen Bahadur: Sir, section 54 (1) runs as follows:

'Any police-officer may, without an order from a Magistrate and without a warrant, arrest:

First—any person who has been concerned in any cognizable offence, or against whom a reasonable complaint has been made, or credible information has been received, or a reasonable suspicion exists, of his having been so concerned.'

Now, I propose an amendment to this section that this should be changed and the section should stand as:—

'Any police-officer may, without an order from a Magistrate and without a warrant, arrest any person who has, to his knowledge or in his view, committed any cognizable offence or against whom a credible information has been received or a suspicion based on material facts exists of his having been so concerned.'

Now, the change that I want is to drop the second portion of this clause. In fact, in clause 1, you will find there are four items and it is divisible into four heads. That is, any police-officer may, without an order from a Magistrate and without a warrant, (a) arrest any person who has been concerned in a cognizable offence; (b) may arrest any person against whom there is a reasonable complaint of his having committed a cognizable offence; (c) may arrest any person against whom, a credible information has been received; and (d) may arrest any person against whom suspicion exists as to his having been so concerned. These are the four parts into which I divide the section. You will find from the amendment I have proposed that I do not want to touch item (c), namely, 'against whom a credible information has been received.' Because as a matter of course, a police-officer ought to have the right to go and arrest any person without the order of the Magistrate and without a warrant any

* "16. In clause 11 (i) before the words 'To sub-sections' insert the following:

'For clause *first* in sub-section (i) of section 54 the following clause shall be substituted:

First—any person who has, to his knowledge or in his view, committed any cognizable offence or against whom a credible information has been received or a suspicion based on material facts exists of his having been so concerned.'

17. In clause 11 (i) before the words 'To sub-section' insert the following:

'In sub-section (i) *first* of section 54 the words 'or against whom a reasonable complaint has been made' shall be omitted.'

[Rai N. K. Sen Bahadur.]

person against whom he has received a credible information of his having committed a cognizable offence. My amendment does not touch that portion of the clause. I am concerned mainly with No. 2, namely, "against whom a reasonable complaint has been made."

Now, I would remind this House that the word 'police-officer' in section 54 means and includes any person from the Superintendent of Police down to a constable and from the new amendment that is now proposed—the term 'police-officer' in this section shall be deemed to include such village officers as may be either generally or specially authorised by the Local Government in this behalf. The question before this House is, and the question I want to put first is whether any police-officer, say a writer constable, or a head constable should be authorised to go without an order from the Magistrate and without any warrant from him—to go and arrest a man against whom there is a reasonable complaint of having committed a cognizable offence. That is the first question that I want to put before the House. Now, in section 4, clause 8, of the Criminal Procedure Code, we find the word 'complaint' means 'allegations made orally or in writing to a Magistrate with a view to his taking action under this Code.' It does not include any information given to the Police. Complaint means practically that a man goes straight to the Magistrate and makes some allegations to him either orally or in writing for the purpose of his taking certain action under the Code. And what action is the Magistrate intended to take or has to take when the complaint is made? That is to be found in section 190. He takes cognizance of the case. As soon as an allegation or a complaint is made before the Magistrate, he takes cognizance of the case under section 190 and under section 200 he examines the man, records his evidence and then he passes an order either under section 202 or under section 204. Either he says, under section 202, 'I don't believe your statement—you must prove your case' (that is an order under section 202), or he may send it to the Police or to any other individual to make a local investigation of the case. But, if he believes the man,—the complainant,—he may pass an order under section 204 and issue either a summons or a warrant against him.

Now, Sir, if you will kindly refer to section 202, you will find there that the Magistrate has power to say, 'well, I don't believe you; you must prove your case.' When there is a complaint lodged before a Magistrate, can't the police say a writer constable go and arrest the man? When a Magistrate under section 202 orders 'I cannot believe the statement of the complainant, I will not issue a warrant against the accused or I will not issue any process against him,' cannot a constable, a writer constable or a head constable go and arrest the man by virtue of the power that we are vesting in him? I say 'yes,' because a police man can reasonably say 'well, the Magistrate may not have thought the complaint to be reasonable, but I think it to be reasonable. I will arrest the man.' My intention is that when the matter is in the hands of a Magistrate after a complaint has been lodged (what we call in technical terms complaint cases) the police should have no hand at all and their interference does not seem necessary. Here I may give some concrete examples, of what actually happened and where I personally felt this difficulty regarding this matter. There was a case only in 1922 before the Sub-Divisional Magistrate of Araria in the district of Purnea where a man went straight to the Magistrate and lodged a complaint. This is the case of Emperor *versus* Muhammad Irfan. The complainant went straight to the Magistrate and lodged a complaint of a cognizable offence. The Magistrate very peculiarly, no doubt, said to the

police, 'you better investigate.' The matter went up to the Patna High Court and the learned Judge there held that the order of the Magistrate was practically an order under section 202. As the Magistrate did not issue a warrant or summons under section 204, his order to the police was only an order under section 202. Now, what does the Police do in this case? I would appeal to the House to consider this. The writer constable goes straight and arrests the man. Here is an order of the Magistrate under section 202. The Magistrate has taken cognizance of the case and he is in seisin of it, and it is for him to decide whether he should issue a warrant and whether he should get the man arrested or not. It is not for the Police to decide whether the man should be arrested. The case subsequently took a different turn. The man who was arrested somehow escaped. The matter came up before the Court again and the issue was whether that arrest was a lawful arrest and amounted to lawful custody. When the matter came up, the plea of the police officer was: 'Well, here is section 54, I arrested the man (under that section) and so it was a lawful custody. The Magistrate no doubt passed an order under section 202, and did not believe the complaint and therefore he did not issue any process, but I considered that order to be very unreasonable and the complaint to be very reasonable and so I arrested the man. My custody was therefore a lawful custody.' That was the plea that the writer constable took up.

There was another case I will refer to, and that was a more recent one in the very year. The case is known as *Emperor versus Jehani*.

Rao Bahadur T. Rangachariar: What was the decision of the High Court in the first case?

Rai N. K. Sen Bahadur: Unfortunately, it is not yet decided, but it went up on appeal and the appellate Court held that it was not a lawful custody. The appeal has been decided and the appellate Court has held that it was not a lawful custody.

There is another case, similar case, *Emperor versus Jehani*. I will give you that instance. There the complainant went straight to the Magistrate and lodged a complaint. On that complaint the Magistrate's order was as follows: 'I cannot believe this story. Let it be sent to the police for local investigation under section 202.' That was the order given by the Magistrate on the order sheet. A copy of the petition goes to the police. What does the police do? He copies out the whole of the complaint in his first information book although the complainant or informant is not before him. He copies out *verbatim* from the copy of the complaint and goes and arrests the man. What is the effect of this? Is it not a case where a writer constable or a head constable practically sits upon the judgment of the Magistrate? The Magistrate says, 'well, I will not issue any warrant or any process against the man', but the writer constable or a head constable says, 'well, I consider the complaint to be very reasonable. I will arrest the man.' Whose order is to prevail in such a case? That of the writer constable or the head constable or that of the Magistrate who has judicially held by an order passed under section 202 that no process should be issued?

The Honourable Sir Malcolm Halley: Has the case been decided?

Rai N. K. Sen Bahadur: That case has not yet been decided.

The Honourable Sir Malcolm Halley: It is still *sub judice*?

Rai N. K. Sen Bahadur: That case is still *sub judice*, but the facts are these and I think it matters very little whether it is decided or not. I think that now the Code of Criminal Procedure is being amended, it is for this House to decide whether we should let the police, a writer constable or even a sub-inspector, over-ride the order of a Magistrate. That is the chief point that I put before this House. Is it desirable? Does it not look very ridiculous that a sub-inspector of police or a writer constable or a head constable should go and sit upon the judgment of a Magistrate? A question would here arise whether the administration of criminal justice will in any way be affected or hampered if you drop the words 'where a reasonable complaint has been made.' I am fully alive to the fact that some powers have to be given to the police as intended by section 54. But let it be the power which can be exercised with bridle and some decency. But when we find that a police sub-inspector or a writer constable goes and over-rides a Magistrate's order, then our interference becomes absolutely necessary. We at least now cannot stand and tolerate such a procedure as this, by which a mere constable could go and over-ride an order of the Magistrate. Now, Sir, I want to drop the words 'where a reasonable complaint has been made.' My reason is this, that when the Magistrate is in seisin of the case, when he is dealing with the case judicially under section 202 or 204 or any other section of the Criminal Procedure Code, why should the police be vested with the power to go and arrest the man without an order from the Magistrate? And, I object especially when the word 'police-officer' includes and means any one from the Superintendent of Police down to a constable. So that, if you drop out the words 'where a reasonable complaint has been made' the administration of the criminal justice will not be hampered in any way, because, when the Magistrate is in charge of the case, he will deal with it in the best way he can, and the interference of the police does not at all seem to be necessary. That is the first portion of my amendment. The rest of my amendment falls into two parts. The first portion refers to the words 'any person who has been concerned in any cognizable offence, etc.,' and the second portion refers to the words 'a reasonable suspicion exists of his having been so concerned.' Now, in the first portion, *viz.*, 'any person who has been concerned in a cognizable offence'—the words 'concerned in' are a very comprehensive term, and very wide. He can go and arrest any man on this ground and he can at the same time, if he chooses, release the man saying 'I found him not to be so concerned.' The word 'concerned' I think ought to be changed, and I want to put it in the following language: 'anybody who to his knowledge or in his view, that is to say, in his presence, has committed a cognizable offence'—you will find in section 64 of the Code, that a Magistrate has the power to go and arrest a man if anybody commits a cognizable offence in his presence. So I would rather like to give a police officer power similar to that, that is, if a person commits an offence in his presence, *i.e.*, in his view, he may arrest the man without an order from the Magistrate and without a warrant. If he says that he has got knowledge that a person has committed a cognizable offence, I do not object to give him the power.—because there the police officer takes the responsibility of having some knowledge about the man. If he simply says,—well, I have thought the man was concerned in a cognizable offence—will that be enough to enable the police officer to go and arrest a man? I therefore submit that the word 'concerned' should be changed, and I would suggest that the words 'when any person who has in his view or to his knowledge committed a cognizable offence' be substituted. The last change that I want to make is in the fourth item,

viz., regarding the words 'a reasonable suspicion exists of his having been so concerned.' Will the Magistrate decide the question whether the suspicion is reasonable or unreasonable or a constable should decide, at the time when he makes the arrest whether the suspicion against the man is reasonable or unreasonable? I would certainly not have asked for this amendment on this point provided we could assume that every police officer from a constable upwards was an honest officer, was a man who had no likes and dislikes. If that had been so, I would have allowed the section to remain as it was. We who live in the mufassil know what a constable or a head constable or a writer constable is, and we have to guard ourselves and guard our countrymen against any abuse of this section if there is any chance of it. I would suggest therefore that the words 'a reasonable suspicion exists of his having been concerned' may be changed to, as I have suggested, *viz.*, 'or a suspicion based on material facts exists of his having been so concerned.' He must have at least some materials to show. A police officer—I believe the House knows it—is not bound to give you all the informations as to where he got the informations from or his reasons for his suspicion, although a Magistrate is bound to give you some information, if a Magistrate acts on suspicion under section 190. He has to record something, and the accused is entitled to know it, but in the case of a police officer, he may say 'I am not bound to tell you.' A head constable who generally remains in charge of a Thana can well say, 'my suspicion was reasonable'—and that stops the mouth of the accused and he cannot further question him over this. So if this section is changed to what I have suggested, *viz.*,—'a suspicion based on material facts'—he is bound to give us at least some of the materials on which he suspected the man to have been concerned in a cognizable offence. So with these remarks. I place before this House the amendment which I propose to make in this section, and I hope the House will consider the question which is an important question so far as my countrymen living in the mufassil are concerned—whether a police officer in the first instance should be authorised to arrest a man without the order of the Magistrate regarding whom a reasonable complaint has been made to the Magistrate. That is the first point. The second is whether you should allow him to go and arrest a person simply because he thinks a man is concerned in a cognizable offence or he thinks that there is a reasonable suspicion of his having been so concerned. So this is my amendment; and I beg to propose that in clause 11 (1) before the words, 'To sub-section' insert the following:

'For clause 'first' in sub-section (1) of section 54, the following clause shall be substituted:

'First, any person who has, to his knowledge or in his view, committed any cognizable offence or against whom a credible information has been received or a suspicion based on material facts exists of his having been so concerned.'

Mr. Deputy President: The amendment moved is:

'That in clause 11 (1) before the words 'to sub-section' insert the following:

'For clause 'first' in sub-section (1) of section 54 the following clause shall be substituted:

'First, any person who has, to his knowledge or in his view, committed any cognizable offence or against whom a credible information has been received or a suspicion based on material facts exists of his having been so concerned.'

Mr. H. Tonkinson: Sir, the Honourable Member who has moved the amendment has explained the reasons for his motion at great length. But I

[Mr. H. Tonkinson.]

think it will be possible for me to show quite shortly that it would be impossible for this House to accept that amendment. In the first place, I am obliged to the Honourable Member for having informed us that this section gives power to any police officer, that is to say, any officer from the rank of a police constable up to the rank of a superintendent of police. He proposes, Sir, to amend the first clause of section 54. He proposes nevertheless to leave the 7th clause unaffected. If Honourable Members will refer to the section of the Code, they will find that the 7th clause began with exactly corresponding words to those in the first clause. The 7th clause runs as follows: 'Any person who has been concerned in or against whom a reasonable complaint has been made or credible information has been received or a reasonable suspicion exists of his having been concerned in the act committed' and so on. (*A Voice*: 'Outside British India'.) Now, Sir, the first clause of section 54 gives power to a police constable to arrest without a warrant in these circumstances if an offence has been committed or he has reasonable grounds for belief that a cognizable offence has been committed in British India. The 7th clause gives power to the police constable to take exactly the same course if any act has been committed outside British India which within British India would be an offence. Now, Sir, we are dealing with the powers of a police constable. Under the first clause, if he has to consider whether he may arrest a person, he will have, under the proposal of the Honourable Member, a certain series of considerations to apply to the case.

If, however, the man has done an act just outside British India in an Indian State, then he will have to apply an entirely different set of considerations. I think, Sir, that that by itself means that the amendment which has been moved by the Honourable Member cannot be accepted.

