

THE
LEGISLATIVE ASSEMBLY DEBATES

(Official Report)

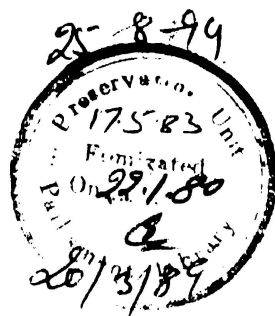
Volume IV, Part V

(3rd September to 16th September 1924)

FIRST SESSION
OF THE
SECOND LEGISLATIVE ASSEMBLY, 1924



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LEGISLATIVE ASSEMBLY.

Thursday, 16th September, 1924.

The Assembly met in the Assembly Chamber at Eleven of the Clock,
Mr. President in the Chair.

QUESTIONS AND ANSWERS.

(Question No. 1973 was withdrawn.)

PROMOTION OF SENIOR SUBORDINATES IN THE PUNJAB POSTAL CIRCLE.

1974. *Mr. Chaman Lall : (1) Is it a fact that a good number of senior subordinates of the time-scale in the Punjab Postal Circle are refused promotion to the higher grade ?

(2) Is it a fact that many of such men are holding charge of some important sub-offices or an important branch of a head office ?

(3) Is it a fact that some of them got special promotions for their good work ?

(4) Is it a fact that only character sheets were consulted to pass such orders and no other consideration was paid ?

(5) Has it been admitted by the Government that the communal tension in the Punjab is very high and that therefore remarks recorded in the character sheet of the officials are generally biased ?

(6) Is the Director General prepared to request the Postmaster General, Punjab, to reconsider the cases of such officials who are recommended by their immediate superior and give them a chance to prove their fitness ?

Mr. H. A. Sams : (1) It is presumed that the Honourable Member refers to promotion to the Selection Grades ; if so, it is a fact that certain of the senior men in the time-scale whose past records have shown that they are unfit for the Selection Grades have been passed over for promotion to these grades.

(2) No. Important sub-offices and important branches of Head Offices are ordinarily in charge of men in the Selection Grades.

(3) Yes, two officials, but work and conduct subsequent to the special promotion have also to be taken into consideration.

(4) Yes, because character sheets are the record of an official's work and conduct.

(5) No.

(6) No, I have at present no reason to believe that there has been any injustice.

LIQUIDATION OF THE ALLIANCE BANK OF SIMLA.

1975. *Mr. Chaman Lall : (a) Have Government seen the Liquidators' report and the Investigation Committee's report relating to the liquidation of the Alliance Bank of Simla, Ltd. ?

(3463)

(b) Will Government explain their attitude in delaying to take action against the persons involved ?

(c) Will Government inform the House of the nature of the conversation which took place between Sir Malcolm Hailey and one of the officials of the Bank ?

(d) Will Government state the total amount of money belonging to Government Departments lying with the Alliance Bank of Simla at the time when that bank went into liquidation ?

The Honourable Sir Basil Blackett : (a) Yes.

(b) The Bank was in voluntary liquidation and the Government awaited the report of the liquidators before deciding whether any action on their part was called for. I do not think there has been any avoidable delay.

(c) The Honourable Member presumably is referring to Sir Edward Cook, who was acting as Finance Member at the time. The Government have no information regarding the conversation referred to.

(d) None, so far as the Government is aware.

Mr. Chaman Lall : Will Government make an attempt to find out the exact nature of the conversation that took place between Sir Malcolm Hailey and Sir Edward Cook ?

The Honourable Sir Basil Blackett : Sir Malcolm Hailey and Sir Edward Cook must have had several conversations about that time, Sir ; but I think the question asked is as to a conversation which took place between Sir Edward Cook and one of the officials of the Bank. As I said, the Government have no information.

Mr. Chaman Lall : Is it the intention of Government to withdraw the statement in the report itself referring to that conversation with Sir Malcolm Hailey ?

The Honourable Sir Basil Blackett : The report did not refer to a conversation with Sir Malcolm Hailey. As I have twice told the Honourable Member, the conversation was said to be with Sir Edward Cook and I have no information with regard to it.

NET PROFIT OF THE POSTAL AND TELEGRAPH DEPARTMENTS FOR THE YEAR ENDING MARCH 1923.

1976. ***Khan Bahadur Sarfaraz Hussain Khan :** Will the Government be pleased to state :

(a) the amount of net profit of the Postal and Telegraph Departments for the year ending March 1923 ;

(b) the manner in which it will be spent ?

The Honourable Mr. A. C. Chatterjee : (a) The Honourable Member is referred to the Finance and Revenue Accounts for 1922-23 (Account No. 39) which shows the net revenue of the Department for the year ending March 1923. It would be misleading to speak of this net revenue as representing a profit. In preliminary discussions regarding the commercialisation of the accounts of the department it has become apparent that when all proper debits are taken to account the result will more probably be a loss than a profit.

(b) The net revenue was merged in the general revenues of the country.

FLOODS IN SOUTHERN INDIA.

1977. *Haji S. A. K. Jeelani : 1. Will the Government be pleased to state whether they have received a report from the Government of Madras about the flood havoc in the southern parts of the Presidency of Madras ?

2. Have the Government received any reports from the Government of Madras as to the necessity of urgent relief to the sufferers and the amount that may be required for rendering such relief ?

3. Have the Government received any estimate of the loss of revenue that the Government of Madras may have to suffer this year on account of the flood havoc ?

4. Do the Government propose to remit any portion of the Madras provincial contribution this year to enable the Madras Government to meet the financial difficulties created by the floods ?

Mr. J. W. Bhore : 1. Yes. In view of the numerous inquiries on this point a copy of the telegram from the Madras Government is placed on the table.

2. The Government of India have received a request for assistance from the Government of Madras and it is under consideration.

3 and 4. The reply is in the negative.

Copy of a telegram from the Government of Madras, to the Government of India, Home Department, dated the 3rd September 1924.

Your wire 3067, 30th August. Flood damages. These districts seriously affected, namely, Malabar, Trichinopoly, Tanjore ; five less seriously, South Kanara, Coimbatore, Nilgiris, Salem, South Arcot. Loss of lives Malabar believed under twenty, Nilgiris 23 due to land-slips, none elsewhere. Number of houses destroyed Malabar 22,000, Tanjore 6,040, Trichinopoly 7,710, Coimbatore 6,000, Salem 1,323, South Kanara 364, Nilgiris 37 houses largely mud huts. Number of cattle lost Tanjore 78, Trichinopoly 80, Nilgiris 1,025, Malabar lost cattle worth 3,000 rupees and two elephants. Loss of other moveable property impossible to estimate. Standing crops destroyed Malabar 30,000 acres, Trichinopoly 11,300 acres, Tanjore 8,340, and seed beds sown with 71,000 *Kalams* of paddy Salem valued at 1½ lakhs, Nilgiris 340 acres of paddy and coffee, South Kanara low lying paddy fields destroyed. Damage by silt and sand negligible in Malabar, 6,000 acres rendered unfit for cultivation in Trichinopoly, 3,919 acres excluding 60 acres washed away in Tanjore, 824 acres in Salem. Communications and irrigation works seriously damaged in Malabar, Coimbatore, Nilgiris, Tanjore and Trichinopoly, Coleroon Bridge totally destroyed. Repairs to communication at present estimated at 30 lakhs. Cauvery Bank breached in many places, serious situation in Tanjore will arise if Cauvery breaches cannot be speedily repaired. Nine lakhs of acres depend for irrigation on delta system. Immediate cost of repairs estimated at 13 lakhs, total required to protect against future danger 65 lakhs. Board Member appointed Flood Commissioner inspecting affected districts and organising labour for Public Works Department and schemes for reconstruction.

SUFFERINGS OF HAJ PILGRIMS.

1978. *Haji S. A. K. Jeelani : (a) Has the attention of the Government been drawn to the article under the caption " Haj Pilgrims sufferings " in the *Hindu* of Madras of 28th July ?

(b) If so will the Government be pleased to state whether what is stated in the article with regard to the sufferings and death of Haj pilgrims is a fact ?

(c) Will the Government be pleased to state whether among those who were left stranded and dead in the desert of Ralia there were any Indian Muslim pilgrims ?

(d) Will the Government be pleased to state the total number of Indian Muslim pilgrims who left India for Mecca this year ?

Mr. Denys Bray : (a) Yes.

(b) Government are not aware whether all the detailed facts are as stated in the article. But the reports of His Majesty's Consul leave no doubt that the sufferings of the pilgrims were great and that there were several deaths.

(c) Yes. Government have not been able to secure trustworthy statistics. Happily Indian parties in this particular caravan were relatively few, the chief sufferers were Javanese.

(d) 18,005.

ASSISTANCE TO MEMBERS OF THE ASSEMBLY IN THE DISCHARGE OF THEIR PUBLIC DUTY.

1979. ***Haji S. A. K. Jeelani :** (a) Will the Government be pleased to state whether the heads of departments, under the direct control of the Government of India have any standing instruction to assist the Members of the Assembly in the discharge of their public duty by furnishing any information, not of a confidential nature, that may be asked for by the Members ?

(b) If the answer is in the affirmative will the Government be pleased to place on the table a copy of the instructions ? If it is in the negative do the Government propose to issue such instructions ?

The Honourable Sir Alexander Muddiman : Ample opportunity is provided to Honourable Members of obtaining the information they require by the rules and standing orders relating to questions. Honourable Members make very full use of their privilege and they will, I think, admit that the Departments are very conscientious and industrious in providing the information asked for. This procedure appears to me the most satisfactory in the interests both of Honourable Members and of Government and it does not appear necessary to supplement it in the manner proposed by the Honourable Member.

MEMORIAL RULES.

1980. ***Mr. W. S. J. Willson :** Referring to the three notifications of the Home Department in the *Gazette of India* dated the 21st June 1924 on the subject of Memorial Rules will Government be pleased to state :

- (1) whether paragraphs X (8) and 11(9) respectively of the two sets of "Instructions" are new rules ;
- (2) whether they refer to non-selection or selection appointments ;
- (3) what their interpretation is ; and
- (4) whether rule XXVI of the Rules made by the Secretary of State under 96B (2) of the Government of India Act applies to the case of an appeal withheld under a misinterpretation of the memorial rules ?

The Honourable Sir Alexander Muddiman : 1. The new rules merely reproduce the former rules on this subject.

2. They refer to non-selection for those selection appointments in regard to the selection for which discretion has been vested in Governments in India by law or rule.

3. Their interpretation can only be gathered from the wording of the rules themselves and I have not had any ambiguity in them brought to my notice by the Honourable Member.

4. Yes : but it is to be noticed that the power of withholding appeals is discretionary and there is no reason to suppose that Governments in India would refuse to forward an appeal where there was doubt as to the interpretation of the memorial rules. I may add that as a matter of fact I have had several cases of the kind where there was doubt as to the memorial rules and they were forwarded to the Secretary of State. At the same time periodical statements of appeals withheld are forwarded as prescribed by Rule XXVII of the Rules referred to by the Honourable Member and it would be open to the Secretary of State or the Government of India, as the case may be, to call for an appeal which has been withheld owing to a misinterpretation of the memorial rules or for any other reason.

STOPPAGE OF PROMOTION OF SENIOR SUBORDINATES IN THE PUNJAB POSTAL CIRCLE.

1981. ***Lala Duni Chand** : (a) Are Government aware that a good many senior subordinates of the time-scale in the Punjab Postal Circle are refused promotion to the next higher grade ?

(b) Is it a fact that a good many among these senior subordinates are holding charge of important sub-offices or important branches of the head office ?

(c) Are Government aware of the existence of a feeling among a number of senior subordinates that the adoption and pursuit of a communal policy at the sacrifice of efficiency and merit is responsible for stoppage of their promotion to a higher grade ?

(d) If the facts stated in part (a) and (b) are wholly or partly correct, are the Government prepared to direct the Director General of Post Offices to reconsider the cases of the said senior subordinates and redress their grievances ?

The Honourable Mr. A. C. Chatterjee : With regard to (a), (b) and (d), my Honourable friend Mr. Sams has already answered these questions in reply to a question of Mr. Chaman Lal's.

(c) There is no question of any communal policy. Promotions to the selection grade are based solely on merit and efficiency.

PAYMENT OF AN ALLOWANCE TO MR. AMIR CHAND BAMBWAL DURING HIS INTERMENT.

1982. ***Lala Duni Chand** : 1. Will Government, in view of their reply to my interpellations on 15th February 1924 to the effect that Mr. Amir Chand Bambwal was not detained at the instance of Nawab Mohammad Azim Khan, be pleased to place on the table the copy of the letter which was received by the Honourable the Chief Commissioner of the North Western Frontier Province from Nawab Mohammad Azim Khan ?

2. (a) Is it a fact that certain correspondence has passed between the Deputy Commissioner, District Peshawar, and Mr. Amir Chand Bambwal after he was released from jail on the subject of the allowance promised to him during the period of his detention in 1920, and if so, will Government please lay on the table the copies of this correspondence ?

(b) Is it true that in reply to my interpellation on 15th February 1924 it was incorrectly stated that Mr. Amir Chand Bambwal was paid Rs. 75 every month, while as a matter of fact he was not paid even a single pice, and if so, will Government state the reasons for the incorrectness of the statement ?

(a) Is it a fact that Mr. Amir Chand Bambwal in a letter to the Deputy Commissioner, District Peshawar, challenged the correctness of the statement relating to the monthly payment of Rs. 75. to him during the period of his detention and in reply the latter admitted that the reply given in this House was incorrect ?

(d) Has the attention of the Government been drawn to two articles published in the *Partap* newspaper of 1st June 1924 and the *Zamindar* of 5th June 1924 in which the correctness of the reply as to the payment of allowance to him made in this House is challenged ?

Mr. Denys Bray : 1. A copy of the letter is being obtained from the Local Administration and will in due course be laid on the table in the absence of any particular reason to the contrary.

2. (a) A copy of the correspondence is laid on the table. The Deputy Commissioner, Peshawar, it should be added, knew nothing of the actual non-payment of the allowance, as it had been made payable not through him but through the Deputy Commissioner, Dera Ismail Khan.

(b) Yes, the answer previously given to the Honourable Member was unfortunately incorrect. The error arose thus : Mr. Amir Chand claimed a monthly allowance of Rs. 300 while under internment. The Chief Commissioner held this to be excessive and reduced it to Rs. 75. This Mr. Amir Chand refused as being inadequate. As his refusal was of no particular importance, it was not reported to the Chief Commissioner and on being asked to supply the answer to the Honourable Member's question he assumed in the absence of any report to the contrary that the sanctioned allowance had been drawn in the usual way. These facts, Sir, with an expression of regret for the error were set forth at large in a letter addressed to the Honourable Member from my office, on the 29th July last. I trust it was duly received. Unfortunately the Honourable Member is not himself in the House ; I should have been glad to have had an answer to my pointed question.

(c) The Government have no information but the Honourable Member's statement is presumably correct.

(d) Yes.

Copy of a letter dated the 27th January 1921, from Amir Chand Bambwal, Rampura Street, Peshawar City, to the Chief Secretary to the Chief Commissioner, N. W. F. Province, Peshawar.

I have the honour to bring to your kind notice that by the order of the Chief Commissioner I was interned at Tank, etc., under the Defence of India Act from 19th May 1920 to 20th December 1920.

During my unnecessarily prolonged internment, I had to suffer heavily under the unrelenting orders of the Local Government. An irretrievable loss has been caused to my already failing health on account of the insanitary conditions prevailing at the places of my internment. I suffered good many losses in my business, my sentiments were shocked.

To add to all this, my internment touched my pocket heavily and I was compelled to spend large sums to keep myself comfortable at different places where I was ordered to rot.

For all these various privations and actual expenses, no compensation has been awarded to me as yet.

Will you kindly let me know at your earliest convenience the scheme your Government are going to adopt to recompensate me for my troubles and losses, etc.

Copy of a memorandum No. 88-Camp, dated the 3rd February 1921, from the Deputy Commissioner, Peshawar, to Amir Chand Bambwal, Peshawar City.

Your letter of the 27th January 1921 to the Chief Secretary to the Chief Commissioner, has been transferred to me, as your representation should have been addressed to me and not to the local Administration. I am authorised to remind you that you were granted an allowance which was considered adequate for yourself and your family during the period of your internment, and to inform you that your request for compensation cannot be entertained.

Copy of a letter dated the 17th December 1923, from Amir Chand Bambwal, Peshawar City, to the Deputy Commissioner, Peshawar.

In accordance with letter of your office No. 88, dated the 3rd February 1921, I have the honour to submit that internment compensation for seven months be kindly given to me at an early date and oblige. I shall be anxiously awaiting your reply.

Copy of a memorandum No. 156-P., dated the 15th January 1924, from the Deputy Commissioner, Peshawar, to Amir Chand Bambwal, Peshawar City.

With reference to his application dated the 17th December 1923, Amir Chand Bambwal is informed that the case of his claim for compensation which has once been settled cannot be reopened.

Copy of a letter dated the 31st January 1924, from Amir Chand Bambwal, Peshawar City, to the Deputy Commissioner, Peshawar.

With reference to your memorandum No. 88-Camp, dated 3rd February 1921, and memorandum No. 156-P., dated 15th January 1924, I beg to submit that my letter dated 27th January 1921 and 17th December 1923, have been ignored. It is incorrect that you have stated in your first named letter that I was granted an allowance which the Government had considered adequate for myself and my family during the period of my internment in the year 1920. I never got a penny of any of my expenses that I had incurred. Although I was supposed to travel to my several places of internment, yet this is a fact that I paid for my railway fares, etc., I am certainly entitled to the compensation already asked for by me which is just and proper. However I may be paid the allowance which would have been sufficient enough for myself and my family according to my position of life, for which I had applied through Mr. Latimer, the then Deputy Commissioner of Dera Ismail Khan.

I hope my request will be favourably considered, otherwise I would be obliged to undergo the painful necessity of taking legal steps. I am sure that the local Administration have realised their mistake in interning me for the sake of pleasing rather a local "Bais" than for the better administration of this Province.

Hoping to receive a favourable reply by an early date.

Copy of a memorandum No. 646-P., dated the 11th February 1924, from the Deputy Commissioner, Peshawar, to Amir Chand Bambwal, Peshawar City.

With reference to his application dated the 31st January 1924, the attention of Amir Chand Bambwal is invited to this office letter No. 88-Camp, dated the 3rd February 1921, a copy of which is enclosed for facility of reference. I am unable to do anything in the matter.

Copy of a letter dated the 1st April 1924, from Amir Chand Bambwal, Peshawar City, to the Deputy Commissioner, Peshawar.

With reference to our correspondence ending with your memorandum No. 464-P, dated the 11th February 1924, regarding the compensation allowance for my illegal and unjustified internment, I beg to solicit the favour of your kindly supplying me with the copies of two letters addressed by me to you on 17th December 1923 and 31st January 1924.

Before I seek justice in a law court I fully realise the advisability of representing my case to the higher authorities, and for this object the copies of those two letters are urgently needed by me.

I hope you would kindly oblige me by acceding to my request.

Copy of a memorandum No. 1448-P., dated the 14th May 1924, from the Deputy Commissioner, Peshawar, to Amir Chand Bambwal, Peshawar City.

Reference your letter dated the 1st April 1924. A copy of your two letters to my address dated the 17th December 1923 and 31st January 1924 is enclosed.

PAY OF HOSPITAL STOREKEEPERS OF STATION HOSPITALS.

1983. ***Mr. K. G. Lohokare** : (a) Is it a fact that before 1920 hospital storekeepers of the station hospitals in India were on the same list as Supply and Transport storekeepers ?

(b) Is it a fact that the scales of salaries of the hospital storekeepers—now I. H. C.—and of the Supply and Transport storekeepers—now A. S. C.—have been recently revised ?

(c) Is it a fact that many hospital storekeepers of long service—persons formerly on the same list as Supply and Transport storekeepers—are now receiving less pay than the former Supply and Transport Storekeepers of the same service, and in some cases even juniors in the Supply and Transport Department are getting more than their former seniors in the I. H. C. for the present, on account of the persons being separated in two cadres in the reorganisation scheme ?

(d) Has the anomaly been brought to the notice of the Government by the Departments or the subordinates and what relief have Government proposed to give to the hospital storekeepers ?

Sir Henry Moncrieff Smith : (a) No. Prior to 1918, hospital storekeepers, though controlled by the Supply and Transport authorities, were not borne on the same list as storekeepers of the Supply and Transport Corps.

(b) The salaries of storekeepers of the Indian Hospital Corps have not, so far, been revised ; those of storekeepers of the Supply and Transport Corps (now designated the Indian Army Service Corps) have recently been revised.

(c) It is a fact that the rates of pay drawn by storekeepers of the Indian Hospital Corps are lower than those drawn by storekeepers of the Indian Army Service Corps.

(d) Proposals for the revision of the pay of storekeepers of the Indian Hospital Corps are under consideration and it is hoped that a decision thereon will be reached shortly.

MEMORIAL FROM THE INDIAN MERCHANTS' CHAMBER, BOMBAY, REGARDING THE INTRODUCTION OF AN EFFECTIVE GOLD CURRENCY IN INDIA.

1984. *Khan Bahadur Sarfaraz Hussain Khan : Will the Government be pleased to state :

- (a) whether they have received a memorial on the subject of introducing an effective gold currency in India from the Indian Merchants' Chamber, Bombay ?
- (b) If they have, will they please lay a copy of it on the table ?

The Honourable Sir Basil Blackett : (a) and (b) The Indian Merchants' Chamber have been addressing the Government from time to time on the general question of currency and exchange and I believe the correspondence has been appearing in the press. If the Honourable Member requires a copy of any particular representation, I will arrange to supply it to him.

APPOINTMENT OF A SUCCESSOR TO SIR EDWARD COOK, SECRETARY TO THE HIGH COMMISSIONER FOR INDIA.

1985. *Khan Bahadur Sarfaraz Hussain Khan : (a) Is it a fact that Sir Edward Cook, Secretary to the High Commissioner for India is vacating his post very soon ?

- (b) If so, when ?
- (c) In whom is the power vested of appointing his successor ?

The Honourable Sir Charles Innes : (a) and (b) Sir Edward Cook vacated his post a few days ago.

- (c) The Government of India.

DELAY IN THE DELIVERY OF MONEY ORDERS.

1986. *Khan Bahadur Sarfaraz Hussain Khan : (a) Has the attention of Government been drawn to the letter, published in the issue of the *Amrita Bazar Patrika* of the 1st August 1924, page 8, under the heading "A money order horribly delayed" ?

- (b) If so, will they please state if the facts stated therein are correct ?
- (c) If correct, do Government propose to issue instructions directing the authorities concerned to put a stop to the practice of keeping back money orders ?

Mr. H. A. Sams : (a) Yes.

(b) No. The delay in payment was due to the money order having been held in deposit at the post office under instructions from the payee, who was temporarily out of Calcutta.

- (c) does not arise.

INCONVENIENCE CAUSED TO RAILWAY PASSENGERS TRAVELLING BY THE LINE FROM SANTAHAR TO PARBATIPUR ON THE EASTERN BENGAL RAILWAY.

1987. *Khan Bahadur Sarfaraz Hussain Khan : (a) Has the attention of Government been drawn to the letter, published in the issue of the *Forward* of the 2nd August 1924, page 11, under the heading "Inconvenience of railway passengers", in connection with the broad gauge line from Santahar to Parbatipur ?

(b) If so, will they please state whether the statements made therein are correct ?

(c) If correct, do Government propose to issue instructions to the authorities concerned to remove the complaints referred to ?

Mr. A. A. L. Parsons : (a) Government have seen the letter referred to.

(b) and (c) Inquiry is being made and the information will be furnished to the Honourable Member in due course.

REVISION OF THE PAY OF POSTAL INSPECTORS AND SUPERINTENDENTS' HEAD CLERKS, BIHAR AND ORISSA.

1988. ***Khan Bahadur Sarfaraz Hussain Khan :** Is it not a fact that the maximum pay of postal Inspectors and Superintendents' Head Clerks (B. and O.) before the revision of pay in 1920 was Rs. 150 and that it has been revised to Rs. 175 only ?

Mr. H. A. Sams : Prior to the revision of pay in 1920 the appointments of Inspectors of Post Offices and Head clerks to Superintendents of Post Offices in the Bihar and Orissa Circle were graded as follows :—

8 on Rs. 60.

11 on Rs. 80.

9 on Rs. 100.

5 on Rs. 100—10—150.

All of the appointments are now on a time-scale of Rs. 100—5—175.

REVISION OF THE PAY OF INSPECTORS OF POST OFFICES.

1989. ***Khan Bahadur Sarfaraz Hussain Khan :** (a) Is it not a fact that the pay of postal Inspectors is far below that fixed for Inspectors in several other Departments of the Government such as Police and Railway ?

(b) If so, do the Government propose to revise the pay of the Inspectors of Post Offices to bring it to the standard of that of the Inspectors of other Departments ?

(c) If not, why not ?

The Honourable Mr. A. C. Chatterjee : (a) Yes. This is generally correct, though, of course, the work and responsibilities of Inspectors in different departments are not comparable.

(b) and (c) Government are of opinion that the existing scale of pay for Inspectors of Post Offices is adequate, and do not, therefore, propose to revise it.