He has referred at great length to the portion of the clause which deals with a person against whom a reasonable complaint has been made. He has assumed that the word 'complaint' in that clause is governed by the definition in clause (h) of section 4 of the Code. I venture to suggest, Sir, that it is quite clear that the definition of the word 'complaint' in section 4 of the Code does not in any way govern the word 'complaint' in this section. (*Rai N. K. Sen Bahadur*: 'Is there an authority on that point?') If the Honourable Member will read the beginning of section 4 of the Code he will find that the words and expressions as defined in that section have the meanings there given 'unless a different intention appears from the subject or context.' It is quite clear, Sir, that where the word 'complaint' is used in the first clause in section 54, it has the ordinary dictionary meaning of the word 'complaint'. It does not relate to an allegation made orally or in writing to a Magistrate. (*Mr. W. M. Hussanally*: 'Why not substitute the word 'information' for the word 'complaint'?) That amendment, Sir, has never been suggested to us for consideration.

Then I would like to refer further to the amendment proposed by the Honourable Member. He ends his clause with the words 'so concerned'. He has taken those words from the existing clause. In the existing clause it is quite possible to use them, because the clause begins 'no person who has been concerned'. Under the Honourable Member's amendment, on the other hand, the words 'so concerned' can have no meaning whatsoever. In these circumstances, Sir, I trust the amendment will not be accepted.

Mr. P. E. Percival (Bombay: Nominated Official): Sir, I only wish to add one or two words to the remarks which have been made by Mr. Tonkinson. The difficulty that arises if Honourable Members bring in amendments which are quite new, that is to say, if they have not been considered by the Select Committee is that various drafting mistakes come in. Mr. Tonkinson has already referred to the point in regard to the words 'so concerned'; but I suggest that there are two or three other drafting amendments which will have to be made if this proposal is approved. Another point is that the Honourable Member's draft would take the place of the present law, which has been in force for about 50 years and on which High Court rulings in Calcutta and other High Courts have been recorded. In the draft we find the words 'to his knowledge or in his view'. Well, I suggest that if it is 'to his knowledge', the words 'in his view' are quite unnecessary. Then comes 'a credible information' and 'suspicion based on material facts'. Well, Sir, 'reasonable suspicion' is the language of the English Law as well as of the Indian Law; and I suggest that the specific proposal which has been made, namely, that the Honourable Member's draft should supersede the existing law, which has been in force for many years and is approved by all the High Courts, should not be accepted by this Honourable Assembly.

Mr. T. V. Seshagiri Ayyar: Sir, the answer from the Government Benches to the motion made by my friend is very unsatisfactory. Two reasons were given by Mr. Tonkinson. One is that if you leave the 7th clause intact and deal only with the first clause, there will be some difficulty in construing the section properly. The answer to that is, if you accept the amendment to the first clause you must make consequential amendments to the 7th clause. The Government will have to do it if they accept the amendment, and there will be no difficulty in so drafting the 7th clause as to bring it into conformity with the amended first clause. Moreover, there is this to be considered, so far as the 7th clause is concerned. When an offence is committed outside British India, the offence may not be committed in the presence of or within the knowledge of the constable, and therefore the use of the word 'concerned' there, is not so inappropriate as in the first clause; because, if it is used in the first clause you empower a police constable to arrest a person who, according to his idea, is concerned in an offence. But if you substitute the words which my Honourable friend wants to be substituted, you will make the position clear that the constable can deal only with cases in which there has been an offence committed in his presence or within his knowledge... (Mr. N. M. Samarth: 'and in his view. As a lawyer I would interpret that as 'in his opinion'.')

Now, Sir, the real point which my Honourable friend has been trying to make is that, if there is a matter within the cognizance of the Magistrate, the police should have no hand in moving in the matter and making arrests. To that Mr. Tonkinson's answer is that the word 'complaint' in this clause does not refer to the definition in section 1, clause (4). The expression simply means something which has been brought to the notice of a police constable. Now, if that is what is really intended, we must make it clear. The word 'complaint' has been defined, and if, in a technical treatise, in a Code you find the word 'complaint' used again, naturally the Magistrate and other officers would interpret the word in the sense in which it has been defined previously. If what you intend to convey is simply the knowledge which the constable has gained, then you can substitute the words which Mr. Sen wants to be substituted for the word

[Mr. T. V. Seshagiri Ayyar.]

'complaint'. That was Mr. Tonkinson's second answer and so far as it goes it does not dispose of the amendment. The really important point is that the police should not move in a matter of which they have no direct cognizance. They should be able to arrest only when they see that an offence has been committed. They must not take information given to a Magistrate and act upon it except under the directions of the Magistrate. That is the really important matter, and I hope the Government will accept the amendment which has been moved.

Mr. J. Ramayya Pantulu: Sir, the point raised by my friend is that if there has been a complaint made to the Magistrate and the complaint is referred by the Magistrate to the Police for investigation under section 202, the police should not have power to arrest the accused without a warrant, and to effect this he proposes to omit in clause (1) of sub-section (1) of section 54, all words referring to a complaint. It appears to me that his object will not be achieved by the amendment that he proposes, because, although he may remove those words, the words that will remain in the clause are sufficiently elastic to enable the police to arrest. The police man may say 'I have information that the accused has committed a cognizable offence' and arrest the man! The proper way to give effect to the Honourable Mover's intentions is to add a proviso to his section saying that no arrest without warrant shall be made in the course of investigations under section 202. That would be the proper way of giving effect to the wishes of my friend. The question then arises whether that will be in the interests of the administration of justice. Suppose there is a complaint of murder. Sometimes complaints are made direct to the Magistrates. Suppose the Magistrate foolishly sends it on to the Police without making an investigation himself—as most Magistrates pass on complaints to the police to get rid of the trouble of investigating—and suppose, in the course of the police investigation, the police officer has reasonable grounds to believe that the offence of murder has been committed. Should he be prevented from arresting the man? He would have had the power to arrest him if there had been no complaint. Now that he is investigating into a complaint referred to him by a Magistrate, should he be deprived of the power of arresting him? (*Mr. T. V. Seshagiri Ayyar:* 'He must take the orders of the Magistrate.') The alternative will be to get a warrant from the Magistrate. (*Mr. N. M. Samarth:* 'And allow him to escape in the meanwhile.') Or, as my friend says, the alternative is to allow him to escape in the meanwhile. What is the position of the Magistrate? When the Magistrate sends a complaint to the police for investigation, it means that he is not in a position to issue a process in the case, and until he receives the police report he will not be in a position to know whether he should proceed further with the case or dismiss the case under section 202? On an interim application from the police during the investigation, will he be in a position to issue a warrant? I am afraid a Magistrate will not be justified in issuing a warrant under those circumstances. Therefore, it seems to me that it will not be in the interests of public justice to deprive the police of the power of making the arrest in a cognizable case simply because a complaint happens to have been made to a Magistrate previously. So, I would rather not support these two amendments.

Sir Henry Moncrieff Smith: Sir, I should like just to emphasise one or two things which Mr. Percival mentioned. He just hinted that this had been the law in this country for a long time and in these identical words. As a matter of fact, these words 'reasonable suspicion' and 'reasonable

complaint' have been in the criminal law since the Code of 1861. Have they caused any difficulty at all? If you look at any commentary on the Code of Criminal Procedure and the notes on section 54, you will find the rulings on this subject. The Courts have never had any difficulty; and now you propose to substitute entirely different words. The result will be confusion in the minds of the Courts, when they are dealing with offences against police constables for making unlawful arrests and so on. I think Members have all along looked at this question from one point of view. They seem to forget that there are many safeguards against misuse of powers under section 54. There is in the first place a suit for damages for wrongful arrest. There is a prosecution which is a much more simple matter than a suit for damages against a police constable for wrongful restraint and confinement and other more serious offences. The police constable is quite easily kept in his place over this matter. Then, Mr. Percival briefly mentioned the English law. I should like just to tell the House very briefly what the English law is on the subject. A constable may arrest a person whom he finds committing felony, or upon reasonable suspicion that a felony has been committed by the person arrested, although no felony has in fact been committed, and whether the reasonable grounds of suspicion are matters within the constable's knowledge, or are derived from facts stated to him by others. I think the House will admit that it goes at all events as far as our law goes on the subject. Mr. Seshagiri Ayyar suggested that if the matter was in the hands of the Magistrate, then the Police should have no right to interfere at all unless a warrant was handed to them, upon which they carried out the orders of the Magistrate. That is not the law followed by the Courts of this country. If a police officer knows that a Magistrate somewhere else has issued a warrant, even though he has not seen the warrant, but he believes that a warrant has been issued, the Courts have held that he can go himself and arrest that person without the warrant in his hands at all. That is rather a different thing from the proposition which Mr. Seshagiri Ayyar placed before the House. Mr. Seshagiri Ayyar also suggested that it is a very easy matter to amend clause 7 of the section. I do not think he said anything about those words 'so concerned' which are left hanging in the air at the end of my friend, Mr. Sen's amendment. They refer to nothing. Mr. Seshagiri Ayyar would place a heavy burden on the drafting department of the Government of India: it is no concern of theirs. We have examined all the amendments that are here, and we notice here and there the necessity for consequential amendments; but we cannot proceed further and draft for non-official Members all the consequential amendments which they themselves overlook. I would, on those brief grounds, *viz.*, that we are not going beyond the English law, that we intend to maintain the law which has been in existence in this country for over half a century, that there are effective safeguards against the misuse of the powers, that the law as it has existed has caused no difficulty in interpretation, and that consequential amendments have been entirely overlooked in this amendment proposed by Mr. Sen, ask this House to reject the amendment. Apart from that, I do not think Mr. Sen's amendment will carry out what he is aiming at. I am not going to argue again the point that a complaint of this class is not covered by the definition; that suggestion has been received with some scorn by this House, but as a matter of fact, if they will look at the rulings, they will see that all along they deal with a complaint to the police or information to the police. The word 'complaint' in this section is saved from the definition by those words which come at the beginning

[Sir Henry Moncrieff Smith.]

of the definition clause, ' unless the context otherwise requires ' or words to that effect. Mr. Sen has not achieved what he wants. He cuts out the word ' complaint ' and leaves ' credible information.' If the police constable cannot act on a complaint, still if he has credible information, he can act just the same whether a complaint has been laid before a Magistrate or not. Nor will Mr. Seshagiri Ayyar's desire be achieved. Even assuming for the sake of argument that the word ' complaint ' means a complaint to a Magistrate only, if the police constable has credible information that a man is concerned in an offence, there is nothing in the law, as Mr. Sen would have it, to prevent that constable making the arrest. On every ground this is a most undesirable amendment and I hope the House will reject it.

Mr. B. N. Misra (Orissa Division: Non-Muhammadian): Sir Moncrieff Smith has stated that these words are existing from 1861 in the Criminal Procedure Code and he also said that they find a place in the Criminal Procedure Code of England.

Sir Henry Moncrieff Smith: In the Common Law of England.

Mr. B. N. Misra: He also points out that constables in England are authorized to arrest persons under such circumstances. First of all, I must say, that simply because these words have been in existence from 1861, it is not an argument that they cannot be amended now if we find they really create hardship. As regards his comparison between the constables of England and the constables of India, I think all the Members know what an Indian constable is. Probably if he, the constable, does not know you to be a very big person, a big Hakim, big Zemindar or Raja, he will at once greet you and make you his brother-in-law; whereas in England—those who have been there, know what the constables are. They are so good and the police so good and so polite that there can be no comparison between the police of England and the police of India. If Sir Henry Moncrieff Smith really compares both and has personal experience of both, I hope he will correct his statement. The Indian constables cannot at all be compared with the constables and the police of England or any other civilised country. He has also said that Mr. Seshagiri Ayyar does not think, it would simply be a burden to the drafting Committee. I think it may be a burden to the drafting Committee, but it will relieve the burden of many innocent people who are harassed by the constables. Really the words are very vague—' any person concerned with the offence.' And it is very wrong to give such power to ordinary constables, or even to Sub-Inspectors, so that they can arrest any man simply by saying he is concerned. We are aware that very often Indians have to pay tolls in many ways, and if a constable wants to take a toll from a passer-by he can at once catch hold of him and say he has committed a nuisance in such and such a place. Although he may himself commit a nuisance on the road, he will say the man did so and catch hold of him. We have these things, and especially in places of pilgrimage where innocent people go in large numbers, not knowing the country. I come from Puri and I know how these constables trouble these innocent pilgrims and say, you committed a nuisance under this or that Act. So these powers given to constables really entail a hardship upon innocent people. I think these powers of arrest must be restricted and if it is a burden to the Department, it will

relieve the burden of many. I propose the amendment should be supported by the House.

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

The Assembly re-assembled after Lunch at Half Past Two of the Clock. Mr. Deputy President was in the Chair.

The Honourable Dr. Mian Sir Muhammad Shafi (Law Member): Sir, with all deference to one or two of the Honourable and learned gentlemen who have spoken on the other side, I cannot help saying that some of the arguments put forward by them in support of the amendment are entirely irrelevant to the issue which has been raised by the Honourable Mr. Sen. The question before the House is not whether the power of arrest, which, under the existing law, vests in our police officers in the case of cognizable offences, should be taken away from them or not. Indeed, the amendment does not seek to delete from the Code of Criminal Procedure section 54, which is now before the House. Further, it does not even seek to omit clause (1) of sub-section (1) of section 54, with which we are now dealing. All that it seeks to do is to modify the terms of that clause. This power of arrest is, as the House knows, of the very essence of the classification of offences into cognizable and non-cognizable, and its maintenance is essential for the welfare of the community and for the maintenance of law and order. The only real issue before the House is whether the circumstances mentioned in clause (1) of sub-section (1) of section 54 justify the power of arrest without a warrant, which, at present, is vested in the police officer. That is the sole issue and I would ask Honourable Members to put aside all extraneous considerations, which are really in the nature of a red herring argument, absolutely out of consideration, and to judge on its own merits the clause as it stands at present, and whether it should be retained in our Code of Criminal Procedure or not. For, after all, it is a question not of a new enactment, not of a new provision, which is sought to be imported into the existing Code of Criminal Procedure by means of this Bill, but of the retention or otherwise of a law which has been a part and parcel of our statutory law ever since the first Code of Criminal Procedure was enacted in this country. That is the simple issue, and I would ask Honourable Members to bear in mind that issue lest they may by appeal to sentiment or appeal to the prejudice which exists in certain quarters against our police officers be led away from the real, true, issue which is before us. After all, it should be remembered that the mere fact that the agency for carrying out the law of the land may here and there be faulty, may even be corrupt in individual instances, does not justify in itself either the amendment or modification of the law with which the Legislature may have to deal in any particular instance.

Bearing this truth in mind, let us now turn to this clause (1) of sub-section (1) of section 54 as it stands at present and see whether on *a priori* grounds there is any justification whatever for its modification. What does that clause say? This is how the clause runs. Sub-section (1) begins with these words: 'Any police officer may without an order from a Magistrate and without a warrant arrest—whom?—any person who has been concerned in any cognizable offence or against whom a reasonable complaint has been made or credible information has been received

[Mian Sir Muhammad Shafi.]

or a reasonable suspicion exists of his having been so concerned.' These are the classes of persons with whom this particular clause deals and in whose case it authorises a police officer to arrest without a warrant from a Magistrate. Now, a careful analysis of this clause will make it perfectly clear to Honourable Members that it really deals with the various stages of a police investigation in a cognizable case and I shall show that presently by the analysis of its phraseology.

Now, the first part of this clause says: 'Any person who has been concerned in any cognizable offence.' This obviously refers to that stage in a police investigation when, by reason of the evidence which has been actually procured or produced during the course of that investigation, a police officer is convinced or believes that a particular individual has been concerned with the commission of the offence into which he is investigating. Surely no Honourable Member in this House will say that when, during the course of an investigation, a police officer has reason to believe on the facts that he has already collected that a person is concerned with the commission of an offence that he should not then arrest that person. I am perfectly certain that no Honourable Member will support a proposition like that. Then, the next portion of the clause contemplates a different stage. This is what it says: 'or against whom a reasonable complaint has been made,' that is to say, even before the starting of the investigation, when a complaint has been made against an individual to a police officer. Here we have nothing to do with complaints to Magistrates. But when a complaint has been made to a police officer and it appears to that officer that the complaint is reasonable, then he will be authorised under this clause to arrest. Remember, he cannot arrest an individual against whom a complaint has been made simply because of the complaint itself. No. He is entitled to arrest only if there is sufficient material before him to show that the complaint is reasonable. I shall presently give the authority of a very learned and a very well known Judge for the proposition that I am placing before the House. The word 'reasonable' is a condition precedent to arrest on complaint. The complaint must on the data before the police officer be a reasonable one before the police officer is entitled to arrest the individual complained against in connection with any case. Then the next portion of this clause deals with cases where credible information has been received, not merely where information has been received, but credible information has been received, that is to say, the information is such that, *prima facie*, the police officer has reason to believe, has reason to credit, its veracity, the truth of that information. Well, surely no person interested in the maintenance of law and order, no sincere well-wisher of society in general, will come forward in this House and contend that even when a police officer has received information which is credible, that is to say, information which is *prima facie* correct, of the commission by an individual of a cognizable offence, that is to say, one of the more serious kinds of offences which the Legislature has made cognizable by the police without a warrant, that in such a case as this the police officer should not arrest that person.

Surely such a position has merely to be stated in order to be rejected by this House.

Then, lastly, the last portion of this clause contemplates a case where a reasonable suspicion exists of his having been so concerned—that is to say, not a mere suspicion but a reasonable suspicion, and the argument which I have just addressed to the House with reference to a complaint

mutatis mutandis applies to this part of the clause also. I submit, therefore, that on a *priori* grounds, on their own merits, the various clauses of this Bill are perfectly reasonable. Not a single authority has been cited on the other side, by any of the Honourable and learned gentlemen who have supported the amendment, of any case, reported or unreported, in which any Judge in any High Court has ever thrown a doubt upon the reasonableness of the provision embodied in this clause. The clause has been in force for several decades and Courts have had to deal with this branch of the law of our criminal procedure constantly. Surely had this clause been as a matter of fact found to be oppressive or harsh for the subject we should have had at least one case or two cases in which the Judges presiding in any of the High Courts would have adversely commented upon this by pointing out that the phraseology of this clause is too loose or is too wide and therefore needs amendment.

Now let me in this connection refer to an important judgment. The name of Mr. Justice Markby of the Calcutta High Court is well known. Dealing with the corresponding section in the old Code—as I said just now, this law has been our Statute Book for several decades—dealing with the corresponding provision in the old Code in VII Weekly Reporter, page 8, at page 5 in the body of the judgment this is what Mr. Justice Markby said:

'It seems to be generally supposed, and the supposition seems to be generally acted on, that police officers in making inquiries into criminal cases are limited only by their own discretion as to what persons they may arrest and detain in custody.'

That supposition found expression to-day in some of the speeches that were addressed to this House. Well, this is what Mr. Justice Markby goes on to say with reference to such a supposition:

'But so far from this being the case the powers of a police officer to arrest without warrant are strictly defined by the Code of Criminal Procedure. The widest power is that conferred by paragraph 2 of section 100,'

(the provision in the old Code corresponding to the very clause with which we have now to deal upon this amendment);

'which provides that the police officer may arrest without orders from His Majesty and without warrant any person against whom a *reasonable* complaint has been made or a *reasonable* suspicion exists of his having been concerned in any offence specified in the Schedule to the Act as offences for which police officers may arrest without warrant.'

and here I would like to point out that the word '*reasonable*' in the two places is italicised by the learned Judge in his judgment. Then he proceeds:

'What is a reasonable complaint or suspicion must depend upon the circumstances of each particular case, but it must be at least founded on some definite fact tending to show suspicion on the person or estate and not on mere vague surmise or information. Still less have the police any power to arrest persons, as they appear sometimes to do, merely on the chance of something hereinafter being proved against them.'

And now the next words are very important: I invite the attention of this House to the next words in this very learned judgment of Mr. Justice Markby:

'Any wrongful exercise by the police officer of his legal powers of arrest is by section 220 of the Penal Code an offence punishable by imprisonment for 7 years.'

[Dr. Mian Sir Muhammad Shafi.]

And yet when the Honourable Sir Henry Moncrieff Smith made a somewhat similar observation during the course of his speech I heard some murmurs against the proposition enunciated by him.

Now let us for a moment turn to this section 220 of the Indian Penal Code to which Mr. Justice Markby has referred:

'Whoever, being in any office which gives him legal authority'—

—I am leaving out the words which are irrelevant—

'to commit persons to confinement or to keep persons in confinement, corruptly or maliciously commits any person to confinement or keeps any person in confinement in the exercise of that authority knowing that in so doing,'

—note the words—

'knowing that in so doing he is acting contrary to law, shall be punishable with imprisonment of either description for a term which may extend to 7 years or with fine or with both.'

It is obvious from the terms of section 220, therefore, that any police officer arresting a person, unjustifiably arresting a person otherwise than on reasonable grounds mentioned in this clause of sub-section (1) of section 54, is guilty of an offence under section 220 of the Indian Penal Code. There is the deterrent, there is the check on the wrongful exercise by the police of the powers with which they are invested under this clause. Therefore I ask Honourable Members by their vote to declare that the clause in question, which has been on our Statute Book for several decades as I said before, is perfectly reasonable, is perfectly just, is indeed absolutely necessary, is essential in the interests of society and for the maintenance of law and order, and that no modification, no amendment of it is called for.

Dr. Nand Lal (West Punjab: Non-Muhammadan): Sir, the amendment only aims at this, that the present great power of the police may be curtailed to a reasonable extent, and that reasonable extent is this—that if any cognizable offence is committed to the knowledge of a police officer or in the presence of a police officer, then he is fully competent to arrest without warrant and without an order of the Magistrate. A number of grounds have been set forth in opposition to this innocent amendment.

It has been urged that the present law has stood the test of many years, that 7th clause stands as it was before and there is no amendment as far as that clause is concerned, that there are the words 'material facts', that it is impossible for an ordinary police officer to determine then and there on the spur of the moment what are material facts and what are not material facts. One other ground, which has been urged, is this, that the judiciary of this country has been dealing with the present provisions of this Code and therefore it will give rise to a number of troubles and complications if the amendment is accepted. Lastly, reliance has been placed on the interpretation of clause 1, sub-clause *firstly*. These are the grounds which have been relied on, and I am glad to say, Sir, that every one of these grounds can be answered with great satisfaction. Firstly, it has been said that it has stood the test of many decades. All right. Is there any force in the argument that because a certain irregularity has, before this, been countenanced it should be tolerated even now? If it is an irregularity, if there is some sort of defect, that defect ought to be removed. The time that has elapsed cannot mitigate the force of the argument in

favour of the amendment. The second ground is that sub-clause (7) stands and therefore it will be of no avail to allow this amendment. In reply to that my submission is that we are dealing now with sub-clause *firstly*; we are not concerned with the 7th sub-clause. That will be seen when we come to deal with it. Therefore there is no force in the argument that this sub-clause (1) cannot be amended. Then great stress has been laid upon the argument that the very interpretation and the construction of sub-clause (1) shows that the amendment is useless and that it will not serve any purpose. My humble submission in reply to that construction is this: that the way in which I read this sub-clause is in support of the present amendment. 'Any person who has been concerned . . .' The Honourable the Law Member has construed this clause in the following manner, that there must have been some sort of evidence before the police officer comes to think that the person has been concerned. That is not the interpretation. If it were within the contemplation of the Legislature that the police officer ought to have some sort of data or some sort of evidence before he arrests, then the words would have been 'any person who has been found to be concerned' but it is given here 'any person who has been concerned.' It then comes to this that the question of arrest simply depends on the discretion of that police officer; though that discretion may not be based on any data whatsoever, he will thus have an ample opportunity of abusing his powers. Therefore, it is the sincere desire of the Honourable Mover of this amendment that any room there may exist for abusing that power may be removed at once. That is the desire which has prompted him to set forth this amendment before this House. Then the Honourable the Law Member construes 'or against whom a reasonable complaint has been made.'

The reasonableness of that complaint is to be judged by that police officer on his whim only, not on any data, not on any evidence whatsoever; it is quite probable that on account of some bias or prejudice he may be misled or even on account of a bad intention he may subsequently, when he is hauled up, say there was a reasonable complaint. So far as the technical discussion, in regard to the word 'complaint' is concerned, I am not going to detain this Honourable House. 'Complaint' here is used in a popular sense and not in the technical sense of a complaint which is made before the Magistrate. 'Complaint' here means information, a kind of report. Then the Honourable the Law Member construes saying 'or credible information has been received', that is, the police officer will discuss and determine whether the information, which has been imparted to him, is credible or not, and that here the provision has allowed a safeguard. In reply to that my humble submission is this, that the police officer has been given greater power; the credibility or incredibility of the information simply depends on the whim of the officer; therefore this House should not be in favour of it, *viz.*; that the police officer should be allowed so great a power that he may subsequently, when he is going to be prosecuted under section 220, Indian Penal Code, say that he took it to be very credible information and therefore he arrested an innocent man. The present law may wrongly come to his help. He might say that he determined and judged and examined *pros and cons* and arrived at this conclusion that the information then imparted to him was credible; therefore, no wonder he may be acquitted though he ought not to be acquitted because he had abused his powers. Therefore, the proposed amendment on this ground also seems to be a justifiable one. Now as to the words, 'reasonable suspicion exists of his having been so concerned.' Here again the police officer has been given an opportunity to abuse his powers, when he has

[Dr. Nand Lal.]

arrested an innocent man without warrant and without authority or without orders taken from a Magistrate, and if he is hauled up, he would say simply 'Well, the suspicion which arose in my mind was reasonable.' Therefore here too he will have room to save his skin and get an escape, in spite of his having abused his powers. The intention of this Assembly is that the police officer may not arrest an innocent man, that he may be made to perform his duty honestly and properly, that these provisions may not be misconstrued and that his powers may not be abused by him. Therefore, Sir, with that intention this amendment has been moved which, to my mind, seems to be a commendable one. The safeguard, contained within the terms of this amendment, is this: that if the powers of a police officer to arrest without a warrant and without an order of a Magistrate are limited to the scope of this amendment, then he may realize a little more responsibility; not forgetting that he has to establish that the offence was committed to his knowledge—or in his view, that is, in his presence. Therefore he will, probably, not abuse his powers so freely as he may do under the present law.

In the present provision we find the words 'reasonable suspicion'.

S.P.M. The amendment means to provide that the suspicion should be based on material facts. A person comes forward and tells a police officer that a certain cognizable offence has been committed by a certain man. Well, here he has got material facts, a person bears testimony to that allegation. In these circumstances, he may exercise his power and arrest without warrant or without an order of a Magistrate, otherwise not. So the fear of the Government that this Assembly wishes to see the police deprived of its powers is wrong. All that this Assembly wants is that those powers may be exercised within reasonable scope, and there should be an idea of greater responsibility in the minds of the police officers. With this object this amendment has been placed before this House, and I submit that this House may wholeheartedly support it.

Sir Deva Prasad Sarvadhikary (Calcutta: Non-Muhammadan Urban):

Sir, my first words must be of sincere congratulations to the Honourable the Law Member on the clear exposition that he has placed before the House which would remove many doubts. Like a past master of drawing red-herrings, however, he has obscured realisation of the circumstances that provoked this amendment. The Government had powers; the police had powers. Those powers are now sought to be extended. (*Cries of 'No, No.'*) I beg your pardon. Those powers are now sought to be extended

The Honourable Dr. Mian Sif Muhammad Shafi: In this clause 1?

Sir Deva Prasad Sarvadhikary: No, by the amendment that the Government has invited the House to adopt. Let us read the Government amendment: 'ninthly, any person for whose arrest a requisition has been received from another police officer, provided that the requisition specifies the person to be arrested and the offence or other cause for which the arrest is to be made and it appears therefrom that the person might lawfully be arrested without a warrant by that officer'. The next amendment is in sub-clause (3) of clause 11. It reads thus: 'The term 'police officer' in this section shall be deemed to include such village officers as may be either generally or specially authorised by the Local Government in this behalf'. It is therefore not merely a head constable, a writer constable or a constable who can effect arrest, but the filtration downwards is to be to the village

officer, whatever that may mean, whether he is to be the village police officer or the village headman about whom under a previous clause we were discussing this morning, whether that officer would also have this vicarious right of issuing a warrant and assuming magisterial functions as it were will probably be a matter of interpretation. Therefore, I say, and deliberately say that here is an attempt to extend the powers of the police. The police had 8 clauses of powers under section 54, in the corresponding old section, under which Mr. Justice Markby's decision just read out by the Law Member was given. For whatever reasons that have not been disclosed yet, although three Government Members have already spoken, Government wants this further power, that the police officer who exercises powers under the first clause of section 54 shall also have the power of calling upon a neighbouring police officer to execute a warrant which a magistrate perhaps under proper circumstances might have issued or might have declined to issue. Then under the category of police officers comes the village officer, whatever that may mean. That, I believe, is the handle, the cause, the provocation of Mr. Sen's amendment. I agree that it is not a very happily worded amendment and that can be improved. If the House be with Mr. Sen on the substance of it, the little burden of putting it into shape consequential and otherwise that Sir Henry Moncrieff Smith so much deprecates will not, I am sure, be found too heavy for the department. Unfortunately, there is the clause 7 of section 54 which Mr. Sen has not thought of. Reading that clause 7, Sir, and the proposed ninth clause, one would almost think that the Government wanted really an amendment like this to existing clause 7. 'Any person who has been concerned in, or against whom a reasonable complaint has been made or credible information has been received, or a reasonable suspicion exists, of his having been concerned in, any act committed at any place out of British India . . . (Voices: 'Any act which if committed in British India.') Let me please put my case in my own way, and the House will then be able to deal with it.