GRANT OF DUTY ALLOWANCE TO HEAD CLERKS OF POSTAL SUPERINTENDENTS.

1990. ***Khan Bahadur Sarfaraz Hussain Khan :** (a) Is it a fact that various Provincial and All-India Postal and R. M. S. Conferences have recommended "Duty Allowance" to the Head Clerks of postal Superintendents in addition to some official recommendations for the same ?

(b) If so, will the Government be pleased to state whether they are prepared to give effect to this recommendation ; and if so, when ?

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

(b) Government are not prepared to give effect to this recommendation.

FIRST CLASS HEAD POST OFFICES IN BIHAR AND ORISSA.

1991. ***Khan Bahadur Sarfaraz Hussain Khan** : (a) Is it a fact that there is not a single 1st Class Head Post Office in the Province of Bihar and Orissa ?

(b) If so, will the Government be pleased to state if they intend to establish one in the Province, even on its present pay and without extra expenditure to Government ?

(c) If not, why not ?

(d) Do 1st Class Head Post Offices exist in the Provinces of Bengal, the United Provinces, the Punjab, Bombay and Madras ?

Mr. H. A. Sams : (a) Yes.

(b) No.

(c) Because no post office in Bihar and Orissa is at present of sufficient importance to rank as a first class Post Office.

(d) Yes.

I would explain for the information of the Honourable Member that the distinction between first and second class Head Office is purely administrative. The functions with respect to the public are the same. I would draw the attention of the Honourable Member to the replies given to Mr. Rangaswami Iyengar's questions Nos. 1836 and 1838.

ESTABLISHMENT OF A DEAD LETTER OFFICE IN BIHAR AND ORISSA.

1992. ***Khan Bahadur Sarfaraz Hussain Khan** : (a) Is it a fact that there is no Dead Letter Office in the Bihar and Orissa circle and that the unclaimed and undecipherable letters of Bihar and Orissa are therefore sent to Calcutta ?

(b) If so, do the Government propose to establish one in the Province of Bihar and Orissa ?

(c) Do Dead Letter Offices exist in the United Provinces, the Punjab, Bombay and Madras ?

Mr. H. A. Sams : (a) Yes.

(b) The question of establishing a separate Dead Letter Office for Bihar and Orissa has already been the subject of careful consideration. A separate Dead Letter Office at Patna is not desirable from an administrative point of view, and there would be no justification for the additional expenditure which would be involved. Further a Dead Letter Office at Patna would be of use for Bihar alone, for Orissa and other parts of the circle are in quicker mail communication with Calcutta than with Patna.

(c) Yes.

PAYMENT OF EXTRA REMUNERATION TO POSTAL OFFICIALS FOR WORK ON SUNDAYS AND HOLIDAYS.

1993. ***Khan Bahadur Sarfaraz Hussain Khan** : (a) Is it not a fact that the postal officials have to work all the seven days of the week ?

(b) If so, are the Government prepared to pay extra remuneration to those officials who have to perform extra duties on Sundays and other holidays ?

The Honourable Mr. A. C. Chatterjee : (a) The exigencies of the service require the attendance on Sundays and Post Office holidays of a small proportion of the clerical staff employed in Post Offices ; but as far as possible, this work is divided among the staff by rotation.

(b) The performance of a certain amount of work on Sundays and Post Office holidays, without extra remuneration, has always been one of the ordinary conditions of service in the Postal Department and Government do not propose to make any change in this respect.

Diwan Bahadur T. Rangachariar : May I ask, Sir, if the Government are aware that there is no Sunday delivery in England ?

The Honourable Mr. A. C. Chatterjee : Yes, Sir.

Diwan Bahadur T. Rangachariar : Why should we not adopt the same practice here ?

The Honourable Mr. A. C. Chatterjee : We shall consider adopting that practice in Madras first.

CHARTERED AND INCORPORATED ACCOUNTANTS AND AUDITORS HOLDING CERTIFICATES UNDER SECTION 144 OF THE INDIAN COMPANIES ACT.

1994. ***Mr. C. S. Ranga Iyer :** (a) Will the Government be pleased to state whether there is any difference in the privileges enjoyed by the Chartered or Incorporated Accountants practising in India and those of the Auditors holding certificates granted under section 144 of the Indian Companies Act, VII of 1913 ?

(b) Is it a fact :

- (i) that the Government have no control whatsoever over the Chartered or Incorporated Accountants practising in India ?
- (ii) that the Government can withdraw certificates from Government Certified or Diplomaed Accountants without the auditor concerned having right of appeal ?
- (iii) that the Chartered or Incorporated Accountants can take and train (1) two apprentices at all times without the permission of any authority in India and (2) as many as four apprentices with special permission of the Local Government concerned ?
- (iv) that Government Certified Auditors cannot take and train any apprentices unless they obtain the previous permission of the Local Government concerned and even after obtaining necessary permission they cannot take and train more than two apprentices at a time ?

(c) Are the Government prepared to consider the advisability of taking necessary steps to remove the distinction referred to in (b) ?

The Honourable Sir Charles Innes : (a) Section 144 of the Indian Companies Act requires that an auditor should hold a certificate from the Local Government, but the proviso to the section empowers the Governor General in Council to exempt the members of any institution or association.

(b) (i) No. The Government can at any time withdraw the exemption.

(ii) Yes.

(iii) Yes.

(iv) Yes.

(c) The amendment of the regulation is now under consideration.

RECRUITMENT OF INCOME-TAX OFFICERS.

1995. *Mr. C. S. Ranga Iyer : (a) Will the Government be pleased to state the method of recruitment adopted in the case of officers of the Income-tax Department ?

(b) Is it a fact that hitherto Government have not shown preference to either Government Certified or Diplomaed Accountants or B. Coms. with Accounting (including Income-tax Law) as a special subject ?

(c) Are Government prepared to consider the advisability of recruiting persons with special qualifications of accounting only for future appointments of officers and Assistant Commissioners of Income-tax in the various Provinces ?

The Honourable Sir Basil Blackett : (a) I may refer the Honourable Member to section 5 (4) of the Income-tax Act, 1922, and paragraph 22 (2) on pages 80-81 of the Income-tax Manual. The appointments of Assistant Commissioners of Income-tax and Income-tax officers are made by the Commissioners of Income-tax with the approval of the Local Government concerned.

(b) The Government have no detailed information but they do not doubt that in making their selection, the Commissioners of Income-tax give due consideration to the fact that a particular candidate possesses the qualifications named by the Honourable Member.

(c) The Government do not think that it is necessary to issue any special instructions in this matter. They doubt whether it would be desirable to restrict the field of recruitment as suggested. It is also doubtful whether a sufficient number of suitable candidates with the qualifications mentioned would be forthcoming.

CHARTERED, INCORPORATED, AND GOVERNMENT CERTIFIED ACCOUNTANTS EMPLOYED IN THE INCOME-TAX DEPARTMENT.

1996. *Mr. C. S. Ranga Iyer : Will the Government be pleased to state the number of Chartered, Incorporated, Government Certified Accountants at present employed as Commissioners, Assistant Commissioners and Income-tax officers in each province of India ?

The Honourable Sir Basil Blackett : The information is being called for.

FILING OF RETURNS BY ASSESSEES TO INCOME-TAX.

1997. *Mr. C. S. Ranga Iyer : Will the Government be pleased to ascertain and state whether it is a fact that the work of assessment in Income-tax offices is greatly facilitated in the case of assessee who file their returns of income duly certified by competent professional auditors ? If so, are the Government prepared to consider the advisability of issuing instructions making it more incumbent upon assessee to utilise the services of practising professional auditors in the preparation of their return of Income ?

The Honourable Sir Basil Blackett : The Government have no doubt that the work of assessment to income-tax is greatly facilitated when an assessee files a return of his income accompanied by a balance-sheet and a profit and loss statement and a statement showing how the figure entered in the return has been arrived at, all certified by a competent and reliable auditor. The policy of the Income-tax Department is to encourage

assessees to file such statements but it has no means of compelling them to do so. A great advance will have been secured when all assessee file returns of their incomes, as they are required to do by the provisions of the Income-tax Act.

RETURNS FURNISHED BY ASSESSEES TO INCOME-TAX.

1998. ***Mr. O. S. Ranga Iyer :** (a) Is it a fact that according to Instruction No. 64 issued by the Government of India (Board of Revenue) under section 22 (4) of the Income-tax Act of 1922, it is prescribed (i) that in cases "where a statement of profit and loss filed by an assessee has been certified as correct and complete by a professional accountant, the Income-tax officers should, unless he sees reasons to the contrary, accept the statement as correct and complete with regard to facts mentioned in it"; and (ii) that in cases where the Income Tax Officer has to call for the details as to how various figures shown in the profit and loss account are arrived at, "the Income-tax officers should call on the accountant himself when authorised by the assessee to appear on his behalf to supply the details"?

(b) Will the Government please ascertain and state how far the provisions referred to in (a) are being given effect to by the Income-tax officers in the various provinces in India?

(c) Will the Government state how many accounts and how many returns certified by professional accountants have been accepted as true and correct in each of the three provinces of the United Provinces, Delhi, and the Punjab during the last two years?

The Honourable Sir Basil Blackett : (a) (i) The Honourable Member is evidently quoting from paragraph 6 of the instructions on page 105 of the Income-tax Manual. These do not direct that a profit and loss statement certified by any professional accountant should be accepted by an Income-tax officer in the absence of reasons to the contrary, but that a profit and loss statement filed by an assessee certified as correct and complete by an accountant who the Income-tax officer knows from experience can be relied upon to give accurate figures should be accepted as correct and complete so far as it goes in the absence of reasons to the contrary. The instructions go on to say that the income-tax officer will frequently have to call for details showing how the figures have been arrived at.

(a) (ii) Yes.

(b) The Government see no reason to doubt that full effect is being given to these instructions and do not propose to call for a special report on the subject.

(c) An immense amount of labour would be involved in the collection of the information asked for and since, further, the figures, if compiled, would be of little or no value without a detailed knowledge of each individual case, the Government do not propose to call for them.

MEMBERS OF THE ACCOUNTANCY DIPLOMA BOARD, BOMBAY.

1999. ***Mr. C. S. Ranga Iyer :** (a) Is it a fact that the Accountancy Diploma Board, Bombay, was constituted by the Bombay Government

under the authority of the Government of India and holds examinations throughout India ?

(b) Is it not a fact that there are only two professional accountants—one Chartered and one Incorporated accountant as members of the Accountancy Diploma Board, out of seven members and the other five do not belong to the accountancy profession ?

(c) Are the Government aware of the fact that the accountancy profession is controlled by the members of the profession themselves through the Associations or Institutes chartered or incorporated by or under the Acts of legislatures in Great Britain, Canada, Natal, and New Zealand ?

(d) Will the Government please state the reason for the appointment of those as members of the Accountancy Diploma Board, who are not members of the profession if the reply to (b) referred to above is in affirmative ?

The Honourable Sir Charles Innes : (a) Yes.

(b) Yes.

(c) Government are aware that this is the case in Great Britain, but has no information regarding Canada, Natal and New Zealand.

(d) The constitution of the Accountancy Diploma Board was part of a scheme to utilise the Sydenham College of Commerce and Economics at Bombay as a central examining body for conducting examinations and for awarding a diploma in accountancy, which would be recognised by Local Governments as a basis for the grant of Auditor's certificates, and which would command the confidence of commercial firms. The Board is constituted as follows :

The Director of Public Instruction, Bombay,
The Principal of the Sydenham College of Commerce,
The Secretary of the Imperial Bank,
Two Accountants,
Two experts in commercial law.

RECTIFICATION OF IRREGULARITIES IN INCOME-TAX ASSESSMENT.

2000. ***Mr. C. S. Ranga Iyer :** (a) Has the attention of the Government been invited to the judgment of the Calcutta High Court, in the matter of a petition of Bishnu Priya Chowdharani and in regard to the Income-tax reference published in the *Indian Accountant*, Lahore, for April 1924, 65, and reported in the *Indian Law Reports*, 50, Calcutta, 1923, 907, in which the Commissioner of Income-tax, Bengal, refused to state a case for the High Court ?

(b) Is it not a fact that on reference to the Calcutta High Court under section 66 (3) of the Indian Income-tax Act of 1922 for a *Mandamus*, it was held that the assessment was bad and should be cancelled ?

(c) Has the attention of the Government been invited to the case of the Honourable Mr. S. Sinha, Executive Member of the Bihar and Orissa Government, in which the Commissioner of Income-tax, Bihar and Orissa, refused to state a case for the High Court, Patna, and on application by the assessee to the High Court the case was decided in the favour of assessee ?

(d) If the reply to (a), (b) and (c) referred to above is in affirmative, will the Government be pleased to state the steps that have been taken to avoid the miscarriage of justice in case of small assesseees ?

The Honourable Sir Basil Blackett : (a), (b), (c) and (d). Answer to parts (a), (b) and (c) is in the affirmative. With regard to part (d) the Income-tax Act, 1922, already provides ample means by which any assessee can secure the rectification of any mistake or irregularity in assessment.

IMPRISONMENT OF INDIAN SEAMEN AT LIVERPOOL.

2001. ***Mr. Abdul Haye :** (a) Are the Government aware that 34 Indians, part of the crew of the "City of Venice", were sentenced to undergo 21 days' imprisonment at Liverpool on the 30th July last?

(b) If the Government have any information on the subject, will they state what was the nature of the offence with which they were charged?

(c) Whether these 34 Indians had sufficient means and opportunity to defend themselves in a foreign country?

(d) After the expiry of the period of sentence were these 34 men retained or were they discharged?

(e) If they were discharged were they expatriated? If so at whose cost?

(f) Is it a fact that these Indians had certain grievances against the *serang*? Were they inquired into? If so with what result?

(g) Are any papers forthcoming regarding the inquiry made by the captain into the complaint against the *serang*?

The Honourable Sir Charles Innes : (a) Yes.

(b) The men were charged with the offence of disobeying lawful commands and were presumably convicted under Section 225 of the English Merchant Shipping Act of 1894.

(c) The Government have no information beyond a newspaper report, which states that they were assisted by a police-sergeant, who had served for many years in India and understood Hindustani, in putting their defence before the court.

(d) and (e). It is not known what happened to the men after the expiry of the period of their sentence, but I may inform the Honourable Member that under the provisions of the English Merchant Shipping Act, special arrangements are made for the repatriation of destitute Indian seamen to India. Either they are provided with engagements on ships returning to India or they are provided with passages to India.

(f) The firemen's defence was that the *serang* had ill-treated them. On the other side, it was alleged that the 1st *tindal* was trying to oust the *serang*. The Magistrate found that the complaint against the *serang* was not a just one, but had been manufactured for the purpose of creating trouble. An inquiry was also held by the Chief Superintendent, Mercantile Marine Office, Liverpool, who came to the same conclusion.

(g) No.

Diwan Bahadur T. Rangachariar : Will the Government be pleased to issue instructions to the High Commissioner for India to keep a watch on such cases?

The Honourable Sir Charles Innes : I will certainly consider that point, Sir, but as a matter of fact at home they have certain officers called Lascar Transfer Officers who do, I think, watch cases of this kind.

Mr. K. Ahmed : Do the Government propose to inquire into the matter as to whether these people are repatriated or their passages paid as laid down by the provisions of the English Merchant Shipping Act ?

The Honourable Sir Charles Innes : I think the Honourable Member need have no apprehensions on that point. As I have already stated in my reply there are special officers who are kept for the purpose of looking after these people. The provisions of the English Merchant Shipping Act require that special arrangements should be made for their repatriation, and they are either provided with engagements on ships returning to India or with passages to India. There is no necessity for making any inquiry for the Honourable Member may take it for certain that the provisions will be carried out.

Mr. W. S. J. Willson : Does a sentence automatically cancel the articles of a seaman ?

The Honourable Sir Charles Innes : I must have notice of that question.

RISE IN COST OF LIVING OF EUROPEANS IN INDIA BETWEEN 1914 AND 1923, ETC.

2002. ***Mr. B. Venkatapatiraju :** (a) Is it a fact as stated by Lord Olivier in the House of Lords that while the rise in the cost of living of Europeans in India between 1914 and 1923 was at least 60 per cent., the average increase of the pay of the Services taking a man's pay throughout the period of service was about 20 per cent. and in the case of I. C. S. the increase was 10 per cent. ?

(b) Will the Government be pleased to state what was the pay of the Government officers of the Superior Services in 1914 and what was the increase in emoluments since till now ?

(c) Will the Government be pleased to state whether the cost of living of people in general was increased during the said period and whether the income was correspondingly increased ?

(d) Will the Government be pleased to state whether the Government propose to apply the same principle to low paid officials in Government service ?

The Honourable Sir Basil Blackett : (a) The percentages quoted may, in the opinion of Government, be taken as being approximately correct.

(b) The Honourable Member's attention is invited to the statement laid on the table in response to Mr. M. K. Reddi Garu's question No. 227 on pages 319-334 of the Legislative Assembly Debates, Volume II, Part I, Nos. 1-6. The figures there given are for the years 1917 and 1921, but the pay of the Superior Services in 1914 was practically the same as that drawn in 1917, while the scales now in force vary but slightly from those prevailing in 1921.

(c) There was undoubtedly a rise during the period in question in the general cost of living. Government are not in a position to say how far increases in income corresponded with that rise.

(d) It is not clear what principle the Honourable Member has in mind. There has already been a general revision of the pay of the subordinate services in consideration of the rise in the cost of living.

Mr. B. Venkatapatiraju : Are the Government aware that the Madras Retrenchment Committee has stated that the increase of pay of the Indian Civil Service is 21 per cent. ?

The Honourable Sir Basil Blackett : I am not aware of it but it may be true for Madras. If the Honourable Member will give me a reference I will have it inquired into.

EXEMPTION FROM CUSTOMS DUTY OF MATERIALS FOR UNIFORMS OF MILITARY OFFICERS.

2003. ***Mr. W. S. J. Willson :** (a) With reference to Notification No. 2971 published at page 641 of Gazette of 12th July 1924, exempting from import duty articles for the use of any unit of H. M.'s regular forces :

“ Uniforms and parts thereof and materials for their manufacture and repair ”

is it the intention of Government that British officers shall not be entitled to the exemption and that undress uniforms shall not be exempted ?

(b) Are Government aware that the Collector of Customs, Bombay, only exempts articles when they are for the use of the rank and file, N. C. Os. and Indian officers not holding the King's commission, and that officers whether British or Indian holding the King's commission are only entitled to exemptions on uniform but not on materials for uniform ?

(c) As cloths for certain Full Dress and Mess Dress and serge are only obtainable in England, will Government please state the reasons for this distinction ?

The Honourable Sir Basil Blackett : (a) and (b). The replies are in the affirmative.

(c) The exemption on uniforms, etc., is granted under two separate notifications—2971, dated 12th July 1924, and 583-S.R., dated 26th January 1904. Under the former both uniforms and materials for uniforms are free from payment of customs duty if imported by units, i.e., for the non-commissioned officers and men. Under the latter which applies to imports by officers (holding the King's commission) only, only uniforms (and not the materials) are exempt. Undress uniforms are not exempt.

The lists were drawn up in consultation with the military authorities in 1904 and it was definitely understood that the lists were not to be added to, however logical the additions might appear. The Government see no reason to depart from that decision.

Mr. W. S. J. Willson : Is it the intention of the Government that British officers should be handicapped as compared with Indian officers ?

The Honourable Sir Basil Blackett : That seems to be a question to which the reply should be in the argumentative.

DISCONTENT AMONG ARMY OFFICERS *re* DEDUCTIONS FROM THEIR PAY.

2004. ***Mr. W. S. J. Willson :** (a) Are Government aware that there is considerable discontent amongst Army Officers at the deductions and cuts which are alleged to be continually made from their pay ?

(b) Are Government aware that an officer claiming out of pocket expenses is frequently referred to another Department (sometimes more than one for separate portions of the amount due) and has therefore to wait for months before obtaining reimbursement ? If so, do Government propose to take steps for the removal of the grievance ?

Mr. E. Burdon : (a) Government have no information which would lead them to believe that the fact is as stated by the Honourable Member. The only deductions and cuts which are made from the pay of officers are in respect of recoveries of overissues of pay and allowances or of debts due to Government by the officers concerned. Such recoveries are usually effected by instalments.

(b) Government do not admit that undue delay occurs in the settlement of claims for 'out of pocket' expenses which are covered by rule. They have on the contrary reason to believe that the disbursement of personal claims in the Military Department has been much accelerated as the result of changes of system introduced since the war. If however the Honourable Member will give me particulars of the concrete cases on which his general allegations are based, the matter will receive further and careful attention.

ABOLITION OF POSTS OF HEAD ASSISTANTS IN THE INDIAN ARMY SERVICE CORPS.

2005. ***Mr. Ismail Khan :** Will the Government be pleased to state why the posts of Head Assistants in the Indian Army Service Corps have been abolished ?

Mr. E. Burdon : When the graded scale which formerly existed was replaced by a time-scale, it was not considered necessary in addition to have special rates of pay for Head Assistants.

PAY OF CLERKS OF THE INDIAN ARMY SERVICE CORPS.

2006. ***Mr. Ismail Khan :** Will the Government be pleased to state whether any decision has been arrived at on the points raised in the questions put by Sardar Bahadur Capt. Hira Singh at the meeting of the Assembly on Monday the 18th February 1924 regarding the pay of clerks of I. A. S. C. ; if not, when is a decision likely to be reached ?

Mr. E. Burdon : The points raised in the question referred to by the Honourable Member are still under consideration and I cannot say exactly when a decision will be reached.

REVISION OF THE PAY OF THE CLERICAL ESTABLISHMENT OF THE MILITARY ACCOUNTS DEPARTMENT.

2007. ***Mr. Ismail Khan :** Will the Government of India be pleased to state whether they have received representations for the increase of pay of the clerical establishment of the Military Accounts Department over and above the increase that they have already received by the revision of pay sanctioned in October 1920, with retrospective effect from 1st April 1920, on the grounds that the Government of India have recently sanctioned a liberal scale of pay for the civil accounts clerks and that the military accounts clerks who are liable to field, foreign and general service unlike their companions in the Civil Department should be more liberally paid than the latter ?

The Honourable Sir Basil Blackett : The answer is in the affirmative.

CASUALTIES AMONG CLERKS OF THE INDIAN ARMY SERVICE CORPS AND THE MILITARY ACCOUNTS DEPARTMENT DURING THE LATE WAR.

2008. ***Mr. Ismail Khan :** Will the Government of India be pleased to state the number of casualties (i.e., killed, wounded, taken prisoners of

war or died of diseases distinctly attributed to field service) that have occurred during the late war among the clerks of the I. A. S. C. and the Military Accounts Department, separately ?

Mr. E. Burdon : So far as information is available, the total number of casualties that occurred amongst clerks of the Indian Army Service Corps and the Military Accounts Department during the late war are as follows :—

Indian Army Service Corps	.. .	203
Military Accounts Department	..	35

PAY OF CLERKS OF THE INDIAN ARMY SERVICE CORPS.

2009. ***Mr. Ismail Khan :** (a) Will the Government of India be pleased to state why it is not possible for the clerks of the I. A. S. C. to receive the same liberal treatment at least (if not more) as the clerks of the Military Accounts Department in the matter of revision of their pay (i.e., the I. A. S. C. clerks of the lower division to receive the same pay and yearly increments as the clerical establishment of the M. A. D. and the I. A. S. C. upper division clerks to receive the same pay and annual increments as the accountants and supervising clerks of the M. A. D.) ?

(b) Is it a fact that the I. A. S. C. clerks are in a larger measure liable to be moved from place to place in the area between the Himalayas and the Nilgiris and Baluchistan and Burma to speak nothing of foreign service in Aden and Mesopotamia ?

Mr. E. Burdon : (a) Accountants of the Military Accounts Department correspond to Superintendents or supervising clerks in administrative offices. The rates of pay fixed for upper division clerks of the Indian Army Service Corps are not as liberal as those of accountants of the Military Accounts Department because the clerks do not possess such high educational and technical qualifications as are required of the accountants and also because there is no similarity between the two services. The clerks of the Military Accounts Department correspond to both the upper and lower division clerks in administrative offices. The rates of pay of the ordinary grade of the clerks of the Military Accounts Department are at present exactly the same as those allowed to the lower division clerks of the Indian Army Service Corps.

(b) No. The agreements executed by the two classes of clerks are identical.

GRADING OF CLERKS OF THE INDIAN ARMY SERVICE CORPS.

2010. ***Mr. Ismail Khan :** (a) Will the Government of India be pleased to state if, with the exception of 10 serving Head Assistants, there is any prospect for any upper or lower division clerks on the present Cadre retiring on the maximum pay of Rs. 375 per mensem after 30 years approved service in the I. A. S. Corps ?

(b) If not, will the Government be pleased to state what was the object in fixing that maximum limit and if, in revising the present rates of pay they will consider the desirability of altering the grading to admit of all deserving clerks reaching the maximum before retirement ?

Mr. E. Burdon : (a) and (b). It is not possible to say what the position of any particular clerk of the present cadre will be on his retirement as this will depend upon several factors, e.g., his present position in

the Corps, his efficiency, the number of casualties that may occur among the clerks senior to him, etc.