This further power in the proposed section 9 would really be extending the scope of the power already possessed under clause 7. That is my submission with regard to it. There is and can be absolutely no difference of opinion between those who are defending the present clause (1) and those who are wanting to amend it in the way that Mr. Sen wants to amend it, that the police must have some powers, as provided in that clause already. The only question is whether under the circumstances some revision and modification is not necessary. Mr. Sen's amendment according to some, errs on the side of not asking for too much. (*Cries of 'Quite so, he does err.'*) Now let us see why so much considerable stress has been laid by the Honourable the Law Member, and rightly laid, upon the safeguards that are already there. Mr. Sen does not do away with any of those safeguards. We have quite a good residuum left of the safeguards that the Honourable the Law Member so rightly values. For example, if credible information exists against a person, he is not exempted; there is no quarrel there. Then with regard to suspicion, what is attempted to be done here is to have the matter cleared up. Although there have been judicial interpretations with regard to the expression 'reasonable suspicion,' there has been abuse also which is attempted to be guarded against. Therefore what Mr. Sen desires is that that suspicion should not be left to belief, imagination or information, but should be capable of being justified by material facts brought home to the police officer. Therefore here also the police power is not seriously attempted to be weakened but is sought to be broad-based upon facts. All that he attempts to do away

[Sir Deva Prasad Sarvadhikary.]

with (and he has given reasons in the light of the two cases that he has quoted) is that with regard to what the clause terms 'reasonable complaint' this power should be taken away and in its place he wants to substitute this that the offences should have been committed to his knowledge or in his presence,—I suppose he will be prepared to accept that verbal amendment if the House is with him on the substance of it. The police officer will still have the right of arrest when the offence has been committed to his 'knowledge' of the character and basis of which he will still be the sole judge. That is large power by itself. If the police officer is prepared to say, it was within his knowledge, he is not liable for that action for damages about which Sir Henry Moncrieff Smith told us this morning. Then we have the concession in Mr. Sen's clauses about commission of offences in his presence: that goes without question. Therefore, all that this amendment seeks to attack is where the question of arrest on what is called reasonable complaint comes. There seems to be some difference of opinion as to how that expression ought to be construed. I myself am not inclined to the view that that 'complaint' in this clause is the same complaint within the definition of complaint in section 4. If that was not so, the word 'reasonable' would not have found place in this clause; the word 'complaint' would have been enough. But we have seen from what Mr. Sen has told us that because there has been a 'complaint' as defined in section 4 before a Magistrate upon which he sent it to the police for inquiry or for disposal or otherwise, the police proceeds to copy the words of that complaint in the information book and use that as evidence of the existence of a reasonable complaint though the Magistrate himself was not clear whether it was reasonable or not. That could not have been contemplated by clause 1 of section 54, even by the framers of it. Sir Malcolm Hailey twice asked Mr. Sen as to whether those cases that he had referred to had been decided by the High Courts or not. They appear to be still *sub-judice* and Mr. Sen would have no right to refer to them if what we are here discussing was the point in issue. That however is not so; the issues in the appeal are quite different. We have those facts from these cases and upon those facts are we entitled to say or not that where difference of opinion is likely to exist on a matter like this, it is best that the chances of such difference should be done away with. We want to substitute a clause under which a police officer would have the right of arrest where an offence has been committed to his knowledge or in his presence or about which he has credible information. About the terms 'reasonable complaint' and 'information' there is some confusion and that may be set at rest by Mr. Sen's clause, of course, with proper verbal amendments, so far as the police is concerned. They are interchangeable terms under certain circumstances and that is not desirable. You can have no quarrel with this for you have that residue left that, where credible information has been received, a police officer can act. As regards action under suspicion the suspicion has to be supported according to Mr. Sen's amendment by material facts. How can it then be contended that this is an attempt to take away necessary and healthy powers of the police. It is only to clear up matters, particularly in view of the larger powers that the Government is now wanting to take, namely, of making it possible for the police officer under clause one to transmit his knowledge, his information, his suspicion, to the neighbouring police officer and ask him to take up the case in the neighbouring district and effect an arrest. And that becomes particularly irksome where the village officer or village police officer is also to be entrusted with those powers. We have

been asked not to be governed by sentimental prejudice against the police. It is unfortunately there and you cannot help it. And when you want to extend the scope of the power of these police officers, there is a natural desire to have them restricted if possible. If without hurting the cause of strict public administration and of law, order and justice, it can be done, I see no reason why it should not be allowed by this Assembly. Therefore, in substance, so far as one can see, the Government can have no quarrel with Mr. Sen's amendment and if it is properly drafted and put on the Statute Book, I think that the Government will have all the power that it wants and all the power that it has so long enjoyed and more.

Mr. R. A. Spence (Bombay: European): Sir, I do not agree with the last speaker that the clause as drafted by Government gives any greater powers to them than before. But some of the Members of this Assembly who belong to the legal profession appear to be under the impression that the existing clause as drafted in the Bill will permit of a number of innocent people being arrested. Now, as far as I have listened to this debate, no one has produced any evidence that the existing powers of the police have been abused. Have the Honourable Members who support this amendment any evidence which can convince this House that the existing clause has resulted in miscarriage of judgment which has not been remedied? Do not the existing powers give a safeguard against arrest where reasonable suspicion or credible information do not exist? Now, Sir, we, as Members of this Indian Legislative Assembly, are legislating for the benefit of the people of India. We must see, I think, that guilty people do not escape easily, whilst we provide security—as I consider is provided in this Bill—that innocent people falsely arrested should be able to obtain restitution and satisfaction. For these reasons, Sir, and because I believe that the clause as drafted by those who have been engaged in the drafting of this Bill does provide all safeguards necessary for innocent people whilst protecting the majority of the citizens of this country by seeing that guilty people should be arrested without being able to easily escape arrest, I oppose this amendment.

Rai Bahadur S. N. Singh (Bihar and Orissa: Nominated Official): Sir, I think it is clear that the idea underlying this amendment is that it should not be possible for a policeman to arrest an alleged or supposed offender on mere suspicion, surmise, or whim or to serve a private end. But, Sir, it is equally clear that the amendment as drafted does not secure this purpose, especially as the expression 'in his view' may mean anything of the kind. Sir, there is also another side of the picture. If a policeman is not empowered to arrest an offender on suspicion, many a miscreant will be able to make good his escape while the police are busy gathering materials to justify their conduct on arresting him. In these circumstances, Sir, I hope the Honourable Mover of this amendment will see his way to withdraw the proposal.

Rao Bahadur O. S. Subrahmanayam (Madras ceded districts and Chittoor: Non-Muhammadan Rural): Sir, the question before the House—that is, the amendment which my friend, Mr. Sen, has put before the House tends to make the powers of a police officer to arrest without a warrant subject to certain restrictions. He has now under the present law practically an unrestrained power to arrest a man. That is the difference between the two views. The view of the Government is that that power which he has now should continue. The view of those who support the amendment is that we should put some restraint, we should curb the

[Rao Bahadur C. S. Subrahmanayam.]

powers of a policeman to arrest without a warrant. That is the issue. I heard some remarks from the Honourable the Law Member about the irrelevant points that have been raised in this debate. It so happens that those who give these precepts violate them in the first instance. One of these irrelevant points was that this law has existed for several decades. Now, what is the view, what is the position in regard to criminal law in any country? As times advance, as Government becomes more popular, the tendency is to lighten the rigours of the criminal law. Do you know how many offences were punishable by death by hanging in England 150 years ago? What is the number of offences that is now punishable with death? Could we use the argument that because the sentence of death had existed for five centuries for certain offence, therefore it should continue for all those offences for ever? Forgery was one of the offences, theft of certain articles was one of the offences punishable with death. Therefore the argument which has been put forward by the Honourable the Law Member so very seriously at the end of the debate that this law has existed for decades and therefore must be continued cannot hold good. Is the criminal law the law of the Medes and the Persians? Should it continue for ever? Should not an Assembly like this, which is in touch with the pulse of the country, which knows how the police act, which knows what lack of supervision there exists over the actions of the police and over the actions of the Magistracy, should not this Assembly take upon itself and face the responsibility of curbing the unrestrained powers of the police? The argument of my Honourable friend, Mr. Spence, is that the guilty man should be punished. Whoever says that the guilty man ought not to be punished? Whoever says that the guilty man ought not to be restrained? Only we say be sure of the guilt of the man, have more sound materials for saying that the man is guilty, not on mere suspicion entertained.

Mr. R. A. Spence: Reasonable suspicion.

The Honourable Dr. Mian Sir Muhammad Shaf: Is it mere suspicion?

Rao Bahadur C. S. Subrahmanayam: Yes.

The Honourable Dr. Mian Sir Muhammad Shaf: No, reasonable suspicion.

Rao Bahadur C. S. Subrahmanayam: What is it?

Mr. N. M. Samarth (Bombay: Nominated Non-Official): Reasonable suspicion.

Rao Bahadur C. S. Subrahmanayam: What is the meaning of 'reasonable'? What are the safeguards for enforcing the reasonable character of that suspicion? I have to go to another point well known for students of elementary law. A law is good enough so far as there is a sanction to enforce the law. There is no good having a law on the Statute Book if you cannot enforce the law. Who is to decide that the suspicion which the policeman had in arresting a man was reasonable?

Mr. R. A. Spence: The Court.

Rao Bahadur C. S. Subrahmanayam: Which Court? How to enter the Court? Do you know that you must get the permission of that very policeman's superior to enter the portals of the Court? That is a point which the Honourable the Law Member omitted to consider. When he read the section of the Penal Code, I was wondering whether we were in a debating

society of which we were reminded very seriously yesterday—whether we were in a debating society without knowledge of law, without knowledge of juristic principles, without the knowledge that the criminal law has been evolved in the manner it has been from decade to decade, from period to period. Now, you have got a section in the Penal Code under which a policeman could be punished for doing a wrong. But how could you reach the Court? You must get the permission of that policeman's superior. Have you ever heard of the superior of a policeman or of any Government servant giving permission to a private individual to prosecute his subordinate in a Court?

The Honourable Sir Malcolm Halley: It does occur.

Rao Bahadur C. S. Subrahmanayam: That is the point. Therefore, there is a law which we cannot enforce, which by the restrictions is practically an unapproachable remedy. Therefore, that argument of the decade, that argument of the section of the Penal Code having been there for several years has no force.

Now, there was another argument which is usually put forward in debating societies, and that has come from the Government side. I am sorry to see that the Government should be so lacking as to support their position by arguments which would be useful in a debating society. The terms in which my Honourable friend, Mr. Sen, has worded his amendment have been criticised. There has been verbal criticism, quibbling criticism of the words used. What is the Secretariat for? A popular Assembly indicates the view it takes of a particular portion of the criminal law. That is all we are bound to do. We are not draftsmen trained to draft laws. No popular Assembly, no Legislative Assembly undertakes to be meticulous in the words it could use in the law. It is the duty of the draftsman. They are paid to do it and they are there to do it. I wonder why that argument was put forward that the words of the amendment were not very accurate and not very precise. You indicate what you want. You want to make the law more legal. You want to restrain the powers of the policeman. Well, I have consulted some friends and if the House accepts the principle underlying this amendment, I would suggest a slight verbal modification. Whether it is acceptable or not, I will read it and I would leave the House to say whether it accepts it. 'Any person who has to his knowledge or in his view committed any cognizable offence or against whom credible information has been received or there is reasonable cause for suspicion of his having been concerned in any such offence'—well, that is the point, that is, the present law is this; 'reasonable suspicion' is replaced by 'reasonable cause for suspicion.' Now 'reasonable cause for suspicion' will narrow down the discretion of the policeman, as I understand it,—that is reasonable suspicion. Now, after all, there is only a slight difference between the law as it exists and the amendment proposed by Mr. Sen. I do not see why so much trouble should be raised, so much opposition should be raised in regard to this slight alteration. It, after all, controls a set of men who are not known to use their powers for the safety of the public or for the preservation of respect for the people of this country. Everybody here knows that policemen, especially in out of the way places, do misuse their powers. The attempt is now made to restrain those powers. The amendment proposed does not materially diminish the power of the policeman to arrest a guilty man. Now in regard to this arrest of a guilty man, I would ask the European Members of this House, is it not a fact that in England arrest is the last thing that is done when

[Rao Bahadur C. S. Subrahmanayam.]

an offence is committed? That is, all the materials are collected, and the man who investigates becomes quite sure that he has the materials to put the case before the Magistrate, that is, he is quite sure that the man is guilty; he prepares the ground properly, and then at the last moment, arrests. Is not that the case? What do we find in India? The first thing that a policeman does is, he goes and arrests. Whether he has got the materials or not, whether he has sufficient grounds for establishing a case against the man, the first thing he does is, he arrests, and then takes his time leisurely. The law allows him a certain time, 15 days or so, later on he begins to collect his materials. What is the Magistrate to do? The policeman tells the Magistrate, 'I am investigating the case, Sir, I am collecting materials; I am preparing the ground; I believe; and so on, and so on.' Well, I put it to the European Members of this House that the methods which the policeman in England adopts are quite different from the methods which are adopted here. It is no use running away with the idea that this Assembly, or at any rate those Members who are in support of the amendment, want to let off the guilty man. We are as much interested in the protection of our property and the protection of the lives and the safety of our fellowmen as anybody else in this House, and it is simply ridiculous to be told that we do not interest ourselves in the protection of property and of life.

Therefore this is not a question of sentiment or prejudice. This is a question which the natural evolution of criminal law should take, that is, to restrain the powers of a policeman in regard to this matter. This, Sir, is a verbal alteration which I offer to the House in place of what Mr. Sen has put in. This is the amendment which I formally present. . . . 'No person who has to his knowledge. . . .'

The Honourable Sir Malcolm Halley: It is for your ruling, Sir, whether amendments are permissible at this stage.

Rao Bahadur C. S. Subrahmanayam: It is not very much of an amendment. It is only a verbal alteration. If it is opposed or seriously objected to. . . .

Mr. Deputy President: If it is only a verbal alteration it might be allowed, but no new amendment can be allowed at this stage. The Bill has been before the Legislature for the last two years and in September it was before this House. In December a notice was sent out to all the Members to send in their amendments.

Rao Bahadur C. S. Subrahmanayam: I may say at once, Sir, that that is not an amendment in the sense of an ordinary amendment. I say, if the House accepts the principle underlying the amendment which Mr. Sen has put before it, then this draft which I have given in is merely an attempt to rectify certain alleged verbal defects.

Mr. Deputy President: Does Mr. Sen withdraw his amendment?

Rai N. K. Sen Bahadur: No.

Mr. Deputy President: This is an amendment to your amendment.

Rai N. K. Sen Bahadur: I do not think so.

Mr. W. M. Hussainally (Sind: Muhammadan Rural): I rise to a point of order. The view of several Members here appears to me to be

that though the amendment proposed by my friend, Mr. Sen, is in substance a good one, it needs verbal alteration, which might be done, I suggest, in the drafting Department. But as the amendment which has been put in by my friend, Mr. Subrahmanayam, has drawn forth some protest, may I inquire if the substance of the amendment of Mr. Sen is carried, will the amendment go to the drafting Department for redrafting, or will it stand as it is proposed? It seems to me that the form of the language used by Mr. Sen does need a little alteration.

Mr. Deputy President: That can hardly be called a point of order. It is a question which the Government can answer.

Mr. Muhammad Yamin Khan (Meerut Division: Muhammadan Rural): The alteration proposed by my friend, Mr. Subrahmanayam, includes the words 'or in his view,' to which I think the whole House does not agree. There is at least a difference of opinion that 'in his view' does not mean 'in his presence'. The words 'to his knowledge' may include the sense 'in his presence'; whereas 'in his view' might be construed as 'in his opinion,' and that I think would do a great deal more harm than the present section does.

Rai N. K. Sen Bahadur: I used the words 'in view' in the sense in which they are used in section 59 of the Criminal Procedure Code.

Mr. Deputy President: The original amendment moved was:

'That in clause 11 (1) before the words 'To sub-section' insert the following:

'For clause 'first' in sub-section (1) of section 54 the following clause shall be substituted:

'First, any person who has, to his knowledge or in his view, committed any cognizable offence or against whom a credible information has been received or a suspicion based on material facts exists of his having been so concerned'.

to which a further amendment has been moved by Mr. Subrahmanayam and that is:

'That in clause 11 (1) before the words 'To sub-section' insert the following:

'For clause 'first' in sub-section (1) of section 54 the following clause shall be substituted:

'First, any person who has, to his knowledge or in his view, committed any cognizable offence or against whom credible information has been received or there is reasonable cause for suspicion of his having been concerned in any such offence'.

The question is that that (Mr. Subrahmanayam's) amendment be made.

Mr. W. M. Hussanally: With your permission, Sir, I shall further propose a slight amendment, viz., that the word 'presence' be substituted for the word 'view'.

Rai N. K. Sen Bahadur: I accept that the word 'view' be changed to 'presence'. The word 'view' may be dropped and the word 'presence' inserted.

Mr. Deputy President: Mr. Subrahmanayam's amendment is before the House now.

Mr. Muhammad Yamin Khan: Is Mr. Hussanally's amendment before the House?

Mr. W. M. Hussanally: That has been accepted by the Mover.

Mr. Deputy President: That point will be taken later on after this question has been decided.

Colonel Sir Henry Stanyon (United Provinces: European): Have I leave to speak on the original amendment, Sir?

Mr. Deputy President: Yes.

Colonel Sir Henry Stanyon: Speaking for myself, Sir, I have no hesitation whatever in expressing my entire sympathy with the object which the Honourable Mover of the amendment has in view in putting it forward; and I think I may safely say that his object will have the sympathy of this House generally, *viz.*, a protection of the general public from what I may put in a general term well known here as 'police *zoolum*.'

But there are things beyond the reach even of this Honourable Assembly and the Legislature; and protection from the dishonest or the extortionate policeman is one of them. Law is not a panacea for all the ills that flesh is heir to. No doubt it is our business as a House to legislate from time to time so as to promote the public interest and check abuses that may grow up among us; but I would ask this Honourable House to remember that we are here as a corporate body, saddled with a responsibility to the whole country for what we shape into law. We are not here to give indulgence to prejudices which all of us, or the majority of us, or some of us, or a few of us, may entertain. Those who know this country are bound to confess that police *zoolum*, with all that that term means, does exist. We are also constrained to admit that in this country there is a great deal of popular prejudice against the police which is not always deserved. Now my submission for the consideration of the House is this that, so far as a legislative enactment of this kind is concerned—a Procedure Code—we are wise if we leave well alone. That is a very old saying: 'leave well alone'. I would go a little further and say that in legislation of this kind we would also be wise to leave unwell alone, unless we can be quite sure that we can make it better. We have had an extremely clear and able exposition of section 54 of the Code as it now stands by the Honourable the Law Member; but there is no doubt, those of us who know the country are bound to say so,—that, notwithstanding the safeguards which exist, and have been pointed out by the Honourable the Law Member, powers of arrest are abused. We have got to recognise that fact. We are not to-day considering in any general sense whether we can improve on that position by legislation. We have to see whether the introduction of the particular amendment which is now proposed will effect any improvement; and on that point I would ask attention while I humbly examine that amendment. We will take it that the words 'or in his view' are now cut out. The amendment is first — 'any person, who has to his knowledge committed any cognizable offence'

Mr. Pyari Lal (Meerut Division: Non-Muhammadan Rural): 'In his presence.'

Colonel Sir Henry Stanyon: I understood the elimination of the word 'view' had been accepted.

Mr. Pyari Lal: In favour of 'in his presence.'

Colonel Sir Henry Stanyon: Very well: 'in his presence.' That, on the face of it, is of course, a limitation on the powers of the investigating officer.

For, as a general rule a criminal does not commit a cognizable offence in such a way as to give knowledge (using that word as distinguished from mere belief) to, or in the sight of or in the presence of, a police officer. It will be a restriction; but that does not help us. What we have got to look at is the end of this amendment. The amendment would still leave it open to the police officer to arrest any person whenever he has 'a suspicion based on material facts.' Those words are to be substituted for the words 'reasonable suspicion.' Now, Sir, I take it that this Legislature in its responsible position will not content itself with a mere bandying with words which do not carry us any further in the matter of law. What is a material fact? All the High Courts in the country will be called upon to decide, if this amendment becomes law, what are 'material facts.' After all, what is a 'reasonable suspicion?' A reasonable suspicion, as we 'gentlemen of the legal fraternity' (as we are so often called) know, means the existence of facts which would rouse suspicion in the mind of a reasonable man. Now, are not such facts material facts? Suppose a constable at 4 o'clock in the morning, when all Judges and superior officers are usually sound asleep, sees a man coming out of a lane with a bundle under his arm and the man attempts to hurry by. The constable suspects, by reason of the hour, by reason of the attitude of the man, and by reason of the direction from which the man is coming, that that bundle may contain stolen property. Thereupon, he exercises his power to interfere with the man's liberty. Now, is that a reasonable suspicion or is it a suspicion based upon material facts? You cannot differentiate the one from the other. A reasonable suspicion is a suspicion based on material facts. Material facts are those facts which would make any reasonable man suspicious. I will put myself in the position of the dishonest policeman, and I promise to find you material facts for suspicion at once. You cannot stop it. If the police officer is dishonest, he will find his material facts every time. He is the only one there; there is nobody else. He says 'This man was going off, he had his face concealed.' The man says 'a cold wind was blowing, that is why I concealed my head.' But, says the policeman, 'I thought he was concealing it to hide his identity. That was a material fact; on that I acted and I therefore arrested him.' You cannot by a mere alteration of words as proposed get out of such difficulties. A policeman must be given a certain amount of liberty and discretion if we are to have the midnight criminal stopped. You cannot get out of it. This House must legislate on the basis of one principle or of another; either upon the assumption that every policeman is a scoundrel until the contrary is proved, or upon the assumption that all our police are just and honest people trying to do their duty. We have got to take something like that as a basis for legislation; and obviously there is no choice between the two. If we are to be a progressive country we must proceed upon the latter as a basis of legislation, *i.e.*, with a trust in our agents, which, albeit constantly abused, must nevertheless still be given, as it is the only means, added to public opinion, which will raise them to the level at which we would have them. A very uncomplimentary comparison to the Indian policeman was drawn in connection with the English Police. It is too wide a subject to go into, but even in England policemen sometimes are accused of doing *zoolum*. I daresay all my hearers will remember a very recent case where the activities of a septuagenarian in Hyde Park led to a certain case which was afterwards regarded by some as a case of police *zoolum*. Opinions are divided. Some think perhaps the old gentleman was weak, others that it was purely police oppression. These things will happen. Individual cases cannot be allowed to sway us in laying down

[Colonel Sir Henry Stanyon.]

a general rule of law. If we do that we shall get into endless trouble. This amendment, I submit with confidence, will not achieve the very desirable object which the Honourable Mover wants to achieve; and for that reason I do not think that it ought to commend itself to the House. Do not let us tinker with words and alter words which have been the subject of much judicial deliberation. If superior officers will not allow section 220, Indian Penal Code, to be given full scope, let public opinion come down on the superior officers, let public opinion and public courage insist that they shall do so. We can make them do these things out here, as we make them do them in England. The times are moving rapidly. A strong public opinion is growing up, and section 220 really offers the only sort of legislative protection which we can obtain. Therefore I would suggest to the Honourable Mover, even at this late stage, to consider whether he should press this amendment.

The Honourable Sir Malcolm Halley: I should be unwilling to add to the length of this discussion, were it not that in its later stages it has taken a turn which I think requires comment from Government; indeed an attitude has been adopted which may affect the whole course of our subsequent debates on the cognate sections of this Bill. You will remember, Sir, how the discussion began. I think I may safely put it to the Honourable Mover, that the major part of his attack on the existing section of the Code was based on his fear that in some cases a police constable might override a Magistrate—that is to say, that where a Magistrate has issued orders under section 202 for the investigation of a case, being in doubt as to the necessity of proceeding further with a complaint, the constable might take the matter into his own hands and arrest the person against whom the complaint had been made. I see that I have the assent of the Honourable Mover to my claim that I have stated his position perfectly clearly and correctly. He founded his apprehension on two cases which he quoted to us. Now in both of those cases it appears to me that the constable had been guilty of much more than an irregularity. He had been guilty of an act of sheer stupidity, and I found on inquiry from the Honourable Mover that in both these cases the Courts did not support the action of the offending constable. In other words, they found the wording of the existing Act sufficient and that the action taken by the constable was not covered by the Act.

Rai N. K. Sen Bahadur: But he did take it.

The Honourable Sir Malcolm Halley: True; he took it. But does the Honourable Mover think that by his own wording, or by any other wording which we can introduce, we can prevent the committing of acts of sheer stupidity? See what the constable did in one of these cases. He took the complaint as it came from the Magistrate for investigation, transferred it to his diary and took action to arrest the person referred to. I defy the wisest legislators to frame a law that will entirely prevent manifest absurdities of this nature being committed. My present point is however that these were the two cases which the Honourable Member put before us; and it was on considerations arising out of these two cases that the discussion started in the first instance. But we found when the discussion proceeded, that after all, the word 'complaint' in this section of the Code does not bear the restricted sense given in the definition section, *vis.*, 4 (h) of the Code, *vis.*, a complaint to a Magistrate, but really refers to a complaint or information to the police. That fact has been generally

admitted by those who have subsequently commented upon this section. Consequently, therefore, the omission of these words of which the Honourable Mover complained—'against whom a reasonable complaint has been made'—would not attain the purpose that he himself had in putting his case before us. Indeed, it is perfectly clear that if we wished to attain the object which he had in view we should have to insert some substantive provision to prevent anybody taking action in the sense deprecated by the Honourable Member. That position indeed was put before us with great clearness by Mr. Pantulu. Unfortunately the matter did not stop there. We could perfectly well have discussed this restricted point and come to conclusions either for or against the Honourable Mover. The discussion went entirely away from this point, it embraced attacks of a general nature on the police, and we have been told that in the objections which we put forward to any change in the section, we were deprecating a modification of the law because we feared that what Mr. Subrahmanayam describes as the unrestrained power of the police in effecting arrests might be curtailed. We were told that this section must be materially modified in other respects for the purpose of curtailing the powers of the police where and if necessary. We were told that Government itself showed an entirely unreasonable apprehension lest the powers of the police, powers widely abused by them, should be invaded. Now I say that we are all equally concerned in preventing what has been called police tyranny. If such existed, it would do Government no good; in the long run it does not administer to the cause of law and order; it creates an irritation in the mind of the public which in itself is detrimental to the development of a spirit of law and order, and you cannot hope to obtain law and order unless you secure a spirit making for its observance.

If we can do anything as a Legislature, if we can do anything as a Government to prevent oppression not only by police, but by any of our officials, we should do so; even if we did not wish to do so in the interests of the public, common sense would indicate to us that we ought to do so in our own interests as an administration. Believe me, Sir, any opposition that we have had to this amendment has not been motived, as Mr. Subrahmanayam has suggested, by an untimely desire on our part to retain in the hands of the police powers which they can and do abuse. What is the real reason why we objected? It was simply this: that we believed that the powers of the police under the Mover's suggestion would not be materially affected either for good or ill; on the other hand, we believed that the drafting of the section as put forward by him would be materially defective. We believed that where a section had stood the test of the Courts for a number of years, it was better to leave it standing, than to effect modifications in it, unless some very grave and substantial reason was shown for doing so. I quite agree, as Mr. Subrahmanayam said, that law must be progressive and that where we find that it requires modification, that modification must be carried out. But we could not see that the amendment in itself carried out any improvement of the law which had been demanded by the public, or that in itself it effected any such clearing up of doubts arising under the section and pointed out to us by our many legal advisers as required its modification or elucidation. As Sir Henry Stanyon has justly said, we have as a House a very heavy burden laid upon us in regard to this Bill. I am sorry that there have been references to the Government point of view, and to the point of view of other people. I should like to regard ourselves in enacting this piece of legislation not as two parties, but as one,

[Sir Malcolm Hailey.]

possessing only a common object. If you take the history of the Criminal Procedure Code (Amendment) Bill, it will be clear that what we set out to do here was really not to increase the powers of Government or the administration or the police, not to take larger powers in regard to action under the criminal law, but simply to clear up doubts, remove inconsistencies, and to bring the law generally up to date. That has one object in putting the Bill forward, and the country at large and the Courts will criticise the action of the House, as a whole, if we make modifications in the law which are themselves difficult of interpretation, which introduce without substantial reason new phrases or turns to the law as for many generations administered by the Courts, or which, by creating fresh field for legal discussion, involve further delays in the Courts. To that extent we should actually impair the cause of justice and therefore harass the subject. I am sorry to find that Sir Deva Prasad Sarvadhikary actually was swayed by the thought that in adding one sub-clause to this section we were proposing to take larger powers. We ourselves have regarded the small addition of sub-clause (9) and the small addition of sub-clause (3) as quite unimportant matters, and I think the House at large, which among the many other amendments put forward in regard to other sections, has practically neglected these two clauses, shows thereby that it takes the same view. The mere fact that we have proposed to take the powers in clause 9 and sub-clause (3) should not therefore be allowed to count against us in considering this particular section.