The question of the grading of the present clerks is a matter which is receiving the attention of the Government of India at present.

SCALE OF INCREMENTS OF CLERKS OF THE INDIAN ARMY SERVICE CORPS.

2011. ***Mr. Ismail Khan :** (a) Is it a fact that at the present scale of increment a lower division clerk of the I. A. S. C. can reach the maximum pay of that division only on the 30th year of his service ? and cannot, therefore, get the full pension on retirement on completion of service ?

(b) If the reply to the above question is in the affirmative are the Government of India prepared to consider the advisability of fixing increments at a scale which will enable a lower division clerk to draw the full pension on retirement after completing service ?

(c) Are Govt. aware that the rates of pay introduced in Army Instructions (India) No. 863 of 1923 have further curtailed the future prospects of many serving clerks and that in consequence they prefer to remain under the rules in force prior to the introduction of the revised scale of pay ? If so, do the Government intend to allow those clerks to remain under the old rules in accordance with Note 2 to Article 4, C. S.R. ?

Mr. E. Burdon : (a) A clerk who joins the lower division and remains in it during the whole of his service would, on the completion of his 30th year of service, reach the maximum pay of that division provided he did not suffer any loss of increments through inefficiency or other causes. He would not, therefore, get the full pension based on that maximum unless he completes 33 years' service.

(b) It is not at present proposed to alter the scale of increments in the lower division, which was arrived at after very careful consideration.

(c) This matter is receiving the attention of Government.

UPPER AND LOWER DIVISION CLERKS OF THE INDIAN ARMY SERVICE CORPS.

2012. ***Mr. Ismail Khan :** Will the Government of India be pleased to state if it is a fact that at present there are a number of clerks in the 5th and 6th grades of the old upper division of the I. A. S. C. who are drawing less pay than their juniors in the lower division through the introduction of a faulty system of promotion from the 6th to the 5th grade ? If so, are the Government prepared to issue orders to the effect that these clerks will not draw less pay than their juniors in the lower division as the 5th and 6th grade clerks of both the old upper and lower divisions will be merged in the new lower division ?

Mr. E. Burdon : Although it is possible that cases such as those instanced by the Honourable Member may occur, yet this will not be due to the system of promotion. The situation is as follows :

Prior to the reorganisation introduced in 1923, the clerical establishment of the Indian Army Service Corps consisted of two separate divisions, namely,

- (a) An upper division which consisted of 6th grade clerks at Rs. 30 to head assistants, whose maximum pay was Rs. 300:

This division was reserved for men of good educational attainments ; and

- (b) A lower division of two grades, namely, 6th and 5th grades. The 6th grade clerk received Rs. 30 while the maximum of the 5th grade was Rs. 50. This division was for men of lower educational qualifications employed on copying and routine work.

The divisions were separate for promotion purposes and consequently it might so happen that a lower division clerk who had joined the Indian Army Service Corps later than an upper division clerk, would reach the 5th grade of his division at an earlier date ; the upper division man, however, would reach a higher rate of pay eventually.

Under the reorganisation scheme, all serving clerks were given an initial rate of pay based on their salary on the 1st September 1923. The lower division now embraces, amongst others, all the clerks who previously were in the 5th and 6th grades of the old upper division as well as those who were in the old lower division. The clerk of the old upper division, however, can now rise to a maximum salary of Rs. 375 whereas the old lower division clerk can only rise to a maximum of Rs. 150 per mensem.

In the circumstances, Government do not propose to issue any such orders as those suggested by the Honourable Member.

BOARDING ARRANGEMENTS FOR INDIAN SUPERIOR PERSONNEL OF THE INDIAN ARMY SERVICE CORPS WHILE ON FIELD SERVICE.

2013. *Mr. Ismail Khan : Will the Government of India be pleased to state if it is a fact that under the new War Establishments, 1923, Indian superior personnel of the I. A. S. C. are not authorised to take private servants with them on field service, and if this is correct what arrangements will be made by Government for boarding of these personnel while serving in the field ?

Mr. E. Burdon : The personnel in question are not authorised to take private servants with them on field service. To meet necessary requirements, arrangements will be made by the Commanding Officer at the cost of the State.

TRAVELLING ALLOWANCES FOR JOURNEYS BY SEA OF THE INDIAN SUPERIOR PERSONNEL OF THE INDIAN ARMY SERVICE CORPS.

2014. *Mr. Ismail Khan : Will the Government of India be pleased to state the circumstances under which Indian superior personnel of the I. A. S. C. are allowed 3rd class sea passages when in receipt of pay not exceeding Rs. 200 per month ; what has been the guiding principle in fixing that limit of pay and if it is in accordance with the scales of passages allowed to civilian personnel of other departments such as the Posts and Telegraphs and the Military Accounts Departments ?

Mr. E. Burdon : All civilians, whose pay does not exceed Rs. 200 per mensem, are not ordinarily eligible for 2nd class accommodation either by sea or by land. The limit of pay is based on the supplementary rules to the Fundamental Rules and applies to the civilian personnel of all departments of the Government of India.

PROMOTION OF PROVINCIAL POLICE SERVICE OFFICERS TO LISTED POSTS IN THE IMPERIAL POLICE.

2015. *Haji S. A. K. Jeelani : (a) Are the Government of India aware that there is serious discontent among the officers of the Provincial Police, especially in Madras, in regard to the delay in giving effect to the Secretary of State's order allotting to them a certain number of superior posts in the Indian Police ?

(b) Have not the Government of India issued orders to the effect that Provincial Police officers appointed Assistant Superintendents of Police should not have the option to revert to the Provincial Police service in order to secure precedence for the post of Superintendent if such reversion is advantageous to them ?

(c) If so, may it be presumed that this rule should be enforced in the case of all vacancies of Superintendents reserved for Provincial Police officers occurring after the date of the Government of India's orders referred to above, now with a view to give some relief to the Provincial Police officers ?

(d) If the answer to the above is in the affirmative, do the Government of India propose to communicate it to all Local Governments ?

The Honourable Sir Alexander Muddiman : (a) The Government of India have no reason to believe that any unavoidable delay, consistent with the rights of existing members of the Imperial Service, has occurred in giving effect to the orders referred to. Out of a total number of 44 posts open under the scheme to officers of the Provincial Service, 33 have already been filled up and the remaining posts will be filled as opportunity permits.

(b) The Government of India issued orders that a Provincial Police Officer promoted to the Imperial Police as an Assistant Superintendent should be treated for purposes of promotion to the rank of Superintendent as a directly recruited officer of the Imperial Police. The position is explained to an officer before promotion and it is open to him to continue in the Provincial Service and take his chances of appointment direct to the rank of Superintendent.

(c) and (d). The Government of India do not propose to issue any further orders to Local Governments.

INELIGIBILITY OF INDIANS TO HOLD AGRICULTURAL LANDS IN THE HIGHLANDS OF KENYA.

2016. *Dr. H. S. Gour : (a) Has the attention of Government been drawn to a statement reported to have been made by Mr. J. H. Thomas, Secretary of State for Colonies on the 7th August to the effect that he had no alternative but to continue the pledges expressed or implied which had been given in the past against permitting Indians to hold agricultural land in the highlands of the Kenya Crown Colony ?

(b) Will the Government be pleased to state when and to whom any responsible Minister of the Crown made such pledges ?

(c) Will the Government be pleased to state what action it proposes to take to vindicate the right of all King's subjects to equal treatment under the Crown ?

Mr. J. W. Bhore : (a) The reply is in the affirmative.

(b) The Honourable Member's attention is invited to paragraph 8 of Part II of the White Paper, published as an annexure to Resolution No. 733, dated the 18th August 1923, in the Government of India Gazette Extraordinary, which reviews the history of this question.

(c) The Government of India will avail themselves of a suitable opportunity to make further representations.

RULES UNDER THE IMMIGRATION INTO INDIA ACT, 1924.

2017. ***Dr. H. S. Gour :** (a) Have the Government made any rules or do they propose to make any rules to give effect to the provisions of Act III of 1924 ?

(b) If the answer be in the negative, will they please give their reason for their inaction ?

Mr. J. W. Bhore : (a) and (b). The Government of India have framed no rules under the Immigration into India Act, 1924, nor do they consider it to be in the public interest at present to do so.

STATEMENT OF THE COLONIAL SECRETARY REGARDING THE LOWLANDS IN KENYA.

2018. ***Dr. H. S. Gour :** (a) Has the attention of Government been drawn to the further statement made by the Colonial Secretary regarding the lowlands in Kenya ?

(b) Are the Government prepared to accept his proposal and do they propose to appoint an officer to assist in the inquiry therein suggested ?

(c) Have the Government accepted the principle of the Colonial Office that while the highlands should be reserved for Europeans the lowlands should be free to all comers ?

Mr. J. W. Bhore : (a) The reply is in the affirmative.

(b) The Honourable Member will observe from the announcement made by the Right Honourable the Colonial Secretary that the suggestion to depute an officer emanated from the Colonies Committee appointed by the Government of India in March last and that the question of reservation of the lowlands is still in suspense. When it comes up for decision the question of deputing an officer will be considered.

(c) The reply is in the negative.

COMMUNAL REPRESENTATION IN KENYA.

2019. ***Dr. H. S. Gour :** (a) Will the Government be pleased to state their views regarding the question of communal representation in Kenya ?

(b) What is the population of Indians and Europeans in that Colony ? What number of members is each community to return to the Legislature ?

(c) Is it a fact that the majority community return only an ineffective minority of members ?

Mr. J. W. Bhore : (a) The attention of the Honourable Member is invited to paragraph 4 of the Government of India Resolution No. 733, dated the 18th August 1923, published in a Gazette Extraordinary.

(b) and (c). The population of Indians is 22,822 and of Europeans 9,651, Indians are at present entitled to return five members and Europeans eleven.

TREATMENT OF INDIANS IN TANGANYIKA.

2020. *Dr. H. S. Gour : (a) Are the Government aware that a discrimination unfavourable to Indians is being made even in the mandated territory of Tanganyika ?

(b) Have the Indian delegates drawn the attention of the League of Nations to this discrimination ? If so, with what result, if not, why not ?

Mr. J. W. Bhore : (a) The Honourable Member presumably refers to the provisions of section 14 of the Profits Tax Ordinance under which traders making a profit of more than £150 per annum are required to keep their accounts in English, French or Swahili.

The Colonies Committee recently made representations in the matter to the Colonial Office whose reply is awaited. In the circumstances part (b) does not arise.

Sir Purshotamdas Thakurdas : Do I take it that the Government of India made no representations before the Colonies Committee made their representation referred to by the Honourable Member ?

Mr. J. W. Bhore : Yes, Sir, representations were made before.

Sir Purshotamdas Thakurdas : With what result ?

Mr. J. W. Bhore : The matter was left, I understand, in suspense until the Colonies Committee were able to place the matter personally before the Colonial Office.

Sir Purshotamdas Thakurdas : Surely, the Colonies Committee was only appointed last February and the Government of India must have made their representations a long time before then.

Mr. J. W. Bhore : I cannot say exactly when the representations were made.

KENYA IMMIGRATION ORDINANCE.

2021. *Dr. H. S. Gour : (a) Regarding the question of immigration to Kenya is it a fact that the Immigration Ordinance has merely been suspended ?

(b) Have the Government insisted upon an assurance being given by the Colonial Office that the Ordinance will at no time be put in force without the consent of the Government of India ?

Mr. J. W. Bhore : (a) and (b). The position with regard to the Immigration Ordinance is as stated by the Secretary of State for the Colonies in the House of Commons in reply to a question asked by Mr. Mills on the 7th August 1924. Copies of the question and answer have been placed on the table of the House in reply to Mr. B. Venkatapatiraju's unstarred question No. 345. The Honourable Member may rest assured that the Government of India will do all that lies in their power to safeguard Indian interests.

RESULTS ACHIEVED BY THE COLONIES COMMITTEE.

2022. *Dr. H. S. Gour : Will the Government be pleased to make a complete statement of the results achieved by their Colonial Deputation, and the further action taken and which they propose to take upon their report if any has yet been made ?

Mr. J. W. Bhore : For the present I have nothing to add to the information contained in the statement referred to in part (a) of question No. 2016 and my answer to part (c) of the same question.

Mr. Chaman Lall : Do Government propose to lay on the table a statement of the expense incurred on this Committee ?

Mr. J. W. Bhore : I did not catch the Honourable Member's question.

Mr. Chaman Lall : Will Government be pleased to lay on the table a statement of the expense incurred on this Committee ?

Mr. J. W. Bhore : I shall consider that point.

PUBLICATION OF THE REPORT OF THE COLONIES COMMITTEE.

2023. ***Dr. H. S. Gour :** Will the Government publish the report of the Colonial Deputation or otherwise make it available to Members ?

Mr. J. W. Bhore : When the Government of India have received the report they anticipate no difficulty in giving effect to the Honourable Member's suggestion.

CONVEYANCE OF THIRD CLASS PASSENGERS IN CATTLE TRUCKS ON THE BENGAL NAGPUR RAILWAY.

2024. ***Mr. Nilakantha Das :** (a) Are the Government aware that in times of rush some railway companies specially the B. N. R. put third class passengers in carriages meant to convey animals, other than men ?

(b) If so, have the Govt. taken any steps to prevent it ?

Mr. A. A. L. Parsons : It is a fact that on occasions of big *melas* railways sometimes find it necessary to supplement their coaching stock with goods vehicles. Instructions have already been issued to Railway Administrations that steps should be taken as far as practicable to put a stop to this practice.

OVERCROWDING OF RAILWAY CARRIAGES.

2025. ***Mr. Nilakantha Das :** (a) Are the Govt. aware that in India there is no custom to put passengers into railway carriages, according to their capacity notified in the carriages themselves ?

(b) Are the Government also aware that epidemics like cholera are sometimes due to overcrowding in railway carriages, specially in times of festivals like those of Puri ?

(c) If so, are the Government prepared to take steps to make the railway authorities see to putting passengers in carriages, according to their prescribed capacities ?

Mr. A. A. L. Parsons : (a) and (c). The Honourable Member is referred to the reply given on the 3rd September 1924 to Mr. K. G. Lohokare's question on the same subject.

(b) No.

PROVISION OF WAITING ROOM FOR INTERMEDIATE CLASS PASSENGERS AT PURI.

2026. ***Mr. Nilakantha Das :** (a) Are the Govt. aware that there is no waiting room for Intermediate class passengers in the Puri railway

station, one of the most important terminus railway stations on the B. N. R. ?

(b) Will the Government take steps to provide for one as early as possible ?

Mr. A. A. L. Parsons : (a) and (b). Government understand that the Railway Administration is arranging for the provision of an intermediate class waiting room at Puri.

OPENING OF A TOWN BOOKING OFFICE AT PURI.

2027. ***Mr. Nilakantha Das :** (a) Are the Government prepared to consider the question of opening a town booking office in the town of Puri, specially during festival times if not all round the year ?

(b) Is it a fact that the local people approached the authorities in the matter in various ways ?

Mr. A. A. L. Parsons : (a) and (b). The Honourable Member is referred to the answer given, on the 23rd July, 1923, in this Assembly to question No. 292, asked by Mr. B. N. Misra.

REPORT OF THE DECK PASSENGER COMMITTEE.

2028. ***Diwan Bahadur M. Ramachandra Rao :** Will the Government be pleased to state whether the report of the Deck Passenger Committee has been considered by the Government and if so will the Government be pleased to place on the table the orders of the Government on the Report ?

The Honourable Sir Charles Innes : The views of Local Governments and Chambers of Commerce on the recommendations made by the Deck Passenger Committee have been obtained and are now under consideration.

Diwan Bahadur M. Ramachandra Rao : May I ask the Honourable Member when this matter will be disposed of and whether the Government will be good enough to give a day for the discussion of this report ?

The Honourable Sir Charles Innes : I am afraid I cannot answer the first part of the question, but I will expedite the matter as much as I can. In the circumstances I do not think that the second part of the question arises.

Diwan Bahadur M. Ramachandra Rao : May I ask the Leader of the House whether he will be prepared to find a day for the discussion of this report seeing that it has been under consideration for the last three years ?

The Honourable Sir Alexander Muddiman : When the Government of India have come to a decision on the report I will consider the matter.

MEMORIAL OF THE LATE MR. G. NARAYANASWAMY NAIDU.

2029. ***Diwan Bahadur M. Ramachandra Rao :** (a) Will the Government be pleased to state whether a memorial to the Secretary of State for India in Council was submitted to the Government of India on the 20th February 1923, by Mr. R. Ry. G. Narayanaswamy Naidu, B.A., late Receiver of the Nidadavole and Medur Estates, in the Kistna District, Madras Presidency, and whether the Government of India withheld its

transmission to the above authority in their G. O. No. 390, dated 8th May 1923 ?

(b) Whether the said Mr. G. Narayanaswamy Naidu submitted a further memorial dated 20th July 1923, setting forth several new facts and circumstances which were not before the Secretary of State and the Government of India alleging, *inter alia*, that the High Court of Judicature at Madras were under the mistaken impression that the accounts which were relied upon for substantiation of the charge of misappropriation against him were the accounts of the Estate whereas they were really the personal accounts of the said G. Narayanaswamy Naidu ?

(c) Whether the Government of India also rejected this further memorial and withheld its transmission ?

Mr. J. W. Bhore : (a), (b) and (c). Yes : with regard to part (b) of the question, however, I would point out that the alleged new facts and circumstances did not really affect the main issue.

Diwan Bahadur T. Rangachariar : Are Government aware that this gentleman actually contributed above Rs. 10,000 towards his pension and his family is now left destitute ?

Mr. J. W. Bhore : I am not aware of that fact.

Diwan Bahadur M. Ramachandra Rao : May I inform the Honourable Member that he has contributed Rs. 19,000 and not Rs. 10,000 and that he has just died leaving 13 children, and may I ask whether Government will consider the desirability of at least remitting to him what he has actually paid towards his pension ?

Mr. J. W. Bhore : I am afraid that the Government cannot take these facts into account.

MEMORIAL OF THE LATE MR. G. NARAYANASWAMY NAIDU.

2030. ***Diwan Bahadur M. Ramachandra Rao :** Will the Government be pleased to state whether they have given any and what consideration to the new facts and circumstances set forth in the memorial of the 20th July 1923, and whether, in view of the fact that Mr. G. Narayanaswamy Naidu has been deprived of his pension practically on the one-sided report of the High Court, they are prepared to order a public inquiry into the charges brought against Mr. G. Narayanaswamy Naidu ?

Mr. J. W. Bhore : The Government of India gave the fullest consideration to the second memorial but, as I have already stated, they came to the conclusion that there was nothing in it to justify any change in the main finding on which the decision in regard to the former memorial was based. The matter has been carefully sifted by three authorities, namely, the Madras High Court, the Local Government and the Government of India, besides the Secretary of State ; and the Government of India see no justification to direct another inquiry.

INSTRUCTIONS TO INSPECTORS OF POST OFFICES.

2031. ***Mr. Chaman Lall :** (a) With reference to reply to starred question No. 1134, of the last Simla session, will the Government be pleased to state the particulars of the special instructions issued to the Inspectors of Post Offices ?

(b) Will the Government be pleased to state separately particulars of charges on which the nine Inspectors were punished ?

(c) Will the Government be pleased to state separately for each Inspector the cumulative effect of stoppage of increment of the Inspectors ordered to have the effect of postponing future increments ?

(d) Do the Government propose to reconsider the punishments ?

The Honourable Mr. A. C. Chatterjee : (a) A copy of these instructions is placed on the table.

(b), (c) and (d). Government have no information. If any individual has a grievance, he will doubtless address the Director-General or Government in the usual manner.

Copy of a letter No. F.E.-80, dated Lahore, the 11th April, 1922, from the Postmaster-General, Punjab and N. W. F. Circle, to all Supervising Officers in the Punjab and N. W. F. Circle.

The following orders are issued for information and guidance :

1. When any officer of, or above the status of Inspector, Bag Inspector, or Pension Inspector visits a post office for any purpose in his official capacity, he will record the date and purpose of his visit in the order book of that office. This also applies to 1st Class Postmasters, so far as town sub. or branch offices are concerned. In the case of Superintendents and Inspectors the result of the visit should be noted in his diary, *vide* rules 292[1 and 308[1, Volume 11.

2. All inspecting officers are required to furnish at the end of their inspection remarks a certificate to the effect that all irregularities noticed at the previous inspection, whether made by themselves or by officers of similar status, have been removed ; and in any case where the defects noticed at the previous inspection have not been removed, a special report should be sent to me, stating the disciplinary action taken, or proposed, against the head of the office concerned for his neglect to carry out orders.

UNDESIRABLE SURROUNDINGS OF THE UMBALA CITY POST OFFICE.

2032. ***Mr. Chaman Lall :** (a) With reference to reply to starred question No. 1201 (last Simla session) will the Government be pleased to state if it is a fact that the main door for the public is in front of the liquor shop and that the upper storeyed houses, on the right and left side of the post office are connected with the main gate of the post office on one side and at a very short distance on the other ?

(b) Is it a fact that the general public has to pass by the liquor shop and through the lane leading to the prostitutes' houses before reaching the main gate of the post office ?

(c) Is it a fact that stamps are sold to the public at the main gate of the post office and consequently the members of the public have to stay in front of the liquor shop and can have a view of the houses of prostitutes ?

Mr. H. A. Sams : (a) The reply on the first point is in the negative and on the second point in the affirmative.

(b) Yes ; but the general public from the more important parts of the town have not to pass in front of the liquor shop.

(c) Stamps are sold inside the main gate of the post office, from where the public cannot see the prostitutes' houses.

LIMITATION OF THE PERIOD OF POSTAL OFFICIALS AT POST OFFICES BEYOND BANNU, KOHAT AND DERA ISMAIL KHAN.

2033. ***Mr. Chaman Lall :** (a) With reference to reply to unstarred question No. 288 (last Simla session) will the Government be pleased to state if the limit of two years retention covers all broken periods of appointments in an official's whole service ?

(b) Will the Government be pleased to ascertain the names of the officials who have already worked for 2 years on the outposts with a view to transfer them from the Division as indicated in reply to question No. 288, part (b), or at least to appoint them on the posts other than outposts in the same Division ?

Mr. H. A. Sams : (a) The orders make no reference to broken periods.

(b) A list of the names has been called for and I will give the matter my consideration on its receipt.

COMPENSATORY ALLOWANCES TO POSTMEN AND POSTAL MENIALS EMPLOYED ON THE FRONTIER.

2034. ***Mr. Chaman Lall :** With reference to reply to unstarred question No. 287, part (b), (last Simla session) will the Government be pleased to state the result of their consideration ?

Mr. H. A. Sams : With the exception of one man who was transferred from the Bahawalpur Sub-Division, all the postmen and postal menials at Bannu, Dera Ismail Khan and Kohat, though natives of various places, were actually recruited in the stations where they are employed and, as it has been reported that men who are permanent inhabitants of those stations are available for filling the appointments, it has been arranged that those of the present incumbents who are anxious to be transferred to offices nearer their homes shall be so transferred at their own expense on the occurrence of vacancies. Their places will be filled by men who are permanent inhabitants of Bannu, Dera Ismail Khan or Kohat, as the case may be. An exception will, however, be made in favour of the man who was transferred from the Bahawalpur Sub-Division ; if he asks for a transfer to an office in the Punjab, he will be granted travelling allowance in accordance with the ordinary rules.

CASE OF LACHMAN DAS, CLERK, RAWALPINDI POST OFFICE.

2035. ***Mr. Chaman Lall :** With reference to reply to starred question No. 1484 (last Simla session) is it a fact that Lachman Das has appealed to the Director General, and if so, will the Government be pleased to state the action taken by the Director General on the appeal of the official ?

Mr. H. A. Sams : A duplicate copy of an appeal has been sent by Lachman Das to me. No action has been taken upon it pending the receipt of the original appeal through the proper channel.

EXTENSION OF THE FUNDAMENTAL RULES TO THE MILITARY ACCOUNTS DEPARTMENT.

2036. ***Khan Bahadur Sarfaraz Hussain Khan :** (a) Is it a fact that formerly both the Civil and the Military Accounts Departments were guided by the Civil Service Regulations ?

(b) Is it a fact that with the introduction of the new rules a distinction has been made between the two Departments, and the Fundamental Rules have become a forbidden point to the Military Accounts Department ?

(c) If the above are facts, will the Government be pleased to give reasons for the distinction made between the two Departments ?

The Honourable Sir Basil Blackett : (a) The reply is in the affirmative.

(b) and (c). The Fundamental Rules do not apply to Government servants, including those employed in the Military Accounts Department, whose pay is debited to the Army Estimates. The question of amending the Fundamental leave rules, with reference to certain observations of the Incheape Committee, is now under consideration of the Government of India ; and until a decision is arrived at in the matter, it is not proposed to extend the rules to establishments paid from the Army Estimates.

AMENDMENT OF RULES RELATING TO SUPPLEMENTARY GRANTS.

2037. * **Khan Bahadur Sarfaraz Hussain Khan :** (a) Will the Government be pleased to state if the Law Officers in India and in England were consulted before the last amendment of the rules concerning the Legislative Assembly and Provincial Councils, relating to supplementary demands, was made ?