Now let me take for a minute, not what our existing clause in the Code is, for that has been very clearly elucidated by the Honourable the Law Member, but merely the proposals as they now stand in Mr. Subrahmanayam's version of the Honourable Mover's amendment. It will be seen that he now proposes in effect really to retain the latter part of the existing section, but to alter the first part, that is to say, he would omit 'any person who has been concerned in any cognizable offence.' Now I merely put to this House, without enlarging again on aspects of the case to which the Honourable the Law Member has already called attention,— I merely put to the House that if a person has not actually been concerned in any cognizable offence, the arrest is in itself unlawful, and the utmost that we can do in our law is to lay down the general circumstances in which arrests can be made, with of course the corollary that if they are made in spite of the prescriptions of the law, they are unlawful. I must ask Mr. Subrahmanayam in that particular connection where and how it is that the sanction of a superior police authority is necessary for the prosecution of a police officer who makes an unlawful arrest? There are many lawyers here. They can perhaps, if Mr. Subrahmanayam is not prepared to supply me with the information.

Rao Bahadur T. Rangachariar: If he is a superior officer coming under section 197, perhaps sanction may be needed.

The Honourable Sir Malcolm Hailey: Perhaps; but we were certainly not talking of superior police officers, and the House knows it. Mr. Subrahmanayam told us that all these safeguards that have been talked about were entirely insufficient. He told us that the Law Member was indulging in mere debating society talk because, after all, if an unlawful arrest was made by a constable, the sanction of some superior authority was needed for a prosecution to be undertaken against such officer; and he asked us when such sanction for prosecution was likely to be

given or has actually been given. Now, that point was made dogmatically and emphatically; but I still have to pause for a reply as to the section under which such sanction is required. I have not yet received it. I must therefore take it then that that statement, designed as it was to prejudice the debate against Government, was made without due thought by the gentleman who made it. But let me go back to my original point. 'Any person who has been concerned in any cognizable offence.' Therefore, he must actually have been concerned in such cognizable offence for arrest to be lawful; and I ask if this is an unreasonable provision of law. The second point the Mover proposes to omit is 'against whom a reasonable complaint has been made.' I have dealt at some length with the exact reason why he wished to omit that sentence and I pointed out that it is perfectly clear from the subsequent course of the discussion, that the word 'complaint' does not bear the technical meaning which the Mover attached to it; it merely refers to the complaint to a police officer; I have proved that the exclusion of the sentence would not attain the purpose which he himself seeks to effect. The rest of the clause, as now proposed, stands very much as it is in the Act; and I ask, is it worth while in the circumstances to make a serious change of this nature? I would again emphasize the point that the attitude which we take up is not one of dogmatic assertion that we must keep up the full powers of the police. The attitude we take up is this, that where you have a law of procedure, administered for years in one clear sense by the higher Courts, thoroughly understood by the Courts below, it is not advisable for this Assembly lightly to introduce changes; for the Courts, looking narrowly at every word of the law, will suppose that there is some deliberate and perhaps novel meaning behind every change that you make. They will put their own interpretation on the omission of a word here and the insertion of a word there. And the consequence will be that a fresh series of doubts will arise in the minds of the Courts, a fresh series of judicial interpretations and, in consequence, a fresh cause of delay and difficulty in the administration of justice.

An Honourable Member: I move that the question be now put.

Mr. Deputy President: The question is that the question be now put.

Raj N. K. Sen Bahadur: Just a word of explanation, Sir.

Mr. Deputy President: You have no right of reply.

Raj N. K. Sen Bahadur: Regarding the question of sanction.

Mr. Deputy President: I am afraid I cannot allow that. I can only allow you to speak on a matter of explanation.

The Honourable Sir Malcolm Halley: May I have your permission for one more word? The point is very important to us for, I think, prejudice has been created against us. Section 197 does not apply to the cases to which reference was made.

Mr. Deputy President: The question is that the question be now put.

The motion was adopted.

Mr. Deputy President: The original question was:

'That in clause 11 (1) before the words 'To sub-section' insert the following:

'For clause 'first' in sub-section (1) of section 54 the following clause shall be substituted:

'First, any person who has, to his knowledge or in his view, committed any cognizable offence or against whom a credible information has been received or a suspicion based on material facts exists of his having been so concerned.'

[Mr. Deputy President.]

Since which an amendment has been moved :

'That for the words ' *first*, any person ' down to ' so concerned ' the following be substituted :

' *First*, any person who has, to his knowledge or in his view, committed any cognizable offence or against whom credible information has been received or reasonable cause for suspicion exists of his having been concerned in any such offence '.

The question is that that amendment be made

The Assembly then divided as follows :

AYES—35.

Abdul Majid, Sheikh.
Abdul Rahman, Munshi.
Abdulla, Mr. S. M.
Agarwala, Lala Girdharilal.
Agnihotri, Mr. K. B. L.
Ahmed, Mr. K.
Asad Ali, Mir.
Asjad-ul-lah, Maulvi Miyan.
Ayyar, Mr. T. V. Eeshagiri.
Bagde, Mr. K. G.
Basu, Mr. J. N.
Bhargava, Pandit J. L.
Chaudhuri, Mr. J.
Das, Babu B. S.
Gulab Singh, Sardar.
Ibrahim Ali Khan, Col. Nawab Mohd.
Ibrahimullah Khan, Raja Mohd.
Jatkar, Mr. B. H. R.

Lakshmi Narayan Lal, Mr.
Man Singh, Bhai.
Mukherjee, Mr. J. N.
Nag, Mr. G. C.
Nand Lal, Dr.
Neogy, Mr. K. C.
Reddi, Mr. M. K.
Sarvadhikary, Sir Deva Prasad.
Sen, Mr. N. K.
Singh, Babu B. P.
Sinha, Babu Adit Prasad.
Sinha, Babu Ambica Prasad.
Sircar, Mr. N. C.
Sohan Lal, Mr. Bakshi.
Srinivasa Rao, Mr. P. V.
Subrahmanayam, Mr. C. S.
Venkatapatiraju, Mr. B.

NOES—42.

Aiyar, Mr. A. V. V.
Akram Hussain, Prince A. M. M.
Allen, Mr. B. C.
Blackett, Sir Basil.
Bradley-Birt, Mr. F. B.
Bray, Mr. Denys.
Burdon, Mr. E.
Cabell, Mr. W. H. L.
Chatterjee, Mr. A. C.
Crookshank, Sir Sydney.
Davies, Mr. R. W.
Faridoonji, Mr. R.
Ginwala, Mr. P. P.
Haigh, Mr. P. B.
Hailey, the Honourable Sir Malcolm.
Hindley, Mr. C. D. M.
Holme, Mr. H. E.
Hullah, Mr. J.
Innes, the Honourable Mr. C. A.
Jumnadas Dwarkadas, Mr.
Joshi, Mr. N. M.

Kamat, Mr. B. S.
Ley, Mr. A. H.
Lindsay, Mr. Darcy.
Misra, Mr. B. N.
Mitter, Mr. K. N.
Moncrieff Smith, Sir Henry.
Muhammad Ismail, Mr. S.
Nabi Hadi, Mr. S. M.
Percival, Mr. P. E.
Pyari Lal, Mr.
Ramayya Pantulu, Mr. J.
Samarth, Mr. N. M.
Singh, Mr. S. N.
Spence, Mr. R. A.
Stanyon, Col. Sir Henry.
Tonkinson, Mr. H.
Vishindas, Mr. H.
Webb, Sir Montagu.
Willson, Mr. W. S. J.
Yamin Khan, Mr. M.
Zahiruddin Ahmed, Mr.

The motion was negatived.

Mr. Deputy President: The question is :

'That in clause 11 (1) before the words 'To sub-section' insert the following :

'For clause " *first* ' in sub-section (1) of section 54 the following clause shall be substituted :

' *First*, any person who has, to his knowledge or in his view. . . .

An Honourable Member: ' Presence ' not ' view ' .

Rao Bahadur T. Rangachariar: I should like it to be put to the House, Sir. If that substitution is to be made, I have a word to say about it.

Mr. Deputy President: I cannot allow any substitution at this stage.

Mr. W. M. Hussanally: I proposed the substitution of the word ' presence ' for the word ' view ' and you said you will give me an opportunity later on to move this amendment.

Mr. Deputy President: In the meantime the closure was applied.

Mr. W. M. Hussanally: That is with regard to Mr. Subrahmanayam's amendment.

Mr. Deputy President: The closure was applied with regard to the whole amendment.

Mr. W. M. Hussanally: I proposed this amendment and Mr. Sen accepted it at the time.

Rai N. K. Sen Bahadur: At that time I accepted that the word ' presence ' should be substituted for the word ' view ' .

Rao Bahadur T. Rangachariar: May I point out that the word ' presence ' has not been assented to by the House. It may be that the Mover has accepted it, but that does not mean that the House accepts it. I have a word to say about it. It has not been accepted by the House.

Mr. Deputy President: If the House has not accepted it, the amendment must be put in its original form.

Mr. Deputy President: Amendment moved :

' In clause 11 (1) before the words ' To sub-section ' insert the following :

' For clause ' first ' in sub-section (1) of section 54 the following clause shall be substituted :

' First, any person who has, to his knowledge or in his view, committed any cognizable offence or against whom a credible information has been received or a suspicion based on material facts exists of his having been so concerned ' .

The question is that that amendment be made.

The Assembly then divided as follows :

AYES—18.

• Abdulla, Mr. S. M.
Agnihotri, Mr. K. B. L.
Asjad-ul-Jah, Maulvi Miyan.
Basu, Mr. J. N.
Bhargava, Pandit J. L.
Hussanally, Mr. W. M.
Ibrahim Ali Khan, Col. Nawab Mohd.
Jatkar, Mr. B. H. R.
Lakshmi Narayan Lal, Mr.

Mukherjee, Mr. J. N.
Nag, Mr. G. C.
Nand Lal, Dr.
Neogy, Mr. K. C.
Sen, Mr. N. K.
Singh, Babu B. P.
• Sinha, Babu Adit Prasad.
• Sinha, Babu Ambica Prasad.
• Sohan Lal, Mr. Bakshi.

NOES—48.

Abdul Rahman, Munshi.
 Aiyar, Mr. A. V. V.
 Akram Hussain, Prince A. M. M.
 Allen, Mr. B. C.
 Blackett, Sir Basil.
 Bradley-Birt, Mr. F. B.
 Bray, Mr. Denys.
 Burdon, Mr. E.
 Cabell, Mr. W. H. L.
 Chatterjee, Mr. A. C.
 Chaudhuri, Mr. J.
 Cotelingam, Mr. J. P.
 Crookshank, Sir Sydney.
 Davies, Mr. R. W.
 Faridoonji, Mr. R.
 Ginwala, Mr. P. P.
 Haigh, Mr. P. B.
 Hailey, the Honourable Sir Malcolm.
 Hindley, Mr. C. D. M.
 Holmes, Mr. H. E.
 Hullah, Mr. J.
 Innes, the Honourable Mr. C. A.
 Jamnadas Dwarkadas, Mr.
 Joshi, Mr. N. M.

Kamat, Mr. B. S.
 Ley, Mr. A. H.
 Lindsay, Mr. Darcy.
 Misra, Mr. B. N.
 Mitter, Mr. K. N.
 Moncrieff Smith, Sir Henry.
 Muhammad Ismail, Mr. S.
 Nabi Hadi, Mr. S. M.
 Percival, Mr. P. E.
 Pyari Lal, Mr.
 Ramayya Pantulu, Mr. J.
 Rangachariar, Mr. T.
 Reddi, Mr. M. K.
 Samarth, Mr. N. M.
 Savadhikary, Sir Deva Prasad.
 Singh, Mr. S. N.
 Spence, Mr. R. A.
 Stanyou, Col. Sir Henry.
 Tonkinson, Mr. H.
 Vishindas, Mr. H.
 Webb, Sir Montagu.
 Willson, Mr. W. S. J.
 Yamin Khan, Mr. M.
 Zahiruddin Ahmed, Mr.

The motion was negatived.

Mr. Deputy President then called on Rai N. K. Sen Bahadur to move Amendment No. 17.

The Honourable Sir Malcolm Halley: I rise to a point of order, Sir. Has not the House in substance already disposed of this amendment?

Rai N. K. Sen Bahadur: That is what I want myself to submit to the House. I want to submit that in view of the fact that Amendment No. 16 has been lost, I seek permission of this House to withdraw Amendment No. 17 standing in my name.

The amendment was, by leave of the Assembly, withdrawn.

Bhai Man Singh: The amendment that stands in my name is:

"In clause 11 insert the following new sub-clause and re-number the present sub-clauses (1) and (2) as (2) and (3) respectively:

'(1) In section 54, sub-section (1), the clause *secondly* shall be omitted; and in clause *fourthly* the word 'and' shall be substituted for the word 'or'."

Mr. Deputy President: It will be for the convenience of the House if you move your amendments separately.

Bhai Man Singh: Yes, I shall move them separately. The first part of the amendment is that the clause *secondly* of section 54 shall be omitted. The clause reads:—'Any person having in his possession without lawful excuse, the burden of proving which excuse shall lie on such person, any implement of house-breaking.'

Why I want this clause to be omitted is that, in the first place, we should see what are the implements for house-breaking. So far as I know, in my own Province I have come across only one implement of house-breaking, that is a '*Sandhewa*' or '*Sabhal*,' an iron piece perhaps a bit thinner than my arm and a little shorter at the end. I do not know if there are any other implements, but if there are, they are also probably iron rods something like a *Sandhewa* though a little

different from it. The *sandhewa* is an article which is used in every home for ordinary household purposes, for digging earth and doing other little jobs. I doubt if in the Punjab every zemindar has not got that thing in his house, and it is really terrible if a police officer is to be allowed to arrest a man without a warrant for possessing that *sandhewa*. I am really sorry that the Honourable the Law Member, Sir Muhammad Shafi, is not now present in the House. I do not know whether he possesses a *sandhewa* or not but I am sure that he would have borne me out that every zemindar in the Punjab, perhaps every zemindar in his own village, must possess that *sandhewa* and must be using it for digging the earth. If a man is caught with that *sandhewa* and he is required to prove—and the burden of proof shall be on him—that he possesses it for quite innocent purposes, it would be a terrible thing. It is a provision under which the police can harass anybody, perhaps a most innocent and a most respectable man.

The other point about it is this. Supposing a man is arrested by a police officer without a warrant for possessing a *sandhewa*, I should like to know what is he to do with that person. If a man is arrested under any of the other clauses there are some steps that have to be taken in connection with that person under the Code. If he is believed or if he is suspected to have committed a cognizable offence, the police officer will make enquiries about it. If the suspicions are found to be correct or well-founded, he will *chalan* him. Similarly, if he is a person who has been proclaimed an offender, steps could be taken against him, and so on. If those suspicions are found to be wrong, the person arrested will be let off, but in the case of a person in possession of a *sandhewa* if he is really found to be in possession of it, what will the police officer do? Can he proceed against him? Is there any provision of the law under which the possession of an implement like that is an offence? I know of a good many instruments, the possession of which is supposed to be an offence. If a man has got some instruments for making false coins, well, you can proceed against him; but, if you have arrested a person for possessing an implement under the clause, I would like to know how you would proceed against him. If you let him off, well, the arrest means nothing. If you arrest a man for possessing a *sandhewa*, I would like to know if you would *chalan* him for some offence? There is no offence like that. What would you do with him? Keep him in jail for eternity? So, from the legal point of view itself, I see absolutely no way out of the difficulty, unless we frame a new offence for the possession of that implement.

Then, I can find absolutely no ruling under this clause, at least I have not come across any reported case under it; so that provision has, really speaking, been a dead letter up till now. Where is the necessity of having a provision which creates a difficulty in law and out of which we can find no way? If a man were produced before me within 24 hours of his arrest as a Magistrate, I must confess that I do not know what orders I would pass in the case. It is a provision which has remained a dead letter up till now, I do not see why such a provision should remain on the Statute Book.

With these remarks, Sir, I commend this amendment to the House.

Sir Henry Moncrieff Smith: Sir, my friend, the Mover, has explained to us that he has three difficulties with regard to this amendment. His first difficulty was, he said, that he did not know what an implement of house-breaking was, and then I think he proceeded for about five minutes

[Sir Henry Moncrieff Smith.]

to exhibit a considerable amount of knowledge as to what implements are used for house-breaking. I do not profess to have such a full knowledge of them.

The section however refers to an 'implement of house-breaking,' which is possessed without lawful excuse. If the instrument is merely one that can be used for house-breaking—there is no kind of tool probably known to anyone which could not be used for house-breaking,—then there is no question of an arrest at all, unless it is a well-recognised house-breaking implement; this is all that comes within the meaning of this clause of section 54.

Bhai Man Singh's second difficulty was that he did not know what happened after the arrest. What is the police officer going to do? He seemed to contemplate that the police officer after arresting this man might confine him for an unlimited period. Well, Sir, if the Mover will look a few sections ahead in the Code he will find that no police officer shall retain in custody a person arrested without warrant for a longer period than under all the circumstances of the case is reasonable. Then it lays down that that period shall not in any case exceed 24 hours, unless he brings the accused before a Magistrate and gets a remand under section 167 of the Code. I think what happens is quite clear. The arrest is a preliminary step to an investigation. It may result in a prosecution under section 109 of this very Code. It may lead to a prosecution for some offence. The possession of a house-breaking implement might be corroborative of circumstances within the knowledge of the police officer. I do not think the Honourable Member or the House need be in any apprehension at all that this power of arrest will enable the police to keep a man in custody without sufficient cause—certainly not for more than 24 hours without the order of a Magistrate.

Bhai Man Singh: What will the Magistrate do?

Sir Henry Moncrieff Smith: The Magistrate acts under section 167, if the Honourable Member will read it. We shall come to that section in due course,—I hope so at least—we are not getting very near it at present.

The Honourable Member's third difficulty was that he found no rulings on this point. Well, I think I can take that as an argument in my favour—in favour of retaining this clause in the law. If there are no rulings on the point, it is perfectly obvious that this clause, which has been included in the law for a long time, has never caused any difficulty. I do not think the amendment is at all desirable. I think the clause should stand as it is. Is this House prepared to have it go out to the world that they are not prepared to give to a police officer the power to arrest a person in whose hand the police officer sees a house-breaking implement?

Colonel Sir Henry Stanyon: I rise to support this amendment. I have often read this clause and tried to find out what practical use can be made of it. My friend has told us—which I also think is correct—that the matter has never been before the courts; there is no published ruling, at all events, on the point of what is an implement of house-breaking. A nail or a piece of wire may be used to pick a lock. A screw-driver may be used to unscrew a hasp; and ordinary iron rod used for digging—a well-known class of iron rod called *sabbal* in some places—may be used to break open a door. But are these implements of house-breaking? If this section has any sense it must refer to an instrument that is specially used and

kept for house-breaking. I think myself that this is a provision derived, possibly, from English law, where burglars' tools, known by certain slang names, do exist. 'Implements of house-breaking' is a phrase that has some meaning to a British policeman, but has really no meaning in India.

Rao Bahadur T. Rangachariar: It has a meaning in South India—we call it Kannakol.

Colonel Sir Henry Stanyon: I am perhaps not sufficiently acquainted with all parts of India; but what we have to interpret is not the word 'Kannakol' but the words 'implement of house-breaking', and I would point out that a nail or a piece of wire may be an implement of house-breaking. Are we going to allow a police constable to arrest without warrant every person found with a nail in his hands?

Mr. N. M. Samarth: Without a lawful excuse.

Colonel Sir Henry Stanyon: Very well. Then the section also puts the onus of proof on the man who is in possession of the nail. He may not even know that it is in his possession; he cannot give any cause. 'Why have you got this nail?' 'I do not know.' 'Very well, then I arrest you.' How many of us can explain why we have got nails in the house? I say that a useless section like this merely cumbers the Code, and, as we are out to amend it, I support the amendment on the ground that the clause is useless in the interests of public justice and it may be harmful to the interests of public safety.

Mr. J. Chaudhuri (Chittagong and Rajshahi Divisions: Non-Muhammadan Rural): I move that the question be now put.

The motion was put and agreed to.

The amendment* was put and negatived.

Bhai Man Singh: The second part of my amendment reads:

"In clause *fourthly* the word 'and' shall be substituted for the word 'or'."

Clause (4) runs like this:

'Any person in whose possession anything is found which may reasonably be suspected to be stolen property or who may reasonably be suspected of having committed an offence with reference to such thing.'

Now, there are two different positions taken under this clause. One is that any man who is in possession of property that is suspected of being stolen property can be arrested irrespective of the fact whether that man has come in possession of that property by fair or foul means, quite innocently or with any criminal act attached to it. The most respectable man who buys anything in the open market and who has got a receipt for having bought it can be arrested without a warrant by a police officer under this portion of the clause. The other portion deals with the question of all those who may reasonably be suspected of having committed an offence with reference to such a thing. I quite agree that if a person can reasonably be suspected of having committed an offence with respect to any thing, which is stolen property, he should by all means be arrested. But the clause as it at present stands means that any person

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(1) In section 54, sub-section (1), the clause *secondly* shall be omitted.

[Bhai Man Singh.]

who possesses a stolen property, however innocently he may have come in possession of it, can be arrested by a police officer without any warrant. My amendment is that if he is in possession of stolen property and he can be reasonably suspected of having committed an offence with reference to such thing, only in that circumstance he should be liable to be so arrested. Now, Sir, the object of the section is only to facilitate arrest of a person who can reasonably be suspected of being an offender. There is no reason in making a provision in law for arresting a person in respect of whom you cannot reasonably suspect that he has committed an offence. Under the clause as it at present stands, if the police officer sees that the gentleman who has a stolen property has got a duly signed receipt for it from the person who sold the property to him, and he has come in possession of that property innocently, even then the police officer has a right to arrest him. If such an innocent person is thus arrested, what is the result? Does it not mean sheer injustice to him? If you do not suspect a person to have committed an offence, there is no meaning in your arresting him. I may further state, Sir, that some of the Local Governments too seem to have understood this clause to mean that the person who is arrested is suspected of having committed some offence in respect of such thing, otherwise he should not be arrested. The Central Provinces Police Manual and the Madras Police Manual have provided that 'with regard to the seizure of property suspected to be stolen, it is to be observed that no such seizure must ever be made, except when there are strong and definite grounds for believing that the property must have been dishonestly come by, e.g., when jewels of large value are found with a person of mean condition and having no ostensible means of livelihood. It is not justifiable to seize valuables which are not identified as stolen property merely because the police officer who comes upon them in the course of a search has an unfavourable opinion of the character of the possessor. To raise a presumption of guilt, the possession of property believed to be stolen should be exclusive as well as recent'.

This itself shows, Sir, that some of the Local Governments while issuing these instructions also thought that arrests should be made under this clause only if the possession has been acquired by some criminal means. Therefore, I think that the clause, as it stands at present, gives the chance of an innocent man being arrested, but if amended, it does not give room for any guilty person to be left off because if there is a proper suspicion about a man being guilty and his having come in possession of the stolen property through some foul means, he is liable to be arrested. I request, Sir, that this amendment be made.

Sir Henry Moncrieff Smith: Sir, the Mover of this amendment is trying to make both the conditions laid down in the clause necessary before an arrest can be made under this particular clause of section 54. At present, the police have the power to arrest a person in possession of an article which may reasonably be suspected to be stolen property, and they have the power to arrest a person who may reasonably be suspected of having committed an offence with reference to a thing in his possession—not stolen property. That is where the danger of this amendment comes in, because 'stolen property' of course has a technical meaning. We have to refer to section 410 of the Penal Code to find the definition of it:

'Property, the possession whereof has been transferred by theft, or by extortion, or by robbery, and property which has been criminally misappropriated, or in respect of which criminal breach of trust has been committed.'

That is designated stolen property. Well, there may be many other articles which are not stolen property—articles the possession of which has been transferred by cheating or there are things like forged currency notes, forged bank notes, counterfeit coins and so on. Why should the police not be allowed to arrest a person in possession of these articles if he can reasonably be suspected of having committed an offence with reference to them? It would make the position difficult if you tack on to this the fact that they must be also found to be in possession of the same. I think therefore there is some danger in making such an amendment, though it seems such a simple one, and I would ask the House to leave the law as it stands.

The amendment which my friend desires really is—though perhaps he is not aware of it—to restore the law to the form in which it stood up to 1897. It was deliberately altered in 1897. The word 'and' did occur in the Code of 1882 and because the provisions of that Code were found to be unduly restricted, in 1897, when the whole Code was consolidated and amended, the word 'or' was put in and I think the House will agree that the change was an improvement.

Rao Bahadur T. Rangachariar: Sir, I fail to see how any person can be prosecuted or rather arrested under that clause unless the thing is found with him. The first requisite is that the thing must be found because the latter portion of that clause, to which the Honourable Sir Henry Moncrieff Smith referred, refers to 'such thing', namely, a thing found. Therefore, it must be a thing found with reference to which the policeman is enabled to arrest him. Therefore, it cannot be contemplated by that clause that you find the thing with a person (A) and you arrest another person (B) suspecting him of having committed an offence with reference to it. I think, as it is, if the matter came before a court under the usual canon of construction which is often adopted to illustrate the true meaning of the clause, I have no doubt the court will hold that 'or' there means 'and'. It has often been so held. Therefore, I think the clause itself contemplates only the arresting of a person with whom the thing is found and not only that. That is not enough, because I may be innocently in possession of stolen property. I must also be reasonably suspected of having committed an offence with reference to it, that is within the definition of stolen property or receiving stolen property or abetting the committing of an offence. Therefore, the very intention of the clause seems to suggest that the two factors must go together in order to enable the police to effect an arrest. And the object of this amendment is to make it clear. It cannot have any other meaning. Having the words 'such thing' there, the word 'or' loses all its force. Such a thing must be a thing—stolen property—found. "Found" therefore must be with the person with whom it was found and that person must be suspected of having committed an offence with reference to it. And I therefore think, Sir, that it would be better to substitute the word 'and' for the word 'or'.

Mr. Harchandral Vishindas (Sind: Non-Muhammadan Rural): Sir, I find that Sir Moncrieff Smith has failed to answer the argument
 5 P.M. laid before us by Bhai Man Singh, the Mover of this amendment, that if the wording of this section was allowed to stand, the police would have the power of arresting any person who is found in possession of stolen property although he is quite prepared on the spot to establish his innocence. I do not think there will be any violence to public justice or the rights of

[Mr. Harchandrai Vishindas.]

the subjects will be in any way defeated if the amendment suggested by Bhai Man Singh is carried. As Mr. Rangachariar has just now put before the House, it is very likely that for the purpose of carrying into effect the object of this clause it will be considered that 'and' is more appropriate than 'or' and as often-times we have found, in the interpretation by Judges of the various provisions of the law they might say that this word 'or' itself implies that it cannot be interpreted in any other way except when it is identified with the word 'and.' If up to 1897 the word 'and' remained as Sir Moncrieff Smith has pointed out to us, no explanation is forthcoming as to why this change was made and no answer is given to the argument that the word 'and' should remain. Therefore, all common sense suggests to me, and it will suggest to the House, that the amendment is not only desirable-but is necessary.

Mr. J. Chaudhuri: I propose, Sir, that the question be now put.

Mr. J. Ramayya Pantulu: Sir, I beg to support the amendment. I think that clause (4) deals with the case of a person who is found in possession of property which there is reason to believe to be stolen property. If there is reason to believe that the property is stolen property, that is a very good ground for seizing that property, but it cannot be a good ground for arresting the man. A man can be arrested only when there is reason to believe that he has committed a cognizable offence, and that case is provided for in clause (1) of the same section. I do not accept the interpretation that is put upon clause (4) that the latter part of it is intended to cover the case of a man other than one who is found in possession of property, apart from the case of a man who is found in possession of stolen property. It is not meant to cover the case of a man who is not found in possession of property. That clause is specially intended to cover the case of a person who is found in possession of stolen property. If a man is found to be in possession of property which could reasonably be suspected to be stolen property, then the clause gives power to the police to arrest that man, but that is improper as pointed out by the Honourable Mover. The reason given, i.e., that there is reason to believe that the property is stolen would be good reason for seizing the property, but you cannot arrest a man unless you have got reasons to believe that he has committed some cognizable offence with reference to the thing which is found in his possession. Since that case is covered by clause (1) I do not think that clause (4) really serves any useful purpose. So, the substitution of the word 'and' for the word 'or' will take away the objection from the clause as it stands. I therefore support the amendment.

Dr. Nand Lal: Sir, reading the clause, as it stands, we come to this conclusion that two things are contemplated by the present provision; the discovery of the thing or article, as the case may be and, its being reasonably suspected to be stolen property. Admitting the existence of all these conditions, yet the possessor of that article may be innocent. He has got no knowledge at all as to whether this article is really stolen or not. Why has he been hauled up? Because a certain article has been recovered from his possession; secondly, because there is a reasonable suspicion that this article is a stolen property. On account of these two conditions, an innocent man has been arrested, though eventually he may be acquitted by the Magistrate on the ground that his guilty knowledge is not established. Now, Sir, who is responsible for his unlawful arrest? Who is responsible for his unlawful confinement in the lock-up for a number of days till he

secures his release or acquittal, as the case may be, at the hands of the Magistrate? The proposed amendment does away with that fear. It (the amendment) contemplates that instead of the word 'or' you may put in the word 'and'; and the insertion, as I have already submitted, will meet a pressing need. If in addition to the aforesaid existence of two conditions the police officer arrives at the conclusion that the possessor can reasonably be suspected of a connection with the commission of the offence, then he can be arrested. There is a great sense in it. Therefore, Government should thank the Mover of this very reasonable amendment which commends itself, and I consequently strongly support it.