(b) If so, will they please lay the correspondence on the subject on the table ?

The Honourable Sir Alexander Muddiman : The Honourable Member is referred to my reply to Mr. Gaya Prasad Singh's question No. 1911, dated the 15th September 1924.

REPORTS OF COMMITTEES APPOINTED BY PROVINCIAL GOVERNMENTS TO EXAMINE THE LAND REVENUE QUESTION.

2038. * **Khan Bahadur Sarfaraz Hussain Khan :** (a) Have the Government of India received the reports of the Committees appointed by Provincial Governments to examine the land revenue question ?

(b) If they have received the reports either from all or from any of the Provincial Governments, will they please lay them on the table ?

Mr. J. W. Bhore : (a) and (b). The Government of India have only received reports of the Committees appointed by the Governments of Madras, Punjab and the United Provinces. Copies of these reports have been placed in the Library.

Baba Ujagar Singh Bedi : Do the Government propose to take any steps on these recommendations ?

Mr. J. W. Bhore : Not that I know of.

Baba Ujagar Singh Bedi : Do they propose to do it in the near future ?

Mr. J. W. Bhore : I am unable to say.

THE NATAL BOROUGHS ORDINANCE.

2039 * **Khan Bahadur Sarfaraz Hussain Khan :** (a) Is it a fact that The Boroughs Ordinance, 18 of 1924, disenfranchising Indians in Natal

Municipalities, has been passed by the Provincial Council, and that the Bill is waiting for the Governor's assent ?

(b) Do the Government of India propose to take any action in the matter and if so, what ?

Mr. J. W. Bhore : (a) and (b). It is understood that the position is as stated by the Honourable Member and the Government of India are in communication with the Union Government on the subject.

CENTRAL INSTITUTE OF INDIAN ART AND ANTIQUES IN LONDON.

2040. * **Mr. Bhubanananda Das :** (a) Have Government seen the scheme for a Central Institute of Indian Art and Antiques in London framed by the India Society ?

(b) Have they promised any sympathy or support to the same ?

(c) Will Government be pleased to inform the House of the scope of this scheme ?

Mr. J. W. Bhore : (a) and (c). The Government of India have not seen the scheme and are therefore unable to furnish the information asked for.

(b) No.

SIR AUREL STEIN COLLECTION OF ANTIQUITIES FROM CENTRAL ASIA.

2041. * **Mr. Bhubanananda Das :** Will Government be pleased to state what has been done to the Sir Aurel Stein collections from Tibet ?

Mr. J. W. Bhore : Sir Aurel Stein was placed on deputation on three separate occasions to carry out archaeological explorations in Central Asia. The collection of antiquities made during his first expedition (1900-1901) was distributed between the Calcutta, Lahore and British Museums. Two-fifths of the antiquities obtained during the second expedition (1906-1908) were made over to the British Museum as it had borne two-fifths of the cost of the expedition and the remaining three-fifths to the Stein Museum of Antiquities at Delhi. Some specimens of early textiles, however, have been loaned to the authorities of the South Kensington Museum, London, who have given valuable help in the preservation and cataloguing of the whole collection of these textiles. Most of the antiquities collected during Sir Aurel Stein's third expedition (1913-1916) are housed at Srinagar, pending the publication of his report on them. A portion has been taken by him to Europe to enable him to secure the collaboration of European specialists indispensable for the proper preparation of his report.

CONFERENCE ON INDIAN ART BY THE INDIAN SOCIETY IN LONDON.

2042. * **Mr. Bhubanananda Das :** (a) Has the attention of Government been drawn to the conference on Indian Art by the Indian Society in London ?

(b) What decision have Government taken about the Prix de Delhi as proposed at this conference ?

Mr. J. W. Bhore : (a) The answer is in the negative.

(b) Does not arise.

GRANT OF FREE PASSES OVER FOREIGN RAILWAYS TO EMPLOYEES OF THE EAST INDIAN, BENGAL NAGPUR, AND MADRAS AND SOUTHERN MAHRATTA RAILWAYS.

2043. ***Mr. M. K. Acharya** : (a) Will the Government be pleased to state whether it is a fact that the E. I. Railway, B. N. Railway and M. and S. M. Railway do not issue to their employees intermediate and third class free passes over the lines of other railways (called foreign railways) for any distance of more than 300 miles ?

(b) Will the Government be pleased to state whether it is a fact, that all the other railways in India, excepting the E. I. Railway, B. N. Railway and M. and S. M. Railway issue free passes to their employees without any restriction as to any maximum distance over foreign railways ?

(c) If the answer to (a) and (b) be in the affirmative, will the Government be pleased to state why the above mentioned three railways impose such restrictions in issuing free passes to their employees over foreign Railways ?

(d) Do the Government propose to take steps to bring the rules regarding the grant of free passes over foreign railways to employees by the above mentioned three railways into uniformity with the rules of other railways ?

Mr. A. A. L. Parsons : Inquiry is being made and the information will be furnished to the Honourable Member in due course.

MINIMUM QUALIFICATIONS FOR THE GRANT OF FREE INTERMEDIATE CLASS PASSES OF EMPLOYEES OF THE EAST INDIAN RAILWAY.

2044. ***Mr. M. K. Acharya** : (a) Will the Government be pleased to state whether in 1920 the E. I. Railway issued free passes to their subordinate employees, available for travelling in the intermediate class, whose salaries were between Rs. 50 and Rs. 126 ?

(b) If the answer to (a) be in the affirmative, will the Government be pleased to state why the E. I. Railway now issue free passes available for intermediate class only to those employees who draw salaries above Rs. 76 thereby raising the qualification for being entitled to Intermediate class free passes ?

(c) Do the Government propose to take steps to see that the E. I. Ry. bring their rules regarding the grant of free passes to employees, to the level of rules in force in 1920 ?

Mr. A. A. L. Parsons : (a) and (b). In consequence of enhancements in scales of pay the East Indian Railway found it necessary in 1920 to increase the minimum qualification entitling certain classes of the staff to Intermediate class passes from Rs. 50 to Rs. 76.

(c) In the circumstances Government do not propose to take any action.

REPORT OF THE RETRENCHMENT COMMITTEE, EAST INDIAN RAILWAY.

2045. ***Mr. M. K. Acharya** : (a) Will the Government be pleased to state whether the Committee appointed in 1922 to report upon the retrenchments to be effected in the E. I. Railway Administration, have submitted their report ?

(b) Will the Government be pleased to state the personnel of the said Committee and the expenditure they incurred ?

(c) Will the Government be pleased to lay a copy of the said report of the said Retrenchment Committee on the table ?

Mr. A. A. L. Parsons : The departmental committee appointed by the Agent of the East Indian Railway Administration consisted at various times of different officers of the railway ; and no extra expenditure was incurred on it. The committee is understood to have submitted two reports to the Agent ; they are purely departmental reports and Government are not prepared to place copies on the table.

Mr. M. K. Acharya : Will Government be pleased to state what retrenchment is recommended in expenditure and what reduction affecting the Indian, Anglo-Indian and European staff respectively ?

Mr. A. A. L. Parsons : I must ask for notice. That question does not arise out of the question just put.

TRAVELLING ALLOWANCES OF EUROPEAN AND ANGLO-INDIAN EMPLOYEES OF THE EAST INDIAN RAILWAY.

2046. ***Mr. M. K. Acharya :** (a) Will the Government be pleased to state whether it is fact that the East Indian Railway Company grant travelling allowances to European and Anglo-Indian employees on duty at the rate of Rs. 3 per diem, whereas Indian employees of the same grade and pay are paid only at the rate of Re. 1 per diem ?

(b) If the answer to (a) be in the affirmative do the Government propose to remove this piece of preferential treatment of one community as against another ?

Mr. A. A. L. Parsons : (a) The Honourable Member presumably refers to the rates of ' Night allowance ' given to subordinate employees absent from headquarters on duty. If so, the rates vary in accordance with pay from 1-8 to 4 in case of Europeans and 1 to 3 in case of Indians of similar status.

(b) Government do not interfere in regard to details of this sort on Companies' lines. But they agree that the rates of travelling allowance should be based on pay and status, and they will examine the question.

EAST INDIAN RAILWAY SCHOOLS FOR EUROPEAN, ANGLO-INDIAN AND INDIAN CHILDREN.

2047. ***Mr. M. K. Acharya :** Will the Government be pleased to state :

(a) how many schools are being maintained by the E. I. Railway for the children of their employees :

(b) how many of these schools give administration only to European and Anglo-Indian boys :

(c) what is the amount expended by way of grants by the E. I. Railway every year towards schools maintained for European and Anglo-Indian boys and to schools for Indian boys ?

Mr. A. A. L. Parsons : (a) The Report for 1923 shows 100 schools maintained by the East Indian Railway.

(b) Twenty-one.

(c) During 1923 the following grants were made :—

	Rs.
European schools	43,307
Indian schools	30,573

“ OAK-GROVE ” SCHOOL, MUSSOORIE.

2048. *Mr. M. K. Acharya : Will the Government be pleased to state :

- by whom the “ Oak-Grove ” School at Mussoorie is being maintained and run :
- what is the amount spent so far on the buildings and equipment of the said school :
- what is the grant given every year by the E. I. Railway to the said school ?

Mr. A. A. L. Parsons : (a) “ Oak Grove ” School, Mussoorie, is maintained and run by the East Indian Railway Company.

(b) At the end of 1923 the construction account of the school stood at Rs. 9,65,856.

(c) The grant given by the East Indian Railway during 1923 is not known, but the total contribution from the various railways whose employees' children attend the school was Rs. 1,09,534.

PROVISION OF QUARTERS BY THE EAST INDIAN RAILWAY FOR ITS EUROPEAN, ANGLO-INDIAN AND INDIAN STAFF AT CERTAIN IMPORTANT JUNCTIONS.

2049. *Mr. M. K. Acharya : (a) Will the Government be pleased to state the number of (i) Europeans and Anglo-Indians and (ii) the number of Indians that are employed by the E. I. Railway in the Junctions at Howrah, Asansol, Moghulsarai, Cawnpore and Delhi ?

(b) How many European and Anglo-Indian and how many Indian employees are being provided with free quarters by the said Railway Company in the above-mentioned Junctions.

(c) Whether it is a fact that the E. I. Railway rent quarters outside the Railway premises for their European and Anglo-Indian employees where the Railway quarters are not sufficient, whereas a large number of Indian employees are not provided with any quarters at all, in the above-mentioned junctions of the E. I. Ry. ?

Mr. A. A. L. Parsons : (a)—(c). Government have not the information but are making inquiries.

EUROPEAN, ANGLO-INDIAN AND INDIAN DISTRICT AND TRAFFIC INSPECTORS ON THE EAST INDIAN RAILWAY.

2050. *Mr. M. K. Acharya : Will the Government be pleased to state :

- what is the number of District Inspectors in the Transportation side of the E. I. Railway ?
- and what is the number of Traffic Inspectors in the commercial side of the Traffic Department now employed in the said Railway :
- the number of Europeans and Anglo-Indians and the number of Indians in (a) and (b) ?

Mr. A. A. L. Parsons : (a) There are 32 District Inspectors in the Transportation side of the East Indian Railway.

(b) There are 22 Traffic Inspectors in the commercial side of the Traffic Department of the said Railway.

(c) Thirty-two Europeans and Anglo-Indians are employed as District Inspectors and 15 as Traffic Inspectors. Seven Indians are employed as Traffic Inspectors.

EMPLOYMENT OF INDIANS AS DISTRICT INSPECTORS ON THE TRANSPORTATION SIDE OF THE EAST INDIAN RAILWAY.

2051. ***Mr. M. K. Acharya :** (a) Will the Government be pleased to state whether it is a fact that no Indians are employed as District Inspectors in the Transportation side of the E. I. Railway ?

(b) If the answer to (a) be in the affirmative, will the Government be pleased to state the reasons why the E. I. Railway exclude Indians from occupying the posts of District Inspectors on the Transportation side ?

Mr. A. A. L. Parsons : (a) The answer is in the affirmative.

(b) The selection and promotion of staff on Company-worked Railways rests entirely with the Companies and Government do not interfere. But I may mention that the advisability of appointing qualified Indians to the posts of Traffic Inspectors has been impressed upon them.

FREE ALLOWANCE OF LUGGAGE TO INTERMEDIATE AND THIRD CLASS PASSENGERS ON RAILWAYS.

2052. ***Sardar V. N. Mutalik :** (a) With reference to Rule 89, clause (b) of the Indian Railway's Coaching Tariff Rules, will Government be pleased to state why in the concession of free luggage, for the intermediate and third class passengers, tiffin baskets, bedding and umbrellas are not included ? Is it the presumption that articles of food and umbrellas and bedding are not necessarily required in the case of these passengers ?

(b) Are Government prepared to consider the revision of the rule in this light ?

Mr. A. A. L. Parsons : (a) In view of the fact that Intermediate and third class fares are considerably lower than I and II and the space usually available is limited, it is necessary to restrict the number of articles, which lower class passengers may take into a compartment, so as to avoid inconvenience to their fellow passengers.

In regard to the second part of the question, Intermediate and third class passengers are allowed to take *resais* and blankets into their carriages and, in practice, food required on the journey and articles such as umbrellas are not objected to.

(b) A copy of the question will be communicated to the Indian Railway Conference Association.

Sardar V. N. Mutalik : I understood the Honourable Member to say that it is not, in practice, objected to. Third class passengers are not allowed to carry articles of food free as of right. Is that the position ?

Mr. A. A. L. Parsons : In practice, I am perfectly certain it is not objected to.

Mr. N. M. Joshi : I heard the Honourable Member saying that the third class passengers pay considerably less than 1st and 2nd class passengers. I want to know whether he will place a statement on the table of this House showing the rates of fares of the 1st and 2nd class and the space allotted to each class ?

Mr. A. A. L. Parsons : I do not think it will be possible to get it in that form.

Mr. N. M. Joshi : What is the difficulty in getting the statement made ?

Mr. A. A. L. Parsons : One of the main difficulties is that we have a large number of different types of carriages and it is not possible to state the average of space for a third class compartment.

Mr. N. M. Joshi : May I ask whether the railways in fixing the rates do not take into consideration the space allotted to each class ?

Mr. A. A. L. Parsons : I do not think so.

Mr. N. M. Joshi : How are the rates fixed ?

Mr. A. A. L. Parsons : They depend partly on what the traffic will bear.

Mr. N. M. Joshi : May I ask whether Government will be prepared to start some class for giving instruction on this subject ?

Mr. President : The Honourable Member had better give notice of a novel proposal of that kind.

STUDENTS OF THE ROYAL INDIAN MILITARY COLLEGE, DEHRA DUN.

2053. ***Sardar V. N. Mutalik :** Will Government be pleased to state the number of students from the Dehra Dun Military College, who have passed the final test in the College, but were not admitted to Sandhurst ? Whether any of these students are employed in Government or State superior services, and whether any of these students have joined any other educational institutions to prosecute their studies further ?

Mr. E. Burdon : There is at present no final test within the College at Dehra Dun. All the boys who are educated at Dehra Dun are expected, when sufficiently prepared, to appear for the entrance examination to Sandhurst. So far 11 boys have sat for this examination, of whom 8 have passed and 3 have failed. Of the 3 who have failed, 2 will have another opportunity of sitting for the examination, while the third, who was also eligible to sit for the examination again, did not wish to do so.

RAILWAY CONCESSIONS TO STUDENTS OF THE INDIAN MILITARY COLLEGE, DEHRA DUN.

2054. ***Sardar V. N. Mutalik :** Will Government be pleased to state whether it is a fact that concession for travelling first class only is given to the students of the Dehra Dun College, but the concession is refused if they choose to travel second class ? If so, why is this distinction made ?

Mr. E. Burdon : Students of the Prince of Wales' Royal Indian Military College, Dehra Dun, are entitled to the concession of travelling first class on payment of second class fare, for the journeys between their homes and the college at the beginning and end of each term only. The grant of the further concession which the Honourable Member has in mind was considered by Government but it was held that it would not be justifiable to give further assistance at the expense of Railway Revenues.

CONSULTING ENGINEER TO THE GOVERNMENT OF INDIA.

2055. * **Sardar V. N. Mutalik :** (a) Will Government be pleased to state when the post of Consulting Engineer to this Government was created ?

(b) What is the amount of work the Consulting Engineer has done during the last three years ?

(c) Whether it is the intention of Government to continue the post ?

The Honourable Mr. A. O. Chatterjee : (a) The post of Consulting Engineer to the Government of India was created with effect from the 16th April 1923.

(b) Since the creation of the post last year, the Consulting Engineer has scrutinized projects (original and revised), amounting to over Rs. 34 crores, prior to their submission to the Secretary of State. He has visited projects, estimated to cost over Rs. 55 crores, during the course of their construction, some of them several times, and has advised the Government of India and the Local Governments concerned regarding them. He has scrutinized, advised upon and in many cases accorded technical sanction on behalf of the Government of India to a large number of schemes for central civil works of all kinds. He has advised on numerous cases regarding general public works policy, was of the utmost assistance in effecting a settlement between the Governments of Madras and Mysore of their long-standing dispute regarding the partition of the Cauvery water, and is the Government of India's technical representative upon the New Capital Committee, which deals with the construction of New Delhi.

(c) The question of the future of the appointment is at present under consideration.

RECOMMENDATIONS OF THE LEE COMMISSION.

2056. * **Sardar V. N. Mutalik :** (a) In view of the statement, as reported in the Press, made by the Secretary of State to the effect that whatever might be the views or decision of this Assembly on the recommendations of the Lee Commission, the recommendations will be given effect to, so far as they apply to the pay and allowances, etc., of the Services, will Government be pleased to state whether it is the intention that no effect is to be given to the views that will be expressed by this House ?

(b) Will Government be pleased to give the exact portion in the speech on this point ?

(c) Will Government be pleased to place on the table a copy of the despatch, sent to the Secretary of State by this Government expressing their views on the recommendations of the Lee Commission ?

(d) Will Government be pleased to place on the table the views of the Provincial Governments and Legislatures on these recommendations ?

The Honourable Sir Alexander Muddiman : (a) and (b). The Government are not aware of any statement to this effect having been made by the Secretary of State.

(c) The Government of India are not prepared to lay on the table their correspondence with the Secretary of State.

(d) The views of Provincial Governments have already been laid on the table.

LORD OLIVIER'S SPEECH IN THE HOUSE OF LORDS REGARDING THE ALLEGED PURCHASE OF VOTES BY THE SWARAJ PARTY IN BENGAL.

2057. *Sardar V. N. Matalik : Will Government be pleased to state :

- (a) whether it is a fact that the Secretary of State stated in the House of Lords, as is reported in the papers, that the Swaraj Party organized the purchase of votes for the purpose of procuring a majority of votes to embarrass Government ?
- (b) the extract from the speech which contains this statement ?
- (c) whether the purchase of votes is meant to apply to the Party's system of work within the Councils and the Assembly or at the time of the elections ? And if within the Councils or the Assembly, will Government be pleased to state the grounds or reasons on which the statement was based ?
- (d) whether this Government sent any despatch to the Secretary of State supplying any information on this point, and if so, will Government be pleased to place on the table a copy of the extract from the despatch supplying this information ?

The Honourable Sir Alexander Muddiman : (a) and (b). The Secretary of State did make statements of this character in his speech in the House of Lords on the 21st July. I will quote for the Honourable Member's information two extracts from the official report of the speech.

(i) Referring to the Bengal Legislative Council he said :

"In that Assembly the Swaraj Party not being able actually to lead or to procure a majority of votes for the purpose of embarrassing the Government, organised the purchase for cash of the requisite balances either of votes or abstentions, to enable them to win the narrow divisions which they did. This fact is notorious."

(ii) Again he said :

"Such demonstrations as have been made in the Bengal Legislature, in so far as they are procured by methods of corruption or intimidation, not only are not demonstrations of popular will but are demonstrations of the fact that Legislators who are so influenced have no will at all of their own, except a will to profit, and that any number of such politicians may be disregarded with complete equanimity as representing no kind of power. The significance and importance of a vote in a Parliamentary election, or in a Parliament rest only upon the will or spirit in which it is given. If it is given on account of bribery or on account of fear those who are responsible for, and who are entrusted with the power to carry on, the King's Government, know very well that they have no real force whatever to contend with, but only something which can be bought or frightened."

(c) and (d). The extracts which I have quoted indicate clearly that the Secretary of State was referring to what he understood to have been the method of working adopted by the Swarajist Party in the Bengal Legislative Council. The Government of India are unable to say definitely where the Secretary of State obtained the information upon which he based his speech. They understand, however, that it has been freely stated in the public press that there was organised corruption. It may

be that the Secretary of State's announcement was based upon private information. In any case the Government of India have not themselves supplied any information which could have formed the basis of the Secretary of State's remarks. They did, however, forward to him a letter from the Government of Bengal in which the following passage occurred :

" The Indian supporters of Government were also subjected to continuous pressure from the Swarajist Members to abstain from voting for Government. The Swarajist Party funds were freely spent in this manner. One Muhammadan supporter of Government complained to the officials of the Council that he had been offered Rs. 3,000 to abstain from the division on the grant for Ministers' salaries and it has been stated on reliable authority that Rs. 40,000 were expended from Swarajist Party funds during the session in bribing Government supporters in this way."

That was the only reference to this matter in the letter in question.

Mr. K. Ahmed : Do Government consider the Rs. 35,000 admitted by Mr. C. R. Das to have been spent on candidates for election expenses in Bengal is an inducement for procuring votes for the purpose stated in this question No. 2057 ?

Mr. President : The Honourable Member had better address that inquiry to Mr. Das.

Mr. K. Ahmed : Is it not a fact that payment of the election expenses and the deposit during nomination of Rs. 500 for each candidate for election, especially of the separate communities, are also an inducement ?

Mr. President : The Honourable Member himself has been a candidate and knows whether it is likely to be so.

Mr. T. C. Goswami : Will Government seek information on the subject of the purchase of votes in the Bengal Council from the office of the party of which the Advocate General is the decapitated head and His Excellency Lord Lytton is the Chief Whip ?

The Honourable Sir Alexander Muddiman : That is not a question that I can answer here.

Mr. Chaman Lall : May I ask whether the Honourable Member in quoting that letter was aware of the fact that there is no Swaraj Party Fund at all from which any bribe could be given ?

The Honourable Sir Alexander Muddiman : The question ought to be asked of another Member of the House.

Mr. Chaman Lall : May I ask whether he is aware of the fact that there is really no Swaraj Party Fund, and whether it was not his business to find out whether there was any such Fund ?

The Honourable Sir Alexander Muddiman : I cannot agree with the Honourable Member on that point. I have no knowledge of the Party funds of any Party.

Pandit Motilal Nehru : May I ask if the Government of Bengal sent the materials upon which they based the conclusions expressed in the extract submitted by the Government of India to the Secretary of State ?

The Honourable Sir Alexander Muddiman : No, Sir ; the statement I have read to the House and nothing more.

Pandit Motilal Nehru : Were any steps taken by the Government of India or the Government of Bengal to verify the facts ?

The Honourable Sir Alexander Muddiman : Not by the Government of India. I presume the Government of Bengal verified it.

Mr. Amar Nath Dutt : Do the Government know that a false criminal case was instituted by the agent of one Member against another to overawe him to vote for Ministers' salaries in the Bengal Council ? And Rs. 15,000 was extorted to compromise the case ?

The Honourable Sir Alexander Muddiman : No, Sir. It is a very unfortunate thing if it is so, Sir.

Mr. Chaman Lall : May I ask the Honourable Member just one more question,—whether he is prepared to convey to the Secretary of State the utter disgust felt by the Members of this Assembly at his remarks with reference to the Bengal Council ?

The Honourable Sir Alexander Muddiman : The questions and answers will be forwarded to the Secretary of State undoubtedly.

Mr. K. Ahmed : What steps do Government propose to take to remove the grievances of the people in regard to payment or inducement to members, who were candidates for election, and do they propose to bring about any change in the Rules of Election on this subject ?

The Honourable Sir Alexander Muddiman : The Honourable Member is quite well aware that parliamentary candidates have these questions in their own hands.

Mr. M. A. Jinnah : Are the Government of India prepared to take steps to remove the reflections which were cast on the Swaraj Party by the speech of the Secretary of State ?

The Honourable Sir Alexander Muddiman : I can certainly give no undertaking on this point. It is for the Party to act.

Mr. K. Ahmed : Do the Government know whether the exact amount paid to a Dacca candidate, a Member of the Bengal Council, by the Swaraj Party was Rs. 3,000 or much more than that ?

Mr. President : That question is certainly not in order here. Whether it is in order in the Bengal Legislative Council is a matter for the President of that Council to decide.

Pandit Motilal Nehru : Are the Government of India prepared to prosecute these persons against whom charges of bribery and corruption have been made or to hold a public inquiry generally into this matter ?

The Honourable Sir Alexander Muddiman : Does the Honourable Member refer to these particular allegations I have got here ? It would not be I think for the Government of India to initiate a prosecution ; it is a matter for the Bengal Government to consider.

Mr. Jamnadas M. Mehta : Will you instruct them to do so ?

The Honourable Sir Alexander Muddiman : No, Sir.

Mr. Jamnadas M. Mehta : Do you not regard the matter as of sufficient importance ?

The Honourable Sir Alexander Muddiman : I regard it as of very great importance and I am making inquiries as to the law. I am perfectly willing to forward to the Government of Bengal copy of the questions and answers in this House and invite their attention to the points raised in them. It is not for the Government of India to instruct the Bengal Government to institute a prosecution.

Mr. Jamnadas M. Mahta : Is it true that the Government of Bengal offered to appoint the third Minister out of these Members who voted for the demand for grant of the Ministers' Salaries ?

The Honourable Sir Alexander Muddiman : I know of no such suggestion.

Mr. Jamnadas M. Mahta : If that is so, is it corruption or what ?

RECOMMENDATIONS OF THE INDIAN BAR COMMITTEE.

Diwan Bahadur T. Rangachariar (Madras City : Non-Muhammadan Urban) : Sir, with your permission before I make the motion standing in my name in regard to the Bill to consolidate and amend the Law relating to Legal Practitioners, I should like to know from the Government whether they intend to bring in a measure to give effect to the recommendations made by the Indian Bar Committee, and if so, I shall consider whether it is my duty to proceed with my Bill or await the action of Government. And if they intend to bring in a Bill, I should like them to give me an assurance that it will be at an early date.

Mr. H. Tonkinson (Home Department : Nominated Official) : Sir, I gather that my Honourable friend merely wishes us to state the action which we propose to take and are taking upon the Report of the Indian Bar Committee.

As has been explained, Sir, in answers given by the Honourable the Leader of the House, we have already consulted Local Governments and have asked Local Governments to consult High Courts and legal associations upon the subject of these recommendations. We are still awaiting replies from some of the major Local Governments. One Local Government have informed us a few days ago that the reason why they are unable to reply at present is the fact that the majority of the legal associations which they have consulted have not yet replied. I am sure, Sir, my Honourable friend will appreciate our position. We cannot decide until we have received the views of the learned profession of which he is so distinguished a member as to whether we shall be able to accept absolutely the recommendations of the Committee. We have no desire to postpone a decision upon these questions and we propose as soon as replies are complete to endeavour to come to conclusions upon them with the minimum of delay. Some of the recommendations of the Indian Bar Committee may be put into operation by the High Courts under the powers which are vested in them and certain High Courts are in fact taking action in this direction. As regards any recommendations which may ultimately require legislation, we confidently expect to be able to bring forward proposals for legislation in the next session.

Diwan Bahadur T. Rangachariar : After that statement, Sir, I do not propose to move the motion which stands in my name.

THE HINDU RELIGIOUS AND CHARITABLE TRUSTS BILL.

Dr. H. S. Gour (Central Provinces Hindi Divisions : Non-Muhammadan) : Sir, I beg to move :

“That the Bill to make provision for the better management of Hindu religious and charitable trust property and for ensuring the keeping and publication of proper

accounts in respect of such properties, be referred to a Select Committee consisting of :

The Honourable the Home Member,
 Mr. N. C. Kelkar,
 Sir P. S. Sivaswamy Aiyer,
 Diwan Bahadur T. Rangachariar,
 Mr. Gaya Prasad Singh,
 Mr. Ambica Prasad Singh,
 Baba Ujagar Singh Bedi,
 Lala Hans Raj,
 Pandit Madan Mohan Malaviya,
 Pandit Motilal Nehru,
 Mr. K. C. Neogy,
 Maulvi Abul Kasem,
 Mr. C. Duraiswami Iyengar,
 Mr. M. A. Jinnah,
 Mr. T. C. Goswami,
 Mr. Chaman Lall,
 Mr. S. C. Ghose,
 Rai Sahib M. Harbilas Sarda,
 Pandit Harkaran Nath Misra,
 Mr. Nilakantha Das."

Mr. M. C. Naidu (Burma : Non-European) : Why not have a Member for Burma on the Committee ? I am willing to be a member.

Dr. H. S. Gour :

" Mr. Naidu and myself."

Pandit Motilal Nehru (Cities of the United Provinces: Non-Muhammadan Urban) : May I beg leave to be excused from joining this galaxy.

Dr. H. S. Gour : No. Sir, at the time of introducing this Bill I briefly stated the reasons which had impelled me to ask the leave of this House for its introduction. Since then the opinions of the provinces and of the High Courts have been elicited and Honourable Members are in possession of these opinions. I find that while the general principle of the Bill is approved generally by the public four suggestions have been made and I shall at this stage deal with them.

It has been said that the term Hindu should be defined in the Bill. This is a matter which should engage the consideration of the Select Committee, as it is a detail and does not affect the principle with which I am at present concerned.

The second objection that has been taken to the Bill—and it is a weighty objection—is to the fact that this Bill does not exclude private trusts. Two views are possible on this point ; first, that a private trust is a trust nevertheless ; and second, that in so far as it is a trust it must be subject to the provisions of the Act. The other view is that as private trusts stand on a different footing from public trusts they must be exempted. That again, I submit, is a question which will engage the attention of the Select Committee. The third objection taken is that this Bill should be confined to trusts of the value of rupees three thousand or upwards, that it would be expensive to procure auditors and to audit accounts in cases of petty trusts which must be exempted from the provisions of the Act. That again, I submit, is a matter of detail into which the Select Committee would be competent to enter.

[Dr. H. S. Gour.]

The last objection is an objection of a general character. It is to the effect that as these trusts are of a religious character and as religious trusts is a provincial transferred subject, any legislation thereupon should be at the instance of the Provincial Governments and made by the provincial Legislative Councils. On this point, Sir, I have the precedent of the Mussalman Waqf Act which was passed only last year—an All-India Act, from which my Bill is little distinguishable. If this objection were weighty with the Government they would have opposed the passage of the Mussalman Waqf Act, which they did not do. I therefore submit that the objection that religious trusts is a transferred provincial subject cannot be an objection to the passage of this measure by the Central Legislature. I wish to add further reasons why this House should pass a measure of this character. All previous Acts dealing with religious endowments are All-India Acts—I refer to the Religious Endowments Act, XX of 1863, the Charitable Endowments Act, VI of 1890, and last but not least the Charitable and Religious Trusts Act, XIV of 1920. I have explained, Sir, on the last occasion why these Acts of the Indian Legislature do not deal with the specific points with which my Bill is concerned. Honourable Members will also remember that we want in regard to the law of Trusts a general uniform law throughout the country. Pious founders of religious endowments generally visit sacred places which are scattered throughout the length and breadth of this country and they make offerings to these holy places which might be made the subject of administration by the Provinces but they should certainly be brought upon a national register. I further submit that we are not contravening any of the Devolution Rules as we are not here providing for the administration of the religious trusts. All we are doing is to provide for the entry upon a national register of all trusts which exist in the land, the reason for which is obvious. For several centuries pious founders in this country have been making bequests and gifts to religious institutions and things. They are managed by persons variously designated and called, and in course of time these managers have obscured the title as to the property and in many cases I regret to say they have passed into private ownership. It is, therefore, necessary for the protection and safeguarding of these public and private trusts that a national register should be opened upon which the name and description of all trust properties should find a place. And secondly, I submit it is equally necessary that, in order to preserve their character as trust properties, there should be an annual submission of accounts audited in the manner provided in the Bill. Well, Sir, I submit that this is all that I need say at this stage. I move that the Select Committee I have named be appointed.

Mr. President : The question is :

“That the Bill to make provision for the better management of Hindu religious and charitable trust property and for ensuring the keeping and publication of proper accounts in respect of such properties, be referred to a Select Committee consisting of :

The Honourable the Home Member,
Mr. N. C. Kelkar,
Sir P. S. Sivaswamy Aiyer,
Diwan Bahadur T. Rangachariar,
Mr. Gaya Prasad Singh,
Mr. Ambica Prasad Singh,

Baba Ujagar Singh Bedi,
 Lala Hans Raj,
 Pandit Madan Mohan Malaviya,
 Pandit Motilal Nehru,
 Mr. K. C. Neogy,
 Maulvi Abul Kasem,
 Mr. C. Duraiswami Iyengar,
 Mr. M. A. Jinnah,
 Mr. T. C. Goswami,
 Mr. Chaman Lall,
 Mr. S. C. Ghose,
 Rai Sahib M. Harbilas Sarda,
 Pandit Harkaran Nath Misra,
 Mr. Nilakantha Das,
 Mr. M. C. Naidu, and
 Dr. H. S. Gour."

Pandit Motilal Nehru : My name may be deleted.

Mr. D. V. Belvi (Bombay Southern Division : Non-Muhammadan Rural) : Sir, I regret very much my inability to accord support to this motion. It seems to me that the present Bill is altogether uncalled for. The country does not need it and it is a piece of legislation which is to be foisted upon an unwilling public. If we refer to the opinions which have been collected from the various provinces of this country, we find that the opinion of the country, taken as a whole, is opposed to the present measure. I shall quote a few opinions in this connection for the information of the Honourable Members of this House. Let us first of all take the Presidency of Madras. Honourable Members will find the Madras Government saying the following. The Secretary says :

"I am to say that in view of the fact that 'Religious and Charitable Endowments' is a Provincial and Transferred subject this Government are of opinion that legislation in connection therewith should be passed by the Provincial Council and not by the Central Legislature. The Provincial Legislative Council has already passed 'The Madras Hindu Religious Endowments Act, 1923'. In this view, this Government do not propose to examine the provisions of the Bill in detail."

Then look at the opinion of the Honourable Mr. Justice Kumaraswami Sastri, a learned Judge of the Madras High Court. He says :

"I consider the scope of the Act much too wide. I would for the present confine it to Temples and exclude Mutts and other Religious trusts. In the case of Mutts the head occupies the position of a spiritual head and it should be left to the disciples of the Mutt to take steps if there is any mismanagement. The opposition to the Madras Religious Endowments Act so far as its inclusion of Mutts is concerned shows how widespread is the desire not to interfere with such institutions. There are several religious trusts of a small nature created by wills and trust deed which do not require outside interference and which are adequately protected by the law as it is at present."

I am in favour of the minimum amount of interference with Mutts when the head is also the spiritual preceptor and when disciples contribute to the worship. In religious matters it is better for the legislature not to interfere unless there is a pressing demand by the general public as distinguished from the advanced social reformers (of whom my Honourable friend, Dr. Gour, is one).

So far as the Madras Presidency is concerned, I think this Bill is unnecessary, as a Bill is before the Legislature dealing with religious endowments. I would suggest that the Legislative Assembly leave it to the various provincial legislatures to devise remedies for preventing breaches of trust within their jurisdiction as conditions in various provinces are different."

[Dr. D. V. Belvi.]

Then let us turn to the opinion of another learned gentleman in the Madras Presidency, Rai Bahadur N. Gopalaswami Ayyangar, B.A., B.L., Registrar-General of Panchayats. He says :

"For the purpose of ensuring the better administration of Hindu Religious Endowments, the proper place for undertaking legislation is the Local Legislature. 'Religious and Charitable Endowments' is a provincial and transferred subject, and, unless there are compelling reasons for the interference of the Indian Legislature in what is really the province of the Local Legislature, the passing of a measure of this sort by the Indian Legislature will in spirit be inconsistent with provincial autonomy even in relation to transferred subjects. Apart from this important constitutional objection, on the merits also legislation of this kind is properly undertaken only in Local Legislatures. Conditions vary badly in the different provinces. The same remedies cannot be applied for mismanagement of trust property in the different provinces."

I will now turn to the United Provinces and I will quote one or two opinions from that province. Here is what the Government of the United Provinces themselves say :

"In the first place, regard being had to the widely divergent conditions obtaining in the various provinces, any attempt to legislate in the matter of religious and charitable trusts for all India by a Bill of this type seems foredoomed to failure ; and the Governor in Council is convinced that, as Sir Malcolm Hailey pointed out in the Assembly on 28th February, 1924, any legislation on the subject should be undertaken by the provincial legislatures, the members of which are qualified by their local knowledge to introduce Bills suited to provincial conditions."

Then take the opinion of a legal luminary in the United Provinces, Sir Tej Bahadur Sapru. He says :

"While I am clearly of opinion that the present position in respect of Hindu religious and charitable endowments is extremely unsatisfactory, I very much doubt as to whether the Bill introduced by Dr. Gour will lead to any substantial improvement of that position. I feel that there is need for a clear-sighted and consistent policy with regard to religious endowments and that in the absence of any such policy I should not in the slightest degree feel surprised if what has happened in the Punjab and is to-day happening at Tarkeshwar happens in other parts of India. I doubt very much whether any general Act passed by the Central Legislature can cure the evil effectively. Local conditions vary in different provinces and the forces of conservatism and progress in regard to social and religious matters also vary from province to province. I personally think each provincial Government should tackle this problem after careful inquiry into the history and origin of these endowments and introduce legislation in the light of the results of that inquiry."

There is a great deal to distinguish the case of Hindu endowments from the Mohammedan endowments with regard to which the Central Legislature passed legislation last year. Even in regard to it I know from personal knowledge that considerable doubt was entertained as to the wisdom of that legislation being passed by the Central Legislature, but there were special reasons for that which I do not think apply to the case of this Bill."

Let me turn now to the Government of Bihar and Orissa. They say :

"There is a strong body of opinion opposed to any legislation on this subject at all. This is the attitude of that portion of the public which is least vocal, and there is no doubt that if the Legislative Assembly were to proceed with the Bill and it were passed into law, there would be increasing opposition, as this class became more and more aware of what was intended. This is proved by the recent agitation and excitement in Madras in connection with a similar Bill. This feeling has already been voiced by such leaders of the orthodox Hindu religion as the Maharajahdhiraja of Darbhanga and by a deputation of Mahantahs and others who waited on the Honourable Minister of Education and protested against the Bill. It is certainly true that the Bill has proved acceptable to the High Court, the bar associations and the educated Hindu public, but these are at best the minority of those who would be primarily affected by this legislation, and in a matter of this kind, unrepresentative of the majority."

Further on, the Government of Bihar and Orissa say :

"The Local Government agree with what they consider to be the weight of public opinion. In the first place, they are averse at present to any further legislation at all in respect of Hindu religious endowments. They consider that it would

be far better to wait and watch the working of the Musalman Wakf Act of 1923, regarding which they have no little apprehension, rather than immediately to introduce a slavish imitation of it for Hindu religious endowments."

• It is not necessary for me to multiply quotations from the opinions which have been collected by Government from various parts of the country. It is evident that public opinion as at present advised is not favourable to this Bill. I submit that there is enough provision already in the existing legislation. The existing Code of Civil Procedure makes due provision for steps to be taken to prevent malversation of religious endowments. Any member of the public who is not satisfied with the administration of any trust property has the right to apply to the Advocate General or to the Collector of the District and to obtain his consent to the institution of a suit. When such a suit is brought, it is open to the District Judge in whose court such a suit lies to draw up a scheme and to appoint a number of trustees for the administration of that particular trust, provided it is proved to his satisfaction that there is mismanagement of the trust property. I do not see that there is any need for a drastic Bill like the present one. My Honourable friend Dr. Gour is, I think, needlessly raising a nest of horns about his ears by introducing a piece of social legislation which is not called for by the people themselves. I am quite aware that Dr. Gour is an ardent social reformer. I beg to be excused when I tell him that ever since the day I entered this Assembly he appears to me to be very fond of promoting social reform with the help of the Legislature. To me it seems that that is a wrong policy. The Legislature should not be needlessly asked to interfere in matters social unless it is absolutely necessary to do so. In this connection I wish to invite the attention of my Honourable friend Dr. Gour to a brief quotation bearing upon points like this. The quotation runs :

"The difference between a physician and a quack is this—a physician knows and admits that his powers are limited. He can aid Nature. He can help her to remove obstruction and clear away abnormal growths ; but he cannot re-create a broken constitution, or make a perforated lung do the work of a sound one. But a quack with his pills, and his plasters, and his potions, will undertake to cure all the ills that flesh is heir to. In like manner, the genuine reformer knows that the living law is the thought of the people, and that all Parliament can do is to fit that thought to the life of the nation. Political empirics, on the other hand, will engage to cut out a social cancer by the ballot-box. With them a Bill's a Bill, 'although there's nothing in't'. It is not so much speed in legislation that is wanted, as skill. It is not quantity, but quality, that is required. The highest interests of the State would often be better served by the wise and liberal administration of old laws than by the high pressure production of new and imperfect ones."

This is a quotation from a speech which was delivered in the House of Commons in the year 1882 by an Honourable Member of that House, Mr. Joseph Cowen. I may tell my Honourable friend Dr. Gour that I believe in a very well-known dictum of Edmund Burke. Edmund Burke lays down in one place that unnecessary physic is bad for the human body. I may tell my Honourable friend Dr. Gour that unnecessary legislation is equally bad for the body politic. With these few words I oppose the motion put forward by my Honourable friend, Dr. Gour.

Mr. Amar Nath Dutt (Burdwan Division : Non-Muhammadan Rural) : Sir, I would have very much liked that a Bill like this was introduced by some Member who is really an orthodox Hindu like my Honourable friend Pandit Madan Mohan Malaviya.

Pandit Shamlal Nehru (Meerut Division : Non-Muhammadan Rural) : Dr. Gour is a Hindu.

Mr. Amar Nath Dutt : Yes. I am also a Hindu, but I do not claim to be an orthodox Hindu. At the same time I would not like to thrust my own opinion upon others who believe in the sanctity of these temples. I would have very much wished that Dr. Gour had included in his Committee only such men as are really orthodox, and command the confidence of orthodox Hindus of this country, like my Honourable friend Pandit Madan Mohan Malaviya. Amongst the names proposed for the Select Committee, without discussing who is who, I may tell this House that very few of them are orthodox Hindus and Dr. Gour has gone to the length of adding Muhammadans and others on the Select Committee. So, considering all the circumstances, I would like to have a cosmopolitan Committee and to suggest that my Christian friend Dr. S. K. Datta, and my Mahomedan friends, Khwaja Abdul Karim, Maulvi Sayad Murtuza Sahib, Mr. Kazim Ali and Dr. Haji S. A. K. Jeelani be added to the Committee.

Mr. M. K. Acharya (South Arcot *cum* Chingleput : Non-Muhammadan Rural): Sir, I do not wish to make any speech, not at least to-day, but I cannot give a silent vote on a matter which I think concerns the religious beliefs and institutions of the community to which I have the honour to belong. I claim to be a very orthodox Hindu—not of course for the purpose of being put on this Committee. I object to the passing, by a heterogeneous body such as this House, of any legislation which will affect the religious beliefs and religious institutions of the largest community in India. I am glad that this has already been pointed out by another Member. Many of us may claim to be Hindus, but few of us can claim to be or even perhaps care to be Hindus in the strictest sense of the term, respecting the orthodox beliefs and customs of our orthodox countrymen. I object strongly to any legislation of this kind. The very fact that Dr. Gour wants such a very large Committee to go into an examination of the Bill is ample proof that the Bill is not as innocuous and not as unobjectionable as we might wish it to be. I find one clause is exceedingly objectionable—that imposing a penalty ; and I strongly object on principle to any penal legislation of this kind. It is very very unfortunate that the time of the House should be wasted on such questions. I want to be perfectly clear. It is not that I for one moment disbelieve the good intentions of those who have brought this Bill or who are supporting it. But I wish to be excused if I quote the old proverb that good intentions pave the way to some very unenviable region. Therefore I strongly object to a Bill of this kind on principle. I have already received one or two letters from very orthodox people, and even the opinions that have already been gathered are very divergent. I do not believe that such a measure of support for the Bill has been received as Dr. Gour would wish this House to believe. Very many people have taken objection to it and those who have taken objection to the Bill deserve probably greater attention than those who claim to be in favour of the Bill. There is great danger that we, the so-called educated Hindus, may not care for the feelings and sentiments of those who are not English-educated. These charitable trusts mainly affect them and not us. Very few English-educated Hindus care to go to the temples, and it does not matter to them how these temples are managed. These historic religious and charitable institutions ought to be respected and I strongly object to any Bill that tries to ride roughshod over the feelings and sentiments of the orthodox community.

Sir Purshotamdas Thakurdas (Indian Merchants' Chamber : Indian Commerce) : I rise to support the principle underlying the Bill, and I am surprised at the opposition of my Honourable friend, Mr. Belvi, and the last speaker. I do not know if I will be admitted to be an orthodox Hindu ; but I certainly do not think that Dr. Gour will say that I am a social reformer. I am as good a Hindu as the present generation may claim one to be. I feel very strongly that there should be no reason to oppose any legislation which aims only at better regulation of religious trusts and of charitable benefactions. This Bill only lays down that those who manage monies set aside for purposes of religion or charity shall do certain elementary things, namely, that they shall submit to a Government officer, or to a Court, the title showing how they are entitled to use the monies for their specific purposes, that they shall keep accounts and that those accounts shall be available to the Hindu public year in and year out in order that the Hindu public may make sure that monies set aside by religiously inclined people are being used in the proper manner and direction. I really wonder whether there can be any opposition to these very elementary requirements, which my friend, Dr. Gour, wishes to see ensured in the interests of the benefactors and beneficiaries of the Hindu community. I certainly think that a body like this House should not interfere in whatever may affect the religious susceptibilities of either the Hindu or the Muhammadan community. But the Bill which is now under consideration does not interfere with any religious rites or ceremonies. All that it lays down, as far as I have been able to see, is that those in charge of such benefactions shall keep accounts and present them for the enlightenment of the public. I really wonder if either the orthodox section or the other section can possibly object to this and allege with any justification that some sort of undesirable interference with the orthodox section is aimed at by this Bill. I have very great pleasure in supporting the principle underlying the Bill and also in supporting that the Bill be referred to a Select Committee.

Mr. C. Duraiswami Aiyangar (Madras ceded districts and Chittoor : Non-Muhammadan Rural) : I am also surprised that there should be opposition even to the principle underlying this Bill. For my part also I must declare that I am an orthodox Hindu, and those friends who have invited me to lunch will bear testimony to it. But at the same time, Sir, I must emphatically protest against an Assembly like this even obstructing at the very initial stage of making some provision for the safeguarding of public institutions. I am in some way or other immediately connected with one of the most important public temples, one which is worshipped all over India,—that is, the temple of Tirupathi which is generally known in northern India as Balaji. There can be no doubt of the fact that in this country several of these public endowments have not been properly managed, have been mismanaged, and the funds also have been misdirected. I may be permitted to state a fact which may probably be unknown to the Members of this Assembly that it is the Government that first set the bad example of diverting the public funds to other purposes. In the case of this Tirupathi temple to which I have already referred, a temple which was under the management of Government for over 40 years up to the year 1843—in the case of that temple there was a large surplus of several lakhs every year from its income, and the Government which were managing that temple, after expending for the necessities of the temple, were diverting the surplus to other provincial purposes so much so that the High Court of Madras thought it necessary to justify the Government incidentally at least, and so, when an opportunity occurred, their Lordships of the High Court observed

[Mr. C. D. Duraiswami Aiyangar.]

in a dispute which arose between a trustee of that temple and another functionary there that the Government had been annually taking about Rs. 2½ lakhs of the surplus, but that they did so in their sovereign capacity. Anyhow, the fact is there that the surplus of the temple, which was more than Rs. 2½ lakhs per annum so far as my information goes, was misdirected to other uses by the Government. Had it been collected and kept for the benefit of the temple itself without being diverted to other provincial purposes of various kinds, that temple should have been handed over to the trustee in 1843 along with a net cash of Rs. 84 lakhs which to this day would have grown into several crores. After this temple was handed over to another trustee with an empty treasury, it has been able to make up a good large amount, but all the same a good deal of litigation had been going on about the proper management of the temple, and it even went up to the Privy Council. Finally a scheme was settled for the management of that temple by the Privy Council and since then it has been working wonderfully well. So far as the objections that are raised to this Bill are concerned, my Honourable friend, Dr. Gour, has explained their nature. I can very well understand the objections being considered in detail instead of opposing the principle itself. In fact, I thought that when my friend, Mr. Belvi, was quoting several authorities from extracts which have been supplied to every Member of this House—I thought he was quoting authorities against himself. The authorities which he has been quoting were in support of the principle; some objected to the inadequacy of the provisions, while others raised objections on the ground that it should be left to the local Legislatures to deal with the matter. But any legislation of this Assembly will not in any manner prevent the local Legislatures making their own suitable legislation, but if we leave it only to the local Legislatures to do it they may perhaps take a long time over it, some may not even move in the matter at all, and some may take very many years before they move. Instead of that, if this Assembly undertakes a general legislation, a model legislation, laying down the principles according to which legislation on this subject must proceed, it will be a great object lesson, it will be a great benefit for the local Legislatures to act, and it will be a sort of very good guidance to them.

Sir, I myself am not perfectly satisfied with several of the provisions which have been embodied in this Bill of Dr. Gour. It seems to me that in some places it is extravagant and in some others it is very inadequate and miserly. So far as the definition of a trust is concerned, it is certainly extravagant. For my part, I should not at any stage be inclined to give any support to the inclusion of *mutts*, the inclusion of private charities, the inclusion of family trusts and other things in a legislation of this kind. But I should certainly be glad if legislation is undertaken so far as public temples in which all the Hindus are interested are concerned. Then an objection is raised that it is not this Legislature that must take this matter up but that it must be left to the Provincial Legislatures. I ask you, Sir, is a temple like Badri, Kasi Viswanatha, Balaji, Juggernath, local temples? Are these district temples? Are these provincial temples or are they All-India temples? If they are All-India public institutions, why should not this Assembly take upon itself the responsibility of helping those interested in such temples to make their own move in the matter of enforcing the proper management of such institutions.

Mr. Jannadas M. Mehta (Bombay Northern Division : Non-Muhammadan Rural) : Are you confining them to these temples only?

Mr. C. Duraiswami Aiyangar : No. Therefore it is impossible to say whether a temple is a local temple or a provincial temple. Now, Sir, as regards the provisions of this Bill to which I made some reference already I find nowhere any provision made as to who is to come forward and enforce the provisions of this Bill. Dr. Gour enforces so many duties on the trustees. But the trustees sit at home without doing anything and there is no provision for anybody interested in such an institution coming forward and seeking relief and enforcing the provisions of this Bill. In some respects I say it is inadequate. In some respects it is extravagant. All the same there can be absolutely no doubt of the fact that the principle of safeguarding public institutions should be supported by an Assembly like this. It is the duty of the State, it is the duty of the Legislature of the State always to protect institutions like this. While I heartily support the idea, I do at the same time say that several institutions ought to be excluded from the scope of this Act because they are otherwise provided for or because they are institutions in which any interference will not be viewed with favour. Members of this Assembly will remember that on the last occasion when this came up for discussion before this House, the Honourable Sir Sivaswamy Aiyar has fully placed the state of the *mutts* of the Southern Presidency before this House and has pointed out how any interference or any inclusion of *mutts* which ought to be placed on a separate footing, which ought to be treated as religious institutions regulating the discipline between *guru* and *chela* will be viewed with disfavour. I entirely agree in that view of his. I qualify it by saying that institutions which are already provided for by schemes properly settled by courts, to which an exception is also made in this Bill, institutions which ought to be placed on a high footing of a reverential kind, institutions which are of a spiritual nature, institutions which regulate the discipline and spiritual teaching between *gurus* and *chelas* ought all to be excluded. Such institutions being kept apart, I accord my entire support to the principle underlying this Bill and to the fact that this Bill requires to be scrutinised and sent back to this Assembly in a perfect manner. With these few words I entirely support Dr. Gour's motion.

Pandit Motilal Nehru : I had no intention to intervene in this debate because I did not anticipate any of the objections that have been raised to this Bill being sent to the Select Committee. I do not think I need either make out that I am an orthodox Hindu or to make a confession that I am not an orthodox Hindu. I feel that I am entitled to participate in this debate for another reason and that reason is that I happen to be one of the beneficiaries of these trusts, though never contemplated by the authors of the trusts to be such a beneficiary. What I mean is this, that I have been concerned in my professional capacity with a large number of these trusts and a considerable portion of the trust funds has from time to time come into my pocket. I am therefore in one sense entitled to speak with some authority but at the same time, Sir, I feel that I shall not be justified in indulging in any breach of professional confidence. I shall not relate to the House certain facts and incidents which are fresh in my memory but I shall say this that I cannot understand how any provision of this Bill can be taken to affect the religion of the Hindus or their religious sentiments. All that the Bill proposes to do is to have a register of these properties and to ask these gentlemen who are in charge of these very large properties to keep an account. Now, so far as the principle goes we have a section in the Code of Civil Procedure (section 92) which gives the court juris-

[Pandit Motilal Nehru.]

diction to go into these matters and which gives the public the right to bring an administration suit under the conditions provided by that section. That being so, I do not see what greater inroad this Bill can make into the religious sentiments and feelings of the Hindu public. A public trust is a public trust, whether the object is religious, moral or charitable and whenever there is a public trust in any country affecting any community, it is the business of the State to see that it is properly administered. I shall not go into the provisions of the Bill and shall not say how far it deserves to be modified in Select Committee but confine myself to the fact that there is a strong case made out for its being referred to the Select Committee. There can be no possible doubt as to that.

Now, it has been stated that this is a reform which ought to come from within. I ask Honourable Members of this House how is it possible for the Hindu society, even if it could agree unanimously upon this point, to compel any *muhant* to keep proper accounts, unless there is legislation on the subject. There are certain things which without encroaching upon the domains of social life can only be accomplished by legislation and this is one of those things. I fail to see how else it is possible by any means whatever to see to the proper administration of these funds which are called religious funds. Now it will be said that an action at law is permissible. I agree but it will be the courts who will compel the execution of the trust in a proper and fit manner. What does Dr. Gour's Bill aim at? It aims at simply this, that if occasion arises for any member of the public to avail of the right which he undoubtedly possesses at this moment without Dr. Gour's Bill the courts will be in a better position to give their decision and the public would be in a better position to avail of the assistance of the courts in these matters if the Bill is passed into law. The facts would be there. The accounts would be there. The list of the property will be there and it will be far easier in those circumstances to know whether there has been a breach of trust or not. As it is, I know whenever there is a case of breach of trust the decision more often than not is that there is no breach of trust simply because all the facts cannot be placed before the court. The first plea is that section 539 which was the old section or the present section 92 does not apply. If the fortunate trustee is able to show that that section has no application, no further steps can be taken against him but if he does come within section 92 there is often no material before the court or under the control of the party to enable the court to do justice. Some of the trustees do keep accounts of a sort. Others do not keep any accounts.

That there are no cases of breach of trust, I think it will take a bold man to assert. For these reasons I submit that false issues have been raised upon this very, very simple Bill and questions of religious belief and religious sentiment have been mixed up with what is purely a civil right and the right of the whole Hindu public. I would therefore strongly support the motion of Dr. Gour, though I may add that if I can be excused from serving on the Select Committee I shall be very glad. Dr. Gour has got so many able men there already. I quite agree with the Honourable gentleman who said that the great majority of the persons on the Committee should be orthodox members. I do not claim to be orthodox in the common sense in which orthodoxy is understood, though I do not yield to any one in this House or outside in being as good a Hindu, as good a Brahmin as any other.

Mr. Harchandrai Vishindas (Sind : Non-Muhammadan) : I rise to offer my whole-hearted support to the Bill. To begin with I do not think it is a question in which orthodoxy or heterodoxy can determine the issue. Who is orthodox is a very difficult point to decide. My friend Mr. Duraiswami Aiyangar claims to be orthodox although he eats with Christians. Perhaps his idea is that eating *dhal* and curry and vegetables is being orthodox. My friend Pandit Malaviya will join issue with this and he will say only taking food at the hands of a Brahmin makes an orthodox Hindu. Therefore I say it is entirely wrong to drag the red herring of orthodoxy across the trail of this Bill. Mr. Acharya said it is no use hurting the feelings of Hindus. How the Bill is hurting the feelings of Hindus I can not understand. Hindus should rejoice that provision is being made for their public trusts and their charitable trusts being properly looked after and properly preserved. I myself was going to say the same thing as was said by Pandit Motilal Nehru at the end of his remarks and therefore he has practically taken the words out of my mouth—that at present as matters stand they are not sufficient for the protection of properties, trusts, etc. Now we Hindus having before our eyes the Akali agitation should be rather strongly in favour of a Bill of this nature. That agitation shows that the Akalis are greatly dissatisfied with the management of their trusts and temples, and Government, as well as the rest of the public, are very anxious that some kind of legislation should be carried in order that no such disputes about these temples or *mahants* may arise in future. I think a provision of this nature will also provide a remedy of that kind, because if it was made obligatory on everybody who is connected with a public trust to keep accounts and to have them audited, then much of the ground of complaint that is now urged will have been removed. Mr. Belvi laid great stress upon the fact that this should be a matter of provincial legislation. Why? It may be that in some Provinces there are public-spirited men coming forward to propose this legislation, whereas there may be no such men in other Provinces; or perhaps in some Provinces the influence of the *mahants* or the trustees of religious trusts is so very strong that nobody likes to oppose them, and no such legislation is brought forward. Moreover, it cannot be said that because it is a transferred subject therefore it is outside the jurisdiction of the Central Legislature. On the contrary, it is a matter which it were more advisable should be of an All-India nature so that each Province and each area may come under its jurisdiction and control.

As I said at the beginning, it is not a question of orthodoxy or heterodoxy. It is a question of honesty *versus* dishonesty. As it is I think the whole body of *mahants*, etc., will try to oppose this Bill tooth and nail, and I think Hindus as Hindus, whether they be vegetable eaters or meat eaters, ought to see that this dishonesty is not perpetuated, and that those temples and those temple keepers who are fattening upon our monies should be properly looked after. I think, therefore, that every Hindu ought to feel it his duty to support this Bill. Where is the question of Hinduism in this question? Even our Civil Code lays down in the particular section referred to by Pandit Motilal Nehru—the present section 92 and the old section 539—that any trustee can be brought to account. Well this Bill facilitates the business. It is not a question of Hinduism or Muhammadanism or any other religion. It is a question of any public trust, whether it be under the Hindu, Muhammadan or any other religion. This Bill is simply a reinforcement of a provision of law that is already

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there, by laying down certain provisions by which you can render those trustees responsible for any malversations of their trusts. That is a thing which should be encouraged by anybody, whether Hindu or Muhammadan, and therefore instead of opposing this Bill we all ought to be grateful to Dr. Gour for the trouble he has taken in drawing it up.

Diwan Bahadur M. Ramachandra Rao (Godavari *cum* Kistna : Non-Muhammadan Rural) : Sir, I entirely support the principle of this measure and I associate myself fully with the observations made by my Honourable friend Pandit Motilal Nehru. Sir, I believe that this is one of those measures in which a certain amount of uniformity of legislation is absolutely desirable ; and it is on account of the All-India importance of this question that the difficulty we are now faced with in regard to one of our own Bills in Madras has arisen. This Bill merely deals with three or four questions of great importance to public trusts. One is the obligation to furnish particulars relating to trusts, and the second is the question of statements of accounts and audit.

Now in regard to these two matters there can be no question that owing to there being no suitable provision many trusts have disappeared and money has been misappropriated by trustees and *mahants* in various parts of the country. I think therefore that so far as the provisions of this Bill are concerned, there is no doubt that the uniformity aimed at by this Bill, in asking *mahants* and trustees to have statements of particulars of properties in their possession and to furnish annual accounts, is a very wholesome provision. If in addition to these provisions, any Provincial Legislature wishes to undertake legislation for the protection of their trusts, there is absolutely no bar to such a procedure. I should therefore think, Sir, that the argument urged, that this is a provincial subject, is altogether beside the point, because this subject is also subject to the Indian Legislature. So on these particular grounds it seems to me that this Bill is essentially sound.

As regards the details of this Bill, certainly they will be very carefully examined in the Select Committee. I am in entire agreement with the observations of my Honourable friend Mr. Duraiswami Aiyangar with regard to *mutts* and other private trusts, and the agitation which has arisen in Madras with regard to the Bill which has not yet received the sanction of the Viceroy is mainly due to the fact that Dr. Gour has included private trusts in the scope of the Bill which has formed the subject of great controversy in Madras. I therefore think, Sir, that on the broad ground that this Legislature is entitled to deal with this subject and to lay down certain uniform principles for the administration of property and funds, a measure like this is desirable. On these grounds I support the Bill.

Mr. M. A. Jinnah (Bombay City : Muhammadan Urban) : Sir, I think it will be most unfortunate if this House should throw out this Bill. Dr. Gour has earned a reputation as a social reformer and he has shown so much zeal that now he is being looked upon with a certain amount of suspicion.

I want this House to understand clearly that this has nothing whatever to do with social reform, nor has it got anything to do with religion. I think this House will agree with me that prevention is

better than cure and this Bill is intended to be a preventive and nothing more. At present there are many trusts, probably unknown trusts, of such a character that their beneficiaries do not know what their rights are ; what is more, they are indifferent and sometimes they do not care whether the trusts are properly administered or not. This Bill is not intended to interfere with the Hindu religion. Although I am a Muhammadan and I was quite willing to serve on the Committee, I may assure the House that I shall be the last person to be a party to any measure which was likely to hurt the religious feelings of the Hindus and their sentiments. I want to assure the House that this Bill has nothing whatever to do with the Hindu religion. At present what is the position ? Supposing a trustee maladministers a trust or commits a breach of trust. The position is, as Pundit Motilal Nehru pointed out, that somebody has got to go to court ; that is, after the breaches have been committed, after the funds are misappropriated, somebody goes to court, and what is the result ? The result is that an enormous amount of money is spent and ultimately the court frames a scheme as to how that trust is to be administered. If we have this Bill it would mean that every trustee will have to disclose the nature of the trust, the instrument under which he is a trustee and he will have to place his accounts regularly before an authority and it will be open to any member of the public to go and see the accounts and examine them ; and therefore there is this check which will prevent maladministration and misappropriation and breach of trust. Therefore I hope this House will realise what is the true issue before it and will allow this Bill to go to Select Committee.

Baba Ujagar Singh Bedi (Punjab : Landholders) : Sir, there seems no need at all for me to support the motion, because there has already been a good deal of support for it. I find, Sir, that since this little bit of reforms has come to India, a sort of malady has crept into the arena of the Legislature to reform our religious liberties through the Legislature by the way of penalising them. But what is our position now with regard to the motion ? There was a time, when this House could have opposed this Bill when it was before them for discussion at the time of introduction ; there will be yet another time when the Bill will come up before the House for further discussion. But what is the position of the House now ? The Honourable Dr. Gour only says that the Bill should be referred to a Select Committee. The Bill will be thrashed out in the Select Committee and after necessary alteration will come up before the House for consideration. Under the circumstances, there is no need at present to oppose or to support the Bill as it now stands. We have only to see whether the proposition put forward by Dr. Gour is agreeable or not. Therefore, as he seeks that the Bill should be referred to Select Committee, there seems no harm if we agree to the proposal. With these words I support the motion.

Pandit Madan Mohan Malaviya (Allahabad and Jhansi Divisions : Non-Muhammadan Rural) : Sir, so far as the object of the Bill is concerned there could be no two opinions that it is a good one. But the provisions of the Bill as they now stand are undoubtedly open to objection—some of them. The motion is that the Bill should go before a Select Committee. I hope all will agree to it in the confidence that in the Select Committee the provisions of the Bill will be carefully

[Pandit Madan Mohan Malaviya.]

examined ; and I hope the portions that are open to objection will be improved and that when the Bill comes up before us for consideration it will be in a form which will make it generally acceptable. The provisions which have excited comment and rightly so, relate to the permission which is given to any man to ask for further particulars of accounts. Every man is not entitled to ask for particulars of accounts relating to Hindu temples or *mutts* or trusts. I do not agree that the Bill has nothing to do with the Hindu religion ; it has a great deal to do with it. But the point is whether it will in any way go against the object of those who founded the trusts or endowments which it will affect—or against the Hindu religion itself. I think the Select Committee ought to be trusted to so modify the provisions that there will be no reasonable ground for such apprehensions. So also with regard to the provision for penalty. This is a measure which is being introduced for the first time in a community which has never known legislative interference with religious or charitable trusts. We have to proceed cautiously. I do not know whether many of the Members who have spoken in support of the Bill or in support of its reference to a Select Committee have realised all the complicated problems which will arise in connection with the working of a Bill like the present when it becomes an Act. But the object is distinctly one which we ought to support and therefore I join with those who desire that the Bill should be referred to a Select Committee, and I hope it will be so referred unanimously.

Seth Govind Das (Central Provinces : Landholders) : Sir, first of all I may say that I am an orthodox Hindu in every way. Still I support the Bill of my Honourable friend, Dr. Gour. Sir, I have visited practically all the chief temples and holy places of the east, west and south India and I have found that practically all the *mahants* and *pujaris* of these temples and trusts are embezzling money like anything,—not all, but practically all ; I think the majority of them are doing that. Everybody knows that millions of the poor people of India who are hard pressed for their bread and butter provide money anyhow to go to these sacred places and give some money to these temples. Now, Sir, no orthodox Hindu can stand the sight of money being embezzled in this way. According to the Hindu *sastras*, Sir, the donor of any charity is responsible for the way in which the money of his charity is spent. (*Cries of "No"*.) I say certainly 'yes' and I can prove it, that every donor is responsible for the way in which his charity is spent ; and therefore to make these *mahants* and *pujaris* true *mahants* and true *pujaris* I think that this Bill should be passed and I think there can be no objection to its going before a Select Committee. I support the motion of my Honourable friend, Dr. Gour.

The Honourable Sir Alexander Muddiman (Home Member) : Sir, perhaps it would be as well if I say a few words at this stage as to the attitude of Government on this Bill. The Bill was circulated on a motion passed by the Assembly on the 28th of February last. The actual circulation was effected on the 7th of March. The last paper of opinions which contained very important opinions from the Punjab, Madras and Bengal, only reached me on the 14th of this month. It has therefore, as Honourable Members will understand, been impossible for me to consider them in the way they ought to be considered and obtain

orders as to what attitude should be adopted by the Government on this Bill and therefore anything I may say must be purely of a provisional nature.

• With the general object of the Bill—better provision for the management of Hindu Trust properties throughout India. I am wholly in sympathy. But here we are dealing with rather delicate ground. In the first place, the Bill deals with a transferred subject. If the House passes this motion for reference to a Select Committee, they will be affirming the proposition that this is a suitable matter to be dealt with by the Imperial Legislature. From a cursory examination I was able to give to the opinions forwarded by the Local Governments, I think there has been some objection to that view, and you have to remember that this is a matter in which those who look forward to greater power in the Provinces should move cautiously. At any rate, it should be very carefully examined to see what the Ministers have said about it.

Then another point has been brought forward. The Bill as I understand it is modelled very largely on a Bill which was passed by this House dealing with the Muhammadan endowments, or it follows it very closely. Now, it is a matter, I am sure, which requires very careful examination whether a Bill drawn on those lines is really the Bill you want. One point certainly attracted my attention and that is the definition of "Trust". It will require much care.

Pandit Motilal Nehru : I do not agree with that.

The Honourable Sir Alexander Muddiman : Again, allusion was made by some Honourable Members to the Tirupati temple. Well, Sir, I seem to have heard a good deal of that in recent months. Surely, that was the temple which was affected by the Bill which was passed by the Madras Legislature—the Madras Religious Endowments Act. That was the case I think where a point was raised whether a temple which had a scheme sanctioned by the Privy Council fell within the purview of that Act.

Now, I think the fact that you have disputes in connection with temples in the province which passed the Bill indicates the need of caution. It has been said—I have no doubt rightly—by Honourable Members that many of these temples are really far more than provincial in their importance. That may be so, Sir, but I think that on the whole it would be wise to be cautious in taking out of the hands of those who presumably must in the first instance have founded these temples the control thereof. It does seem to me a matter which must be seriously borne in mind. I take it that temples of this kind ought to be served and managed by the people in the provinces in which they are. I take it that those who attend to shrines are for the most part inhabitants of the neighbouring districts. I do not know whether I am right in that. If I am wrong I am open to correction. But that, I think, is the case. And therefore it does seem to me that, when you are dealing with that class of subject, it is a matter, which you must think over before you decide that this kind of legislation should be undertaken in the Imperial Legislature.

In all I have said I am expressing a purely provisional opinion. I am not in a position to express the opinion of the Government of India. Now, Dr. Gour has moved that this Bill be referred to a Select Committee—a large Select Committee. It is quite clear that this Select Committee

[Sir Alexander Muddiman.]

cannot meet this session. So I suggest to him that he should consent to postponement of this debate till the next session when I shall be in a position to state more definitely the opinion of the Government of India. I do not think it will waste any time as regards the progress of the Bill and I think it might be more satisfactory that the House should decide on a fuller statement of the case from this side of the House. I leave it to him.

Dr. H. S. Gour : Sir, I shall very briefly reply to the criticisms that have been levelled against my amendment and I shall last of all reply to the suggestion made by the Honourable the Home Member.

My Honourable friend, Mr. Belvi opposed this Bill on the ground that it is a provincial subject, an objection which has been reiterated by the Honourable the Home Member. Now, Sir, I am surprised that any Member in this House should forget the plain fact that the Hindu community is not a provincial subject, and the Hindu community all over India is interested in all its sacred shrines wherever they are situated. Whether they are in Orissa or in Madras or in Bombay or in the Punjab, the Hindu community at large is interested in their upkeep. How can the provincial Legislature deal with a subject which is an All-India subject. And secondly, I beg to point out that all our sacred shrines, wherever they are situated, are resorted to by members of the Hindu community from all parts of India, from which they are the recipients of endowments.

Mr. President : One minute, Dr. Gour. I must remind the Honourable gentleman that, if he continues on this line and then accepts the proposals made by the Home Member, when we come to this debate in the Delhi session I shall not then be able to give him the same rights of speech as I can now. If, therefore, he wishes to accept the proposal made by the Honourable the Home Member, namely to defer consideration till the Delhi session, then of course I shall still be able to give him his right of reply ; but if he continues to discuss on their merits the arguments for and against the present measure, then I shall not be in the same position as I would otherwise be.

Dr. H. S. Gour : Very well, Sir. Now, that is my first point.

Mr. President : Then am I to assume the Honourable Member is not going to accept it ?

Dr. H. S. Gour : No, Sir, I want to take it to the Select Committee now.

Then, as regards the existing provisions of the Code of Civil Procedure, I think my Honourable friends are perfectly aware that section 92 of the Code of Civil Procedure deals with a very short measure, namely that when any person interested in a public religious trust obtains the permission of the Advocate General he may institute a suit, whereas my measure is intended to bring upon one national register all the religious and charitable institutions in the country for the benefit of the community at large. That is not covered by either the Code of Civil Procedure or by the Charitable and Religious Trust Act of 1920.

Then, Sir, two Honourable Members got up and said that they very strongly objected to the Bill, and that is all that they have said about it. Very well, Sir, my reply to them is that I very strongly support it.

Now, turning to the Honourable the Home Member, I have already pointed out, Sir, that a Bill of a very similar character was passed by this Assembly last year and I see no reason whatever why any impediment should be thrown in the way of the passage of this measure which is supplementary and complementary to my friend Maulvi Abul Kasem's Mussulman Waqfs Act. As a matter of fact, Sir, before that Bill came up for discussion in the House, the intention of some of the Members was to incorporate the provisions of the Hindu Religious Trust Act and make an All-India Religious and Charitable Trust Act, but it was found that it would be more expedient to introduce in the first instance a Muhammadan Waqf Act, and then to introduce a Hindu Trust Act and thereafter to incorporate and consolidate the two into an All-India measure.

That intention, I submit, would be defeated if this House did not give the leave which I seek for taking this measure to the Select Committee.

Well, Sir, having said this, and having forfeited my right of speech in Delhi, my friends tell me that nothing will be lost by acceding to the postponement of this motion till the Delhi session. I therefore do so.

Mr. President : I only asked the Honourable Member if he wished to accept the Honourable the Home Member's suggestion. I was not suggesting whether he should accept it or not. I pointed out the conditions that accompanied the acceptance of that suggestion. I cannot now allow the same free debate to proceed as when we meet again in January. I may suggest to the House, however, that it really comes to the same thing. Owing to the pressure of business at this moment, it seems improbable that the Select Committee can sit, say before January, and presumably in January the Home Member will be more readily in a position.

Dr. H. S. Gour : In that case, would the Honourable the Home Member agree if I undertake that, if the Select Committee is appointed, not to convene its meeting till the Honourable the Home Member is in a position to obtain and inform us of the opinion of the Government.

The Honourable Sir Alexander Muddiman : I am afraid I cannot agree to that. The whole point is that if you pass the motion to Select Committee you will be accepting the principle of the Bill. I am quite prepared to make the offer again. I shall have the further advantage of considering the matter in the light of the speech of my Honourable friend. I move that the debate be adjourned.

Mr. President : The original question was :

"That the Bill to make provision for the better management of Hindu religious and charitable trust property and for ensuring the keeping and publication of proper accounts in respect of such properties be referred to a Select Committee." Since which an amendment has been moved :

"That the debate be adjourned."

The question I have to put is that the debate be adjourned.

The motion was adopted.

The Assembly then adjourned for Lunch till Twenty Five Minutes to Three of the Clock.

The Assembly re-assembled after Lunch at Thirty Five Minutes Past Two of the Clock, Mr. President in the Chair.

THE INDIAN CRIMINAL LAW AMENDMENT (REPEALING) BILL.

Dr. H. S. Gour (Central Provinces Hindi Divisions : Non-Muhammadan) : Sir, I beg to move that the Bill to repeal certain provisions of the Indian Criminal Law Amendment Act, 1908, be taken into consideration.

Honourable Members will remember that when introducing the Bill on the 25th March 1924 I gave my reasons in support of my motion. Briefly stated, they were these. The Repressive Laws Committee in paragraph 26 of their report had reported as follows :

“ We sincerely hope that it may be possible for Government to undertake the necessary legislation during the Delhi session, but it is impossible for us to make any definite recommendations on the point at present. We hope that the repeal of these Acts may be expedited by a healthy change in the character of the agitation going on at present. The duration of retention rests in other hands than ours.”

This was the report of the Repressive Laws Committee dated the 2nd September 1921. The members of the Repressive Laws Committee had strongly recommended, as Honourable Members will find, that the repeal of the Criminal Law Amendment Act might take place during the ensuing Delhi session, that is to say, during the months of February and March 1922. It was up to the Members of the Repressive Laws Committee including the Government who were parties to that report, to bring forward a measure of legislation for the repeal of the Criminal Law Amendment Act. They did, indeed, introduce a measure for the repeal of certain repressive laws including Part I of the Criminal Law Amendment Act, but Part II of that Act still finds a place on the Statute-book. In the last Assembly the attention of Government was drawn to this recommendation and this obligation which rested upon them. But, unfortunately, the attempt failed. As one of the humble members of that Committee I feel that it is my duty to make good a recommendation to which I subscribed, namely, that the Criminal Law Amendment Act shall be removed from the Statute-book as soon as possible.

Well, Sir, I do not wish to go into the history of this Act once more. It was passed, as Honourable Members will see, in 1908, and if Honourable Members will turn to the report of the debates of that time they will find that the primary reason given by Sir Harvey Adamson who introduced this Act was the prevalence of anarchical crime in Bengal, and indeed throughout the country and the Bill was modelled upon two Bills popularly known as the Irish Coercion Acts, but with this difference that while the Irish Coercion Acts deal specifically with *mens rea* by introducing the term “ knowingly becomes a member of the association and so forth ”, these words were omitted from the Criminal Law Amendment Act. A distinguished lawyer, no less than the late Dr. Sir Rash Behari Ghose, pointed out the difference and moved an amendment to that effect, but he was in a minority in those days because the Government had the majority in the Imperial Legislative Council and his motion was defeated. Now, Sir, when I introduced the Bill I stated that if there was any such crime in the country the ordinary laws, which had been strengthened since by the enactment of the conspiracy sections, were sufficient to deal with it. Sir Malcolm Hailey opposing my

motion for introduction gave three reasons for opposing it, and I shall confine my remarks at the present moment to dealing with those three points which he made on that day and to which I could not then reply. The first point was that this is a power given by the Legislature to the Executive and therefore the Executive are entitled to exercise it, to which I reply that the power was undoubtedly given by the Legislature to the Executive but it was given at a time when the Legislature was a branch of the Executive, and in any case the legislature can revoke the power it gave, and the more so since it has been unanimously condemned by the mixed Committee constituted by Government to deal with the repressive laws. The second point raised by the then Home Member was that the time was inopportune for the repeal of this enactment. Now, Sir, I wish to ask, when will the time be opportune for its repeal, and what are the conditions which must be established before Government would apply for its repeal? The reforms have been inaugurated by the Act of 1919. A different policy has been enunciated by Parliament. The old Imperial Council has ceased to exist and we are the pioneers of a future Parliament which is to take its place. I therefore submit that it is up to us as representatives of the people to declare whether the time is not now opportune for giving effect to the recommendation of a committee as thoroughly representative as the Repressive Laws Committee was. I further beg to say that while in 1908 there may have been some defect in the statute law of the country to deal with organised conspiracies to overawe the established Government, the Statute-book has been strengthened by the enactment of two sections known as the conspiracy sections added to the Indian Penal Code. It has been said, and I have no doubt it will be said again, that the standard of proof required to bring an offender to justice under the conspiracy sections is far too high and that therefore some measure of the character of Act XIV of 1908 is required to arm the Executive with the power of dealing with organised conspiracies. Well, Sir, I am speaking here as a lawyer and I ask those who study its provision to say whether it is not a fact that if you have no proof to establish a conspiracy you have no case at all to convict a member thereof and if you have proof you will be able to bring him to justice under the ordinary penal law of the country. The Honourable Sir Malcolm Hailey said that this House while repealing the Criminal Law Amendment Act was offering the Government no substitute. I have already dealt with this point and I have pointed out that there is a substitute existing on the Statute-book which the Government are loath to resort to merely because they think that some evidence is required and the ordinary procedure laid down for the trial of offenders by the Code of Criminal Procedure would have to be followed. It is for this House to declare whether it is a right and proper thing for the Executive Government in this country to assume the role of judges in cases in which they are substantially the complainants, and I therefore submit that the existence of this Statute is repugnant to the primary principle of criminal jurisprudence as known to the lawyers of this and indeed of any country. I therefore beg to submit that since 1908 and indeed since 1921 when the Repressive Laws Committee penned their report, the political situation in this country has improved and if it has not greatly improved it is not due to any defect on the part of the legislature but it is due to an agitation kept up for the purpose of enlarging popular liberties, and if there are sporadic cases of anarchical crimes in any part

[Dr. H. S. Gour.]

of India, the ordinary machinery of the law is sufficiently strong to deal with it. On these grounds, Sir, I feel fortified in asking this House to accept my motion to take my Bill into further consideration. I move it.

The Honourable Sir Alexander Muddiman (Home Member) : I think it will be well if I rise at this early stage to deal with this motion. The matter is one of very great importance. I may assure this House that speaking personally I am one of those who regard anything in the nature of legislation which is in excess of the ordinary criminal law and involves the conferment of special powers on the Executive Government with the greatest suspicion. That is my training. That is the school in which I have been brought up. I agree that where one opposes a motion of the kind brought forward by my Honourable friend one is arguing a case which requires special justification. I admit all that. But, Sir, one has to consider that there are situations where special provisions are needed to meet special cases. There is one overriding law that overrides all laws and that is *vox populi suprema lex*. There is one function that every Government must perform and that is to see that the law is maintained. If it cannot be maintained by the ordinary methods it must be maintained by other ways. That is a primary function of all Governments be they responsible or irresponsible. When the arm of the law is made powerless, whatever form that takes and rights cannot be enforced, the state ceases to function and a Government that is so faithless to its primary duty ought to cease to exist. That, Sir, is on the general point. I certainly am one of those who believe that whatever measures may be necessary to preserve the State from anarchy, those measures must be undertaken and I am sure that there is no one in this House, however much he may differ as to methods, who will affirm to the contrary. It may be said that "this law is unnecessary. You do not want it." I am quite sure that if I can convince this Assembly that this law was and is necessary for the maintenance of law and order and for the prevention of anarchy then I shall have the vote of every Member in this House. My Honourable friend Dr. Gour has dealt very shortly with the history of this law. I must go into it in a little more detail. It was enacted as you all know in the year 1908. It was brought forward by Sir Harvey Adamson who was then Home Member and the ground on which he brought it forward was that it was necessary to deal with an anarchical conspiracy in Bengal. Now, with regard to that I have never heard it contested that that conspiracy did not exist, that it caused great suffering, great loss of life throughout Bengal. That, I think, is admitted. No one has ever denied it and I do not think it necessary at this stage to revive old histories and old troubles. I think the House would admit that in the period following there was a most serious outbreak which led to great loss of life, great destruction of property and all the evils that follow when law breaks down. Now, my Honourable friend made a great point of the fact that the repeal of this law was recommended by the Repressive Laws Committee, as it is so called. I understand he refers to a Committee which was presided over by Sir Tej Bahadur Sapru of which my friend Sir William Vincent, who was then Home Member, was a member. I will read what that committee recommended in regard to this Bill.

"As regards the Indian Criminal Law Amendment Act, 1908, it has been suggested that sections of the Indian Penal Code are sufficient to cope with any situation that is now likely to arise. It is generally accepted that Part I of this Act has failed to achieve in Bengal the purpose for which it was designed. As regards Part II, the conspiracy sections of the Indian Penal Code might meet the case if, but only if, evidence were forthcoming. It was in no small measure the impossibility of obtaining evidence owing to the intimidation of witnesses that led to this enactment. As we have already seen, there is definite evidence of certain organisations encouraging acts of violence or resorting to intimidation."

Then they go on to deal with the situation in Delhi and in other parts of India. I will read what they say :

"We have received information of a possible recrudescence of secret associations in another part of India. It has also been stated in evidence that Bolshevik emissaries have entered in India."

I ask the House to note that last remark :

"and we cannot overlook the possibility of illegal associations promoted by them terrorising the population and engaging in a campaign of crime and terrorism. Its object is not only to break down existing unlawful associations but to deter young and comparatively guiltless persons from joining these bodies and to discourage the supply of pecuniary assistance. We regret that we cannot at this juncture recommend the immediate repeal of Part II of this Act."

That was their recommendation. I have read that to the House because it has been put forward that Government was under some kind of a pledge to this Committee. I submit that is not so. They said simply that the time was not ripe to repeal the Act.

Dr. H. S. Gour : May I ask the Honourable the Home Member to read on further. In the next paragraph they say it should be recommended to be repealed.

The Honourable Sir Alexander Muddiman : I cannot find that.

Dr. H. S. Gour : I have got it here, Sir.

The Honourable Sir Alexander Muddiman : If the Honourable Member will give it to me I will consider it later, but it is not in my copy in the paragraph from which I was reading. Then my Honourable friend did not refer to a matter of some importance. He said this Act was passed when the Legislature was a branch of the Executive. Sir, I demur to that. At any rate, this Act has been before this Assembly on a previous occasion. In the last Assembly on the 3rd July 1923 a motion was introduced recommending the repeal of that Act. That motion was rejected. The House would not even grant leave for its introduction. That is a matter of some interest. It shows at any rate that it did not merely rest on the authority of the pre-war Council. (*An Honourable Member :* "Not here !") It was not this Assembly which threw out the motion, but I am perfectly justified in pointing out that it was not merely the pre-War Council that dealt with this Act. I am justified in saying that I do not wish to put my case one inch higher than this, but I am justified in going so far as to say that by refusing leave to introduce the last Assembly recognised the necessity—at any rate at that time—for the existence of the Act. I think it goes as far as that. We are now faced with the consideration of this Bill and I understood my Honourable friend to base his contention very largely on the suggestion that the state of India is at present so peaceful that it is possible without danger to the Executive to repeal the Act. Well, Sir, is the state of India so peaceful? I will deal with that later but that was what I understood my Honourable friend's contention to be. Now the wheel of fate turns

[Sir Alexander Muddiman.]

in a curious way at times. This Act was introduced to deal with anarchical crime in 1908. This is the year of grace 1924. Now I am going to read to the House a few facts as regards the present situation in Bengal. I will employ no arguments and let the House draw its own deductions. Sir, you say in your noble Doric of the North : " facts are stern things and winna ding " and if you will excuse my Southron pronunciation, I will apply that to what I am now going to put before the House. My predecessor Sir Malcolm Hailey in his speech on the motion opposing the introduction of this Bill said :

" I do not wish to suggest to the House that the whole of these circumstances may recur ; but no attempt has been made in this House to deny the fact that there has lately been a recrudescence of revolutionary conspiracy in Bengal, and those who know the details of that movement will recognise that it is directed by the same associations as directed it in 1908, and that those associations have the same motives, and the same objective of murder and assassination as they had at that date."

Now, Sir, that is a grave statement to be made by a responsible Member of the Government—the Member most interested and charged with the protection, the defence of law and order. It is a statement that requires substantiation and I will endeavour to substantiate it. These are the facts. I will not take the House back beyond well within the year. The first fact I will draw their attention to is that on the 14th December a dacoity was committed in the Chittagong district in which Rs. 17,000 was stolen from a hackney carriage. The money belonged to the Assam-Bengal Railway, and the dacoits who committed that offence were *bhadra log*. I do not propose to mention any names. On the 24th December, 10 days afterwards, pistols and cartridges were recovered by the police in a scuffle with certain men. That is nothing in itself but what is of the very greatest importance—and I invite the attention of the House to it—is this, that the cartridges were cartridges of a type which cannot be bought in India. Therefore they were illegally imported cartridges. That is the point. Sir, on the 11th of January 1924, a harmless European Mr. Day was shot in Calcutta in mistake. The facts are known. The outrage was directed really at the Commissioner of Police, our chief Police Officer in Calcutta, Mr. Tegart ; and here I pause to say that Mr. Tegart's services to Government have been of the most remarkable character, and even those with whom he comes in conflict will bear witness to the fairness and courage with which he has conducted his operations. Now Sir, what was the cartridge used ? It was again a cartridge that cannot be bought in India. It was a cartridge of the same kind as was used in the second Chittagong dacoity. On the 15th March the police searched a house in Calcutta, when very dangerous bombs were discovered, two men were sent up for trial and they received long terms of imprisonment. These were not toy bombs made in the bazaar, but bombs made by someone skilled in the art of making bombs and of a most dangerous character. I proceed with the story. On the 30th of March one of the Mauser pistols which were stolen from Rodda in 1914 was recovered. The person implicated was convicted under the Arms Act. Now the House is aware that in the year 1908 a parcel of 50 pistols was stolen from a gun-maker in Calcutta—the firm of Rodda. The recovery of those pistols have involved a very heavy loss of human life, and they have been used in many murders that have taken place in connection with anarchist crimes. On the 13th April an attempt was made to shoot a European named Mr. Bruce ; here again there was no doubt whatever that the attack was

really directed against Mr. Tegart who was Commissioner of Police in Calcutta ; the unfortunate Mr. Bruce had nothing whatever to do with politics or anything of the kind ; the attack was apparently committed because from the colour of his car he was taken for the Commissioner of Police.

On the 25th of May an unfortunate sub-inspector of police, Profulla Chandra Roy, was shot down as a result of performing his duty in arresting certain persons ; there was nothing whatever against him beyond that ; he was shot down like a dog. On the 13th of June an arrest was made of a man with a loaded revolver and thirty cartridges and he was convicted under the Arms Act. Towards the end of June Red Bengal leaflets were circulated in Calcutta. These leaflets advocate the murder of police officers, and terrorism and offer threats to all those who assist the Government in any way in repressing revolutionary crime. These leaflets were again widely distributed during a protest meeting which was held in connection with some observations that had been made by Lord Lytton which had attracted public attention. Taking advantage of the feeling against the Governor of Bengal these murderous leaflets were circulated again and I may tell the House that the circulation of similar leaflets was an incident in the previous trouble in Bengal and shortly after their circulation outrages were committed. On the 23rd August a bomb outrage was committed in Mirzapur Street, Calcutta, in which one innocent person lost his life. The accused is under trial and I will say no more about it except that the instrument of death was of a most dangerous character and evidently prepared by a man who was skilled in the work.

Those are the facts, Sir, that I lay before the House and I think the House could draw their own conclusions from it....

Dr. H. S. Gour : I am sorry to interrupt the Honourable the Home Member ; but is the Criminal Law Amendment Act in force in Bengal ? It is not.

The Honourable Sir Alexander Muddiman : The Indian Criminal Law Amendment Act extends to the province of Bengal and Eastern Bengal and Assam ; but it may be extended by the Local Government in any other province.

Now, Sir, I state those facts to the House not to create prejudice, not to lay any undue stress on them. I do not suggest that taking India as a whole things are not better than a few years ago. If a tiger kills in the jungles of Bengal or the red cock crows on the ruined houses of Kohat, the Government of India must recognize the immense size of the country. I have mentioned these *crimes* to call the very serious attention of the House to the position in one part of India.

Now, Sir, let me read to you the opinion of a gentleman who is, I understand, the leader of the Swaraj Party in Bengal. What does that gentleman say ? He gave an interview and I understand that what he said was revised by him—so it is not a mere careless statement. The interviewer apparently asked him “ You think, then, that there is an anarchist movement in Bengal ? ” “ Undoubtedly ” replied Mr. Das, “ and a much more serious anarchist movement than the authorities realise.” If it is more serious than we realise—I have no means of checking that because it is very serious—then, Sir, that establishes my

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point, that as regards Bengal my predecessor Sir Malcolm Hailey's statement was perfectly correct and indeed an understatement of the case.

Now, Sir, what is the view of the House on a point like this? As a government we are threatened with an anarchist conspiracy which we are told is more dangerous than we are aware of. At a juncture like this are we to throw away any weapon in our hands? Would we be justified in doing so? That is the point I should like to put to the House. We have the responsibility of maintaining law and order. I fear that perhaps an Act like this will not be sufficient; but are we justified in rejecting any power we have? Can we be fairly asked, when we have these troubles in front of us, to repeal this Act? And, mind you, my Honourable friend offers no substitute. He says "No; the Act must go; there is no trouble in India; you can deal with any trouble by the ordinary law." Now, Sir, is that true? Can organised associations devoting themselves to crime be dealt with by the ordinary law? Can the ordinary law deal with terrorism of witnesses and the like? I submit it is not so. No one would be better pleased....

Dr. H. S. Gour: To enable my Honourable friend to develop his argument, may I say that I have offered a substitute, namely, the Criminal Law Amendment Act of 1913, known as the Conspiracy Act, which adds sections 120A and 120B to the Indian Penal Code?

The Honourable Sir Alexander Muddiman: I thank my Honourable friend; but I will read to the House what he himself says in his own book on the Penal Code in regard to evidence in conspiracies:

"Direct evidence is seldom available to prove a conspiracy; even when available it is tainted as being the evidence of an accomplice and requires corroboration."

If, Sir, I could be satisfied that by ordinary prosecutions we should be in a position to deal with the situation that may arise I should be in a very different position. I do not believe it.

I now proceed to the second part of my argument. I think I have said enough to show to the House that this is no mere chimera that I am creating regarding the situation in Bengal. It may be said and no doubt it will be said that this Act has been misapplied and misused. Let me quote what has been said by a Local Government on the point:

"The Act has been used to proclaim certain associations unlawful. This step was not taken a moment too soon. Intimidation, forcible seizure of lands, subversion of the Government by creation of courts, barbarous punishments inflicted upon those who failed to obey the orders of these courts, were all common."

Now, in a situation like that the ordinary law is not sufficient. For more than two years the Punjab Government took no action. It was not till October 1923 that action was taken. Now, Sir, if action had not been taken what would have been the result? If this law was not available, we would have had to have another like it. I shall not develop that point further. What I say is this; these repressive laws—I will not say repressive laws, because all laws are repressive—these laws which confer extraordinary powers on the Executive are often a half-way house which prevents outbreaks, leading to far more serious results. Let me put that point. It may be said and it will be said no doubt that action of this kind is not only open to criticism but in itself is apt to act as an irritant causing further trouble. Sir, that I cannot accept.

I come back to my original proposition that it is the duty of the Government to maintain law and order. If the ordinary law fails, then extraordinary expedients will have to be used. Now, I have tried to deal with this question perfectly frankly and I have told the House what is in my own mind. I have told them what is the situation in Bengal and I ask them to consider whether if they were responsible for the maintenance of law and order in India they would consent to the repeal of this Act. I doubt it, Sir. If the House should proceed to the step involved by the acceptance of my Honourable friend's Resolution, it will be taking on itself a very grave responsibility, and I hope that wiser counsels will prevail.

Mr. M. V. Abhyankar (Nagpur Division : Non-Muhammadian) : Sir, I stand to support my friend, Dr. Gour, although I do not think that such a measure and in such an Assembly as it is to-day requires any support for its passage. It is only for certain remarks or rather certain arguments that have been urged against it by the Honourable the Home Member that I desire to speak and therefore stand up to support my friend Dr. Gour.

In the first place, the very principle of the Act which my friend Dr. Gour seeks to repeal is obnoxious. It allows the Executive to take the place of the Judiciary and it allows the Executive to have a free hand in the matter. It has been told us several times and specially by the predecessor of the present Home Member that the Executive in every country requires some such special powers and he has always asked us to draw upon the analogy of such free countries as England and others. Now, what are the relations of the Executive with the people in this country ? In the first place, the Executive is not only irresponsible to the people but is often found to be contemptuous of them, and to arm an Executive of this kind with power so as to do away with the interference of the Judiciary is a thing which no popular House would stand. Then, Sir, there is another fact that must always be noted whenever any special powers are to be given to the Executive. The Executive of this country, not being a popular Executive or a responsible Executive, is always at war with the people. The people and the Executive are always fighting with each other, in fact trying to put down each other, and under these circumstances to arm one of the parties to that fight with special weapons to crush the other is a thing which no sense of justice would stand.

The Honourable the Home Member has cited examples of dacoities, of pistols, of cartridges, and of Red Bengal leaflets. I should like to know were they the only cases in which the Criminal Law Amendment Act was used ? Or even were such the only cases in which it was used ? No. It was not only used but it was misused and I may go further and say that it was abused in many other cases to which it had no application. I should like to know from this House if my worthy leader, the Honourable Pandit Motilal Nehru, belongs to a gang of dacoits against which the Act was meant to be used ? And yet we know that this Act has been used against him and he was sent to jail for six months under that Act. Now, I should like to know from this House if that is an example of the use of the Act or the abuse of that Act ? Man after man, and woman after woman, not to talk of the boys, have been sent to jail, nay have been crammed into jails until the jails could hold them no more, and that was the use to which this Act was put, and it has been seriously suggested that that was the legitimate

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purpose for which it was intended. I cannot believe that. For one moment I cannot think that any man, any sensible man, can believe that. You had this Act passed for some years and the Government did not use it. Why? Was it merely the passing of the Act that put a stop to all crime contemplated by it. Why was it that you brought out this weapon at a time when you desired to bring it out, not because the exigencies of the times or the anarchical crime in the country required it but because you wanted to crush a legitimate movement. You used it for your purposes of crushing the just and natural aspirations of the people of this country. At the time of the passing of the Act it was said that it was required for one purpose, but our woeful experience in this country has been that it was and is, always used for a different purpose for which it was never intended or for which no sensible man could ever dream it to have been intended. That is the way of the Government in this country.

Then, further, the Honourable the Home Member, has asked us to give him some other substitute if we want to repeal the Act. I would say to him : we cannot give you any substitute. A good thing has got to be replaced. But if we think this is a bad thing in itself and therefore we want to repeal it, we refuse to give you any substitute for it. You cannot say that a thing is bad and yet ask us to give you a similar substitute for it, when we require that it should be repealed on account of its badness.

Then, Sir, it has been suggested that one function of the Government is to maintain law and order. Yes, Sir, I admit one function of the Government is to maintain law and order. But what is this law and order, of which so much has been made and so much has been talked in and out of season? This law and order, if I may be permitted to use the phrase, is a lawless law and order. The Government, this House very well knows, have used all the laws and have used all their orders and regulations in a fashion which no self-respecting man, particularly no man in this country, who desires to achieve responsible government for himself and for his country, will think to be law and order. It has been anything and everything but law and order!

Then, it has been suggested that this law is wanted in order to prevent anarchy. I assume—I do not say I admit the House will remember—that there is anarchy in this country. Well, what are the causes of this anarchy? A good doctor will never proceed to the treatment of the case unless he has diagnosed the trouble and then if he wants to treat the patient rationally he will treat the cause and not the symptom. What then are the causes? It is for you to remove the causes of that anarchy. It is no use piling repressive laws one upon another. If there is anarchy in this country, I assure the Honourable the Home Member that anarchy shall not die by any of these repressive laws. I may tell him this in all seriousness, in all sincerity, in all friendship, that anarchy in this country shall not die because you go on piling and mounting one repressive law upon another. You must go to the causes and remove them. Why is there anarchy? We have such a nice Government, such a good Executive, such fine laws, such supreme powers of this benign Government, and why are there anarchical movements? There are certain reasons. The people want some little freedom. They want to go further. They want to see that they are masters in their own

country. And let me assure the Honourable the Home Member that, unless he sees that the people of his country are masters in their own home, this anarchy will not die. It is not likely to die. It is against human nature that it should die. We cannot pitch the laws of man against the laws of God. The divine laws are bound to supersede and they are bound to override the man-made laws.

It has been said that the Leader of the Swaraj Party in Bengal has accepted not only that there is anarchy but that there is a worse form of anarchy than the Government contemplate or think there is in the country. Well, there is a lesson to be taken from this statement of the leader of my party, and I should like the Honourable the Home Member to minutely look at it, to look at it dispassionately and carefully and to find out what is behind all that. Remove the causes and there will be no anarchy. No man likes anarchy. Man is peace-loving by nature. At least I am. I do not know about others. And unless he is forced, unless something within him, something great and powerful, forces him to get out of that nature, he does not get out of it. He wants peace, he wants harmony.

The only thing that I should like in the end to tell this House is this. The Honourable the Home Member has said that he always looks with suspicion upon measures like this which give extraordinary powers to Government. It is but natural for him to do so, because he has been born and bred in the traditions of a free country which have been denied to us. It is therefore necessary that this House should not only regard such powers with suspicion but do its utmost and see that such powers under no conditions are given, or at least under the present conditions of this country, are not given to the Executive, and if you do give such powers and if you do concede all the arguments that have been advanced by the Honourable the Home Member in support of them, then I say, to say the least about it, you should bid good-bye to the goal on which you have embarked of obtaining responsible government as quickly as possible.

Mr. Amar Nath Dutt (Burdwan Division : Non-Muhammadan Rural) : Sir, I do not think I can usefully add anything to what I have already said in the last Delhi session for the repeal of these repressive laws, but I wish to add one thing more. The Honourable the Home Member was not there then, so I wish to inform him about it. He has cited the instance of Bengal to retain these measures on the Statute-book. He has cited two or three cases. I ask him this, as he is a Bengal Civilian and he was in Bengal for several years. Were not such cases frequent even before these enactments were passed ? Then again, I invite his attention to what happened with respect to the Naraingarh train wrecking case. We know that political complexion, and political colour is always attempted to be given to cases of murder or dacoity whenever there is one, and the police officers thereby ingratiate themselves with their superiors or for the matter of that, with the Government. We know how cases are fabricated by police officers and the C. I. D. notably, and I think my Honourable friend the Home Member will admit that such false cases were large in number during the days of the agitation against the partition. I cite the instance of the Naraingarh train wrecking case in which several people were sent to the Andamans but were subsequently brought back because it was found that the evidence was false and concocted by the Police. So, I say that no data can be had from such stray murders here

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and there which have occurred at Sankaritolla or elsewhere. With respect to these I must say that if we could get the real evidence of these cases, and if we could know the real motives of these cases, I think we would be able to know the real nature of these cases. There are the over-zealous police officers who want to make a case and to give these cases a political complexion and thereby get perjured evidence to support their case. With these words I beg to submit that if the Government really want to do away with anarchy in Bengal or in India, they ought to repeal measures like this.

Mr. H. E. Holme (United Provinces : Nominated Official) : Sir, it has been somewhat of a puzzle to me, ever since I had the honour of becoming a member of this Assembly, why some Honourable Members are practically always identifying the interests of the public with those of the criminal, or at any rate of the law-breaker. The principle of the maxim that "it is better that 100 guilty men should be acquitted than that one innocent man should be convicted is ridden absolutely to death while the complementary maxim *judex-damnatur, cum nocens absolvitur* (it is the Judge who is condemned when the guilty man is acquitted) is entirely lost sight of. It seems to me that this attitude of mind is part of an anti-Government complex due to a throw back of the sub-conscious to the bad old times, both in England and in India and in other countries as well, when the administration of justice was corrupt and much of the law was harsh and unfair, and when the only means of escaping from very detestable and shocking tyranny and despotism seemed to lie either in secret undermining of authority or open revolution. But the transfer of the same point of view to the present state of things in India, where we have a Government which, even though it may make mistakes, is always devoting its most strenuous efforts to what it considers to be the good of the country, and which indeed occasionally fills some of us with something like alarm lest in the concessions it makes to popular feeling it should prove to have gone too far for safety,—under such conditions we are surely doing harm and not good by attempting to deprive the Government of any weapon essential to its existence. Moreover, we do not wish that the future Indianised administration should be placed at a disadvantage by being presented with a weakened and ineffective form of government. We desire, on the contrary, that it should be given every chance by being provided with a framework of administration of the greatest possible strength and efficiency. It is time that we made up our minds whether we consider that the present Government of India is a well-meaning though you may choose to say defective institution which is capable of,—if you like, calling for—improvement by constitutional means, or whether the Government is an enemy which must be resisted by every possible method. If we hold the former opinion, we should hesitate to release those who are pledged to subvert all authority and order, while if we consider that the Government is our bitter enemy, we might at least come out into the open and say so ; let us admit that we are urging the repeal of the Criminal Law Amendment Act and the release of those imprisoned under it, not because we consider that they have been unjustly convicted or that they can be released without danger, but because we hope to secure the assistance of persons who will be powerful, if unscrupulous, auxiliaries in our campaign against the Government. But in such a case, we should not complain of or reproach the Government

because they do not accept or act on Bills and Resolutions expressly designed to hamper them in their activities, to interfere with their usefulness and to bring about their destruction. As regards the contention that the present is a specially opportune time for the repeal of Part II of the Criminal Law Amendment Act, surely the present activity of Bolshevik and revolutionary propaganda, as has been pointed out, is a clear indication pointing to an opposite conclusion. No one should wish to encourage individuals or associations :

“ which encourage or aid persons to commit acts of violence or intimidation, or of which the members habitually commit such acts or which have for their object interference with the administration of the law, or with the maintenance of law and order, or which constitute a danger to the public peace.”

It is, however, contended that the ordinary law is sufficient for such cases, but it has been clearly brought out that the ordinary law must act on legally admissible evidence and in accordance with a standard of proof which it is impossible to attain when the evidence which would otherwise have been available is prevented from being produced by secrecy or intimidation. I see that the amendment which is down on the paper appears to recommend the release not only of prisoners convicted under Part II of the Criminal Law Amendment Act, but also of those dacoits, murderers and other criminals who have been convicted under Part I.

Pandit Madan Mohan Malaviya (Allahabad and Jhansi Divisions : Non-Muhammadan Rural) : May I tell my Honourable Friend that that is not my object ? My object is to confine it to Part II. I am sorry that that was not made clear in the amendment.

Mr. H. E. Holme : That appears to me to be the effect of the amendment even if it was not the object of it. Surely this is not the time to let loose all these dangerous enemies of society upon the public. Sir, I oppose the motion.

Sardar Bahadur Captain Hira Singh (Punjab : Nominated Non-Official) : (There were loud cheers when the Honourable Member rose). I thank you all for the good welcome you have given me to-day. I beg to oppose this motion, because the Act against which it is directed has been a blessing to a large body of law-abiding people, particularly to my province of the Punjab. The ordinary law failed to give them adequate protection for their property and so this was introduced.

Now, Sir, the position in the Punjab is very different to the position in the province from which the Honourable Mover comes, and perhaps in other provinces as well, and I think that if my Honourable friend, Dr. Gour was living in the part of the Punjab where I come from and had consulted the people of that part, he would not have brought in this motion. And it is different also in the large cities, even in my own province, where political issues perhaps overlook the realities of life as the scattered agricultural population knows them. The Punjab, as every one knows, is the home of the fighting classes who are just entering into the political life. (*A Voice* : “ Fighting !”) Because they have been busy in fighting, the people are quick to anger and violent in giving way to anger. Violent crimes, such as organising unlawful bodies and associations, leading to all sorts of crime like dacoities, murders, cattle lifting, etc., are as often as not due merely to petty village jealousies and petty litigation. But, when Sir, to these ordinary circumstances you have added a semi-political or religious feeling amongst certain classes in the

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community, the resentment of the parties concerned knows no bounds and they do not hesitate for a minute to murder any one whom they suspect of interfering with their plans or standing in their way or for the purpose of taking revenge. (*A Voice* : "It really ?") You can see yourself very well because you come from that part of the country where the ordinary courts cannot suppress crimes of a political nature.

Pandit, Shamlal Nehru (Meerut Division : Non-Muhammadan Rural) : They have not suspected you yet ?

Sardar Bahadur Captain Hira Singh : And that is what the position in the Punjab has been for some years past. Sir, whatever little protection the people have enjoyed is due very largely to the effective application of the law which it is now sought to repeal. I can quote the instance of Jullundur and Hoshiarpur to show how the people were terrorised for several months there and their lives and property were in great danger and it was absolutely unsafe to live there.

Sir, my Honourable friend Dr. Gour is interested only in the political aspect of this matter.

Dr. H. S. Gour : In the legal aspect.

Sardar Bahadur Captain Hira Singh : It is legal for a man like him, but political for one like me. To him it is a matter of great shame (I am not speaking personally) that his countrymen should be subjected to special laws of this kind. He has great sympathy with these poor fellows who, desiring to attain their object even by murdering their neighbours, are prevented from doing so. What he overlooks, Sir, is that by the application of this law many thousands of his countrymen are permitted to live and carry on their peaceful pursuits. Is he prepared to take the responsibility for their lives and property if this law is removed ? Of course, he will say, "Yes," and then when my people begin again to be harassed as they have been in the past, he will have no difficulty in showing that the Government are to blame. Of course, Dr. Gour will be somewhere in Nagpur then.

I am perhaps handicapped, Sir, by not being able to see things except as a plain man and a plain soldier. And if I had the same anxiety as my Honourable friend to remove these biots as he thinks from the Statute-book, it seems to me that the best thing I could do would be to address myself to the people who give rise to these laws and tell them not to have the law applied to themselves by the simple method of not going about and causing death and arson. Of course, I am certain that they would listen neither to me, nor to my Honourable friend Pandit Shamlal Nehru, nor to the Mover. But in that case it is surely the duty of the Government to protect the people who naturally want to continue to live "*khuda-ke-waste hamari jan bacha-o*." That will be the feeling of the people at that time, and I cannot understand how any man should want to remove legislation which protects his own countrymen from violence and lawlessness. When my countrymen ask us to defend India what are we going to ask them ? To give us the weapons of the modern days—that is what I will ask for, and I will not ask for fifty year old muskets to go and fight on the frontier. I have no sympathy with murderers and dacoits. Perhaps my friend also has none. But then he appears to have none also with thousands of law abiding people, because he wants to subject them

again to the zeal of very violent people. And that is what the repeal of this law would mean. It means that thousands of people would go in • fear of their lives and property and if Dr. Gour would like a proof of that I would ask him to come and settle down with us in the Punjab when he would soon realise that life is not quite so secure as it is in the regions about Nagpur. This weapon is very little used in the Punjab and when it is used it is very necessary and I must say that it is very carefully administered. Are we to have no regard or sympathy for poor citizens like Lala Hans Raj ? Are we to sacrifice the people at large in order not to distress criminals ? There can be only one answer to that question. We must enforce respect for law and respect for life and property even at the expense of enacting special legislation and we must maintain this legislation so long as the criminals against whom it is intended persist in their criminal activities. If they want to, they can easily reform themselves and render the law powerless. No one would be more happy than the Punjabi if the Criminal Law Amendment Act is repealed but I am afraid not yet. Otherwise my province which is a leading province in wealth and possesses a whole population of zemindars will turn into a first class province of lawlessness and disorder. This will put the law-abiding people of my own province at any rate in the most difficult and delicate position. With these remarks I oppose the motion of Dr. Gour.

Pandit Madan Mohan Malaviya : Sir, I rise to offer my support to the motion that the Criminal Law Amendment Act of 1908 be repealed. The Honourable the Home Member has told us all the reasons he could urge against the motion. He has told us that the welfare of the people is the supreme law. I do not think anybody will take exception to that. He has also told us that this particular law was introduced in 1908 because of the conditions which then existed in Bengal. We are not concerned with those conditions now. He has reminded us that the last Assembly turned down a proposal which sought to recommend the repeal of this very Act in 1923, and he said that that meant that the Assembly affirmed the necessity of keeping this law alive at the time they did so. Lastly the main argument which he advanced for keeping up this law, for continuing this law on the Statute-book was the incidents which took place in Bengal during the last 12 months. I am not aware that this Criminal Law Amendment Act, Part II, has been used against any associations in Bengal during the last 12 months. I asked my Honourable friend for information on this point and the Honourable the Home Member has not given any information that it has been so used. It comes to this then, that there have been a certain number of dacoities in Bengal during the last 12 months. Does that give any justification for continuing this particular law on the Statute-book ? Have those dacoities been dealt with under the ordinary law ? My Honourable friend has not told us that the ordinary law was not applied in these cases. He has not told us that this particular law was put into use in order to prevent the formation of dangerous associations or for the purposes of breaking them. I take it that dacoities have taken place in Bengal not only during the last 12 months but they have taken place on other occasions also. Occasionally dacoities do take place in different parts of the country but the occurrence of these dacoities does not afford my justification for continuing this law on the Statute-book. The position then is this, that except in Bengal, except for the incidents relating to Bengal which the Honourable the Home Member has mentioned, he has not told us of any disturbed condition

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in any other part of the country which would justify his opposition to the motion of Dr. Gour. On the contrary he remembers and the House remembers, that the Act in question was passed in 1908 under the special conditions which then prevailed. That was the period which followed the partition of Bengal. There was a strong agitation going on against the partition of Bengal with the desire of having the partition undone. The Act was passed in 1908. His Majesty the King Emperor honoured India with a visit in 1911 and he was pleased to undo the partition. The two Bengals were reunited. Anarchical and revolutionary crime very much disappeared, if it did not entirely disappear in Bengal. The years that followed did not witness any such organised and dangerous associations as the Act of 1908 was contemplated to deal with. We had peaceful times during the many years of the war. It is a remarkable fact that during the many years of the war there was very little crime, anarchical or revolutionary, in this country. That was a circumstance which was noted by Government and by non-official public men. Three years after the close of the war, when His Royal Highness the Prince of Wales visited India, in November 1921, the Government of Bengal, the Government of the United Provinces, the Government of Bihar and the Government of the Punjab extended Part II of the Act of 1908 to their respective provinces. We know the unfortunate occurrence that took place in Bombay on the arrival of His Royal Highness the Prince of Wales. These occurrences did not take place in Bengal, but while the Bombay Government kept its head cool even after what had occurred after the arrival of the Prince, the Bengal Government went into a panic and extended the Act in question to Bengal. It declared 'Congress Volunteers an unlawful association. As a protest Mr. C. R. Das and about a thousand other gentlemen immediately declared themselves as Congress Volunteers.....

The Honourable Sir Alexander Muddiman : I am very unwilling to interrupt my Honourable friend. This Act applies to Bengal *proprio vigore*. There is no question of extending it.

Pandit Madan Mohan Malaviya : I beg your pardon.

The Honourable Sir Alexander Muddiman : The Honourable Member said that the Bengal Government extended the Act. The Act applies to Bengal *proprio vigore*.

Pandit Motilal Nehru (Cities of the United Provinces : Non-Muhammadan Urban) : Is it not the fact that a notification of the Government was issued saying that it applies to a particular association ?

The Honourable Sir Alexander Muddiman : That is certainly the case. The Honourable Pandit said that the Act was extended to Bengal.

Pandit Madan Mohan Malaviya : I fear the Honourable the Home Member has not been correctly informed.

My recollection is that there was a notification published by the Government of Bengal on the 18th of November 1921, extending.....

Mr. M. A. Jinnah (Bombay City : Muhammadan Urban) : Not extending declaring associations unlawful.

The Honourable Sir Alexander Muddiman : Yes, that is correct.

Pandit Madan Mohan Malaviya : Thank you. Declaring the Congress Volunteers an unlawful association. Now, Sir, from 1908 to 1921 covered a long distance of time, and it was most regrettable, most deplorable, that an Act which was meant to deal with the dacoits and anarchists of 1908 was applied to such honourable men as Mr. C. R. Das and a thousand other workers of the Congress who joined with him in making a protest against the declaration that Congress Volunteers were an unlawful association. At the same time the Act was applied to Congress Volunteers and similar associations in other provinces. His Royal Highness the Prince of Wales left India after four months sojourn in India, and it was hoped that the notifications against Congress Volunteers would then be withdrawn. They were not so withdrawn. We find the Government unwilling even at this distance of time to do without the Act we find the Government of India and the Local Governments still desire to keep up this Act on the Statute-book. Now what is the justification for it ? I say there is none. The Honourable the Home Member has not referred to the Province where this Act is being misapplied in a shameful manner to-day. I understand nearly 500 persons who are not dacoits, who are not anarchists, are undergoing imprisonment in the Punjab at this moment, under the provisions of Part II of this Act of 1908. They are men who were recognised by the Government only a short time—a year or so ago—as being representative of a large section of Sikh religious opinion. They were members and office-bearers of the Shiromani Gurdwara Prabhandak Committee. By June 1923 the Government of the Punjab had practically settled their differences with the Sikhs of the Gurdwara Prabhandak Committee. They not only recognised them as representatives of Sikh religious opinion, but they also released a large number of the Gurdwara Prabhandak Committee prisoners in appreciation of the help given by that Committee at the time of the unfortunate disturbances at Amritsar between Hindus and Muhammadans. Yet a few months after—in October 1923—the Government of the Punjab all of a sudden issued an order declaring the members of the Gurdwara Prabhandak Committee an unlawful association. There is no other charge formulated against the men I am referring to. The mere fact that they are members of that Committee has been sufficient to prosecute them, and I understand that about 500 of such men are undergoing imprisonment to-day. Nobody has said that even one of these members of the Gurdwara Prabhandak Committee is a dangerous person in any sense of the word ; these men I am speaking of have been convicted and imprisoned merely because the registered association to which they belonged had been declared by Government to be an unlawful association under the provisions of this Act. I submit, Sir, that when an Act which was meant for anarchists and revolutionaries is being applied to punish and to break the spirit of men who have committed no crime, it is high time that the Act was repealed, that this weapon was taken away from the hands of the Government, because the Government have shown that they have not carefully, honourably, honestly used this weapon. In the circumstances the question for the House to consider is whether there will be any injury done to the cause of law and order if this weapon is removed from the Statute-book. The Honourable the Home Member has not shown that any such injury will be done. The ordinary law of the land is sufficient to cope with cases of dacoity,

[Pandit Madan Mohan Malaviya.]

of violence, of murder and of conspiracy against the King. Offenders can be tried, they have been tried, in different parts of the country under that law, and it has not been shown that there has been a failure of justice because of the insufficiency of those laws. This being so, Sir, it is obvious that justice demands, the principles of good government demand, that this extraordinary law should be removed from the Statute-book. The Honourable the Home Member has urged that at a juncture like this we should not ask for this law to be repealed. The juncture to which he referred was the situation which exists in Bengal. I have already said enough about that situation and in the absence of any evidence that the state of affairs in any part of the country requires the continuance of this Act on the Statute-book, it is fair and reasonable and just that it should be removed. My Honourable friend said that these laws were half way houses to prevent outrages. They have not been proved to be so. On the contrary during the last three years we have seen this particular Act applied to persons to whom it should never have been applied. My Honourable friend Mr. Abhayankar has already referred to the regrettable fact that the Honourable Pandit Motilal Nehru and his compatriots in the United Provinces were also hauled up under this evil enactment. When you find that men who were leading the country in Bengal, the United Provinces and the country generally, when you find that such men have been made the victims of this enactment, I submit that that fact alone is sufficient to justify the demand that such an enactment should be removed from the Statute-book. I very respectfully ask the Honourable the Home Member and every other Member who supports the continuance of this law on the Statute-book, to show in what cases of associations of dangerous men this law has been applied during the last three years, to analyse those cases and to say whether the maintenance of law and order would have suffered in the least degree if this law had not existed on the Statute-book. This being so, I submit, Sir, that this law ought to be repealed. I will not deal with the amendment, at this moment. Unfortunately I did not put in the words "Part II" in the notice of the amendment which I gave some months ago, my object was clearly that all prisoners undergoing imprisonment under Part II of the Act should be released, but I will not complicate the question at this moment by discussing that amendment. Two days after a Resolution is coming before this Assembly dealing with the question of the release of political prisoners. I will reserve my remarks on the subject of the release of prisoners for that occasion. For the present I will conclude by saying that the principles of good government, fairness to the people, justice to the people, demand that this enactment which was never meant to be applied to ordinary times and which has been misapplied, as I have said, in a shameful manner in many parts of the country, should be removed from the Statute-book without a moment's further delay. I hope the Government will yet reconsider their view, and that they will respond to the general wish in the country, which is not affected by the remarks of Captain Hira Singh who, I regret to say, has got into the habit of reading notes—(An Honourable Member : "which are supplied by someone else") I will not say which are supplied by someone else—I will leave it there—of reading notes on subjects which come up for discussion, for the special edification of some Members, I am afraid, of this House. The Assembly can take his remarks at their proper value ; but the country, Sir, is

unanimous in desiring the repeal of this enactment and I hope the Government will honourably accept the unanimous verdict of the country and repeal it without any further delay.

Sir Chimanlal Setalvad (Bombay : Nominated Non-Official) : I wish, Sir, to say a few words in this debate. I wish the House to realise what the nature of the legislation is which is asked to be repealed. Part II of the Criminal Law Amendment Act, 1908, defines an unlawful association as follows :

“ Unlawful association means an association :

- (a) which encourages or aids persons to commit acts of violence or intimidation or of which the members habitually commit such acts,
- (b) which has been declared to be unlawful by the Local Government under the powers hereby conferred.”

So that an association becomes according to this definition an unlawful association, first, if it is shown to encourage or aid persons to commit acts of violence or intimidation or of which the members habitually commit such act or secondly, it may become an unlawful association if the Local Government declare it to be unlawful. Then, if an association is unlawful by reason of its falling within description (a) or by reason of its having been declared under (b) to be unlawful by Government, then, under section 17 any person taking part in the meetings of such association or contributing or receiving or soliciting contribution is liable to be punished. The difficulty, therefore, Sir, that arises is this, that the Government have the power to declare any association to be unlawful and section 16 says that the Local Government may make such declaration if it is of opinion that any association interferes or has for its object interference with the administration of the law or with the maintenance of law and order or that it constitutes a danger to the public peace. Then they can make a declaration. But the final word with regard to the declaration rests with Government itself. Government may be acting on such information as may be available or be placed before them by their officers ; and still one can well conceive of cases in which the association or person affected may really not be unlawful in the sense intended by the Act, and there is no remedy, so far as the declaration of the Government is concerned. The association affected can not get the matter tested at all in any court of law and that, I submit, Sir, is a grave defect in the Act as it stands at present. I quite recognise that it is necessary to clothe the Executive Government with an emergency power to deal with a situation contemplated by the Act ; but their word that any association is unlawful should not be final. We know by experience that as a matter of fact various associations, volunteers and others, were declared to be unlawful by Government and various people were prosecuted by reason of their having belonged to such associations and were sent to jail in very large numbers in Bengal and the United Provinces. Therefore, what one feels is this, that there ought to be some safeguard in this Act which will enable the association or person affected to have the view of Government about its being unlawful tested by some judicial authority. I quite agree that the initial step may be taken by Government on their own initiative on the information placed before them in an emergency ; but the party affected should have the right of appealing to a court of law and having the declaration of the Government tested and it should be open to the association concerned to be able to show to the court by evidence that it is not of the character contemplated by the Act. in which case the court to

[Sir Chimanlal Setalvad.]

whom the jurisdiction is given over the matter will make a declaration that the declaration of Government is not valid. If Government are prepared to accept this suggestion that I have ventured to put forward and if they tell us that at a later stage they will bring forward legislation to amend the Act as it stands in order to introduce some such safeguard as I have indicated, then I think there will be no harm in leaving this emergency power in the hands of the Government. But I do most earnestly say, Sir, that some such safeguard is absolutely necessary. As the Act stands at present, the mere declaration of Government is final and nobody can question it. But as I say we can conceive of cases in which Government may have been mistaken ; the information placed before them may not have been correct and injustice may be done. Therefore I do urge that Government should at an early date bring forward some such legislation introducing certain safeguards in the manner I have indicated in this Act. If that is done, I for one see no harm in leaving the Act on the Statute-book with that safeguard introduced therein.

Pandit Motilal Nehru : Sir, I do not intend to make a speech. I take part in this debate simply with the object of uttering a warning—a two-fold warning, a warning to the House and a warning to the Government. My Honourable friend, Sir Chimanlal Setalvad, has just concluded a very able criticism of the Act based upon the language and the lack of safeguards. Let me clear the ground at the very outset by saying that I strongly dissent with the milk and water substitute that he has suggested to the Government. Even if the Government are prepared to accept his suggestion, I hope the House will not agree to it. Now, the warning that I wish to give to the House is this, be not led away by the plausible argument which has been addressed to you by my Honourable friend, the Home Member. What does that argument come to ? The wonder is that it has been advanced seriously in a House composed as this is. He says that the ordinary law is not sufficient. Now, please analyse this ; what does it mean ? What is ordinary law and what is extraordinary law ? What is a special law ? What is an emergency law ? In order to answer any of these descriptions they must in the first instance be laws. You cannot have something which has no claim to be recognised as law to be called an extraordinary or a special law to meet an emergency. It comes to this. When a confession of this kind is made by the Government, namely, that the ordinary law is not sufficient to meet the exigencies of the case, it really means that we have failed in the art of government, that we cannot govern you any longer and therefore we must—what ? administer the law strictly ? No. We must be permitted to break the law in the name of the law. Here are anarchists. We are sorry to confess that we cannot catch them—we cannot stop them—we cannot annihilate them. What are we to do ? We do not know what and how to do it under the law. The magnificent system of law and jurisprudence which has been handed down in England from generation to generation and which is the just pride of the England of to-day, is insufficient for us to meet the requirements of the case. What then is to be done ? Obviously this, against one set of law-breakers you must by giving us authority to break the law create a set of licensed law-breakers. That is what it comes to. What is meant by the insufficiency of the ordinary law ? Is there any crime, any conceivable thing that law, if it can claim to be law, cannot and does not anticipate ? And what does this insufficiency of the

ordinary law consist in ? It consists in the inability to find evidence to convince any honest man that a particular man is guilty. That is the insufficiency. Well, I say if you are unable to deal with a case under the law, under the magnificent system of law which prevails in England and which you have imported into this country, you must at once confess that you have no business to be in this country and give up all your pretensions to rule us as a subject race.

Then, the Honourable the Home Member says " Oh give us a substitute for the ordinary law." Now, the ordinary law has sometimes failed in other countries too. What is the substitute resorted to ? I can understand that, if things go from bad to worse, the ordinary law is suspended and you institute martial law or something of that nature for a time. But I cannot understand the ordinary law to go on side by side with the extraordinary procedure subversive of all laws that was laid down in this Act. And then, please note what the argument comes to. My learned friend will excuse me if I say that all arguments so far advanced in support of this Part of the Act are mere pretences, mere camouflage, to keep it in force not for the purpose alleged but to meet quite a different set of circumstances which has arisen in the past and may arise in the future ; not the conditions which really obtain in Bengal but those which may arise anywhere in India. Why do I say that ? Will anyone in this House tell me how is Part II of this Act, which still is the only Part in force to be applied against any conspiracy, any anarchical movement ? What is to be done under it to deal with such a movement ? The