Mr. Jamnadas Dwarkadas (Bombay City: Non-Muhammadan Urban): I move, Sir, that the question be now put.

Mr. Deputy President: The question is that the question be put. The motion was adopted.

Mr. Deputy President: The amendment moved is:

"In sub-section (1) of section 54 of the said Code, in clause *fourthly* for the word 'or' the word 'and' shall be substituted."

The motion was adopted.

Mr. K. B. L. Agnihotri: Sir, in sub-clause (1) of clause 11 (a) I beg to move an amendment:

"That between the word 'and' and the word 'the', insert the words 'full particulars of'."

As the sub-clause stands at present, it means that any police officer may requisition for the arrest of any person through another police officer and may ask the other police officer to arrest that man who may have committed an offence or other acts for which the arrest is to be made. Under the clause as it stands, the police officer simply may mention to another police officer that such and such a person has committed, say, an offence of cheating or any other offence and should be arrested; that police officer will have no discretion to refuse it, but under this clause shall be bound to arrest him. If the amendment which I beg to move be adopted, in that case that police officer shall be able to utilise and exercise his own discretion and find out whether the particulars that have been given by the requisitioning officer are enough to make that person liable to be arrested, and on that suspicion and after finding out the liability for that man's arrest, he may arrest him. Therefore, I suggest that the police officer who requisitions an arrest through another police officer should also be required to give the particulars of the offence for which he is to be arrested. With these words, Sir, I move the amendment:

"That in clause 11:

(a) In sub-clause (1) insert the words 'full particulars of' between the word 'and' and the word 'the'."

Mr. H. Tonkinson: Sir, perhaps it would facilitate a discussion of this amendment if I referred in the first place to the history of the present clause. Sir George Lowndes' Committee were of opinion that an amendment is required in section 54 to meet the case of a requisition from a police officer to arrest a man at a distance:

'We think it is clear that there should be power for an investigating officer to require by telegram the arrest of a person who may perhaps have absconded from the place where the investigation was taking place.'

As the Honourable Members of this House know quite well, the draft by Sir George Lowndes' Committee was circulated for op:

[Mr. H. Tonkinson.]

those opinions were considered by the Joint Committee. One of the opinions was signed by my Honourable friend, Mr. Chaudhuri, and it suggested that in the clause drafted by Sir George Lowndes' Committee some safeguard was required. The Joint Committee therefore said in their report that:

'We agree with those critics who desire that some safeguard should be provided, and we have therefore proposed to lay down that the requisition shall reveal the offence or other cause for which the arrest is to be made, so that the arresting officer can satisfy himself that the arrest could lawfully have been made without warrant by the officer issuing the requisition.'

Now, Sir, on the clause as it stands in the Bill sufficient particulars will clearly have been included in the requisition received from the person at a distance to enable the officer who has to make the arrest to decide whether that officer had power to make the arrest. The Honourable Member proposes, however, to insert the words 'full particulars of'; that is to say, in the requisition full particulars of the offence are to be included. Now what, Sir, does the Honourable Member mean by 'full particulars'? Whenever we refer elsewhere in the Code to 'full particulars' we indicate clearly what we mean by them. The amendment moved by the Honourable Member would therefore require another section to explain it. Perhaps my Honourable friend, Mr. Seehagiri Ayyar, would say that after we have considered this amendment we should go on and propose a new section to meet this point. Still we have not had any indication as to what full particulars would be required by the Honourable Member. I think, Sir, it is clear that the safeguard inserted by the Joint Committee is quite adequate for the purposes of this clause, and I hope that the amendment will not meet with the approval of this House.

Mr. Deputy President: Amendment moved:

"In clause 11:

(a) In sub-clause (1) insert the words 'full particulars of' between the word 'and' and the word 'the'."

The question is that that amendment be made.

The motion was negatived.

Rao Bahadur T. Rangachariar: Sir, the amendment I propose in clause 11 (1) under the head 'ninthly' is a mere formal amendment. In order to make clear what is meant by 'that' officer in that clause, that is to say, the officer who makes the requisition, I introduce the word 'other.' I have been supplied with a draft from the department which makes it even plainer; that is, instead of the words 'that other officer' they suggest the substitution of the words 'the officer who issued the requisition.' I am quite willing to substitute that for my original amendment. For the words 'that officer' the words 'the officer who issued the requisition' are to be substituted.

Mr. H. Tonkinson: I accept the amendment now proposed by my Honourable friend, Mr. Rangachariar, viz., the substitution of the words 'the officer who issued the requisition' for the words 'that officer.'

Mr. Deputy President: Amendment proposed:

"That in sub-clause (1) of clause 11 for the words 'that officer' the words 'the officer who issued the requisition' be substituted."

The question is that that amendment be made.

The motion was adopted.

Bhai Man Singh: Sir, the amendment which stands in my name is to omit sub-clause (2) of clause 11. Sub-clause (2) reads as follows:

"After sub-section (2) of the same section, the following sub-section shall be added, namely:

(3) The term 'police-officer' in this section shall be deemed to include such village officers as may be either generally or specially authorised by the Local Government in this behalf."

This means that power of arresting persons mentioned in this clause without a warrant is to be extended beyond the ordinary police officers to village headmen and to any village officer. I think it would be giving them too much latitude. If this is done any village chaukidar or a lam-bardar or jaidar will be able to arrest anybody without a warrant under this clause. We have been going on for such a long time without that power and very strong and cogent reasons should be brought forward to make this new provision, if it is to stand at all. I do not understand, Sir, why such drastic powers should be given to persons who are not connected with the detection of or enquiring into crimes. They are untrained persons in this matter. It is really a very dangerous doctrine that any village officer should be given the power to arrest any person without a warrant under section 54.

Mr. Deputy President: Amendment moved:

'Omit sub-clause (2) of clause 11'.

The Honourable Sir Malcolm Halley: The Honourable Member will probably accept our proposal if I told him how it came to be framed. I notice that Sir Deva Prasad Sarvadhikary was also somewhat apprehensive of its results. Indeed he went so far as to say that this was a distinct attempt on the part of Government to take new powers under this section. The exact facts are very simply as follows: Some years ago the Central Provinces pointed out that in Berar the police patel had since 1868 been given power to arrest, but the power rested on somewhat doubtful authority. It was indeed an executive order, but the Local Government asserted that these police patels, although not technically coming within the category of police officers, had acted admirably in that respect and had not exceeded their authority. They merely asked therefore that they might have power to give to them the formal authority which they had actually utilised in the past. That is the very simple reason why we placed this sub-clause in the Bill. It has been before the public ever since the Bill was first published, and I think I am right in saying that it has received no objections. Stay, there was one objection, from the Bar Association in Madras, though not of a very serious nature, for it chiefly referred, I think, to other provisions of the clause.

Mr. T. V. Seshagiri Ayyar: Madras objections are always weighty.

The Honourable Sir Malcolm Halley: No doubt, but this in itself tells against the amendment of Mr. Man Singh, since the Association did not itself lay great stress on their objection. Now it is not correct to say, as the Mover of this amendment said, that we are hereby placing in the hands of a very large number of village officers, be they village chowkidars or any other such officers, an unlimited power of acting as police. The Bill does not do that at all. It is purely permissive; it declares that the Local Government may in certain circumstances grant these powers. Who are responsible for the administration of law and order but the Local Governments? We have no reason to suppose that this permissive clause, if it

[Sir Malcolm Hailey.]

is put in the Bill, will be abused by them. Why should they raise up trouble for their own Provinces by handing over to a large number of undesirable persons the power of arrest as police officers? Surely we must give Local Governments sufficient credit for at least a passing interest in the welfare of the people of their Province. We must give their local Councils sufficient credit, I think, for protesting against any such course of action as would lead to widespread mischief arising from the abuse of a simple provision of that nature.

Mr. T. V. Seshagiri Ayyar: For once, Sir, I shall use the argument which has been so often used by the Government benches in this House, and that is, as for a long time we have gone on without an amendment of this kind, it is not necessary now to tinker with the law and bring in an amendment, because one Local Government considers a particular class of officers in a particular place should be empowered in a particular manner. We have gone on without such a power as that for a long time and I do not think other Governments have felt the same difficulty as the Central Provinces Government. Moreover to empower with a general power a large class of officers of this calibre to arrest a person is simply to place power in their hands which would be sure to be misused, and I do not think that the authorities of the Local Government will be able to distinguish between a particular class of patels and other classes of patels, and the result would be that they would give general power to patels and that would lead to the general abuse of power. The Honourable the Home Member has not shown any reason for a change in the law which has stood for a long time, and the fact that the Central Provinces has asked for it is not a reason for including such a dangerous provision like this, namely giving power to arrest to persons of this low class.

Mr. K. B. L. Agnihotri: Sir, I rise to support the amendment moved. My own Government has been quoted in support of this introduction. It was the Central Provinces Government which needed such a clause and to satisfy the desire of the Central Provinces Government this clause has been added, because in Berar there is a class of people known as police patel who have been exercising such power before Berar was attached to this Government and so that that power should also continue after Berar has been amalgamated to the Central Provinces. My humble reply in that case would be, Sir, that Berar was included in the Central Provinces in the year 1905 or thereabouts and from 1905 to this year, 1928, those police patels have been working without those powers, that is to say, whatever powers they had of arresting have been suspended and they are not authorised now under this present Code of Criminal Procedure to arrest persons. Therefore, if these people could do without these powers for so long, there is no reason why that additional power should be given. Moreover, if it had only been a case of police patels, I might have opposed the amendment and supported the Government; but there is no knowing, as the clause stands, to whom that power may be extended. The Honourable the Home Member says that we should leave this discretion in the hands of the provincial Governments who are supposed to exercise their discretion in a proper way and that, if there is any impropriety in the exercise of their discretion, that might be questioned by the local Councils. I am afraid, Sir, it is not always possible. It may happen, sometimes that provincial Governments may even do the improper thing and the local Councils cannot take sufficient

action in time. I would just give one instance of my own provincial Government to show in what way they have behaved in regard to certain legislation which was passed by this House in the September Session in Simla. The House will remember that the Police Incitements to Disaffection Act was passed in that session and a clause was added at my request, after acceptance by the Government, that that Act was to be brought into force in such provinces and such parts of the provinces where it might be thought necessary. The Act received the assent of the Governor General probably in the first week in October and it was hardly a fortnight after the assent was given that the Central Provinces Government was the first to introduce and to extend the provisions of that Act in the whole of the Central Provinces and Berar. If the Central Provinces Government thought that such an Act was necessary for a particular part of the province they could have extended it to that part only instead of extending it to the whole of the province and Berar. So, this is the way in which the powers that are delegated to the Local Governments are sometimes utilised. Therefore, I beg to submit that we should not delegate this power to the Local Governments to authorise any person whomsoever they please to arrest persons under this section. We have spent the whole day discussing the way in which police officers have been behaving and acting under section 54 and the whole day we have been thinking of the ways in which we should curtail these powers without causing any inefficiency in their work, but we have not been able to come to a proper conclusion so far, and now in this clause we are extending this power to whomsoever the Local Governments may desire to extend it. Therefore, Sir, I suggest that the power would be a very dangerous one and it should not be extended beyond the powers under the old section 54; and this amendment which has been moved by my Honourable friend should be supported and accepted.

Mr. Darcy Lindsay (Bengal : European): I move that the question be now put.

Mr. Deputy President: The question is that the question be now put
The motion was adopted.

Mr. Deputy President: The amendment moved is to omit sub-clause (2) of clause 11.

The question is that that amendment be made.

The Assembly then divided as follows:

AYES—34.

Agarwala, Lala Girdharilal.
Agnihotri, Mr. K. B. L.
Ahmed, Mr. K.
Ayyar, Mr. T. V. Seshagiri.
Bajpai, Mr. S. P.
Basu, Mr. J. N.
Bhargava, Pandit J. L.
Chaudhuri, Mr. J.
Cotelingam, Mr. J. P.
Das, Babu B. S.
Ginwala, Mr. P. P.
Gulab Singh, Sardar.
Iawar Saran, Munshi.
Jamnadas Dwarkadas, Mr.
Joshi, Mr. N. M.
Kamaj, Mr. B. S.
Lakshmi Narayan Lal, Mr.

Lindsay, Mr. Darcy.
Man Singh, Bhai.
Misra, Mr. B. N.
Mukherjee, Mr. J. N.
Nag, Mr. G. C.
Nand Lal, Dr.
Neogy, Mr. K. C.
Ramayya Pantulu, Mr. J.
Rangachariar, Mr. T.
Samarth, Mr. N. M.
Sen, Mr. N. K.
Singh, Babu B. P.
Sinha, Babu Adit Prasad.
Sircar, Mr. N. C.
Srinivasa Rao, Mr. R. V.
Subrahmanayam, Mr. C. S.
Vishindas, Mr. H.

NOES—29.

Abdulla, Mr. S. M.
 Akram Hussain, Prince A. M. M.
 Allen, Mr. B. C.
 Bradley-Birt, Mr. F. B.
 Bray, Mr. Denys.
 Burdon, Mr. E.
 Cabell, Mr. W. H. L.
 Chatterjee, Mr. A. C.
 Crockabank, Sir Sydney.
 Faridoonji, Mr. R.
 Haigh, Mr. P. B.
 Hailey, the Honourable Sir Malcolm.
 Hindley, Mr. C. D. M.
 Holme, Mr. H. E.
 Hullah, Mr. J.

Innes, the Honourable Mr. C. A.
 Ley, Mr. A. H.
 Mitter, Mr. K. N.
 Moncrieff Smith, Sir Henry.
 Muhammad Ismail, Mr. S.
 Nabi Hadi, Mr. S. M.
 Percival, Mr. P. E.
 Singh, Mr. S. N.
 Spence, Mr. R. A.
 Stanyon, Col. Sir Henry.
 Tonkinson, Mr. H.
 Webb, Sir Montagu.
 Willson, Mr. W. S. J.
 Zahiruddin Ahmed, Mr.

The motion was adopted.

Rao Bahadur T. Rangachariar: Sir, the next amendment is likely to take time; we have already sat very late and I beg to propose that the House do stand adjourned till to-morrow.

The Honourable Sir Malcolm Hailey: We shall have no objection to that course, though I cannot agree with the Honourable Member, that, taking our own ordinary hours of work, we have sat very late.

The Assembly then adjourned till Eleven of the Clock on Wednesday, the 17th January, 1928.
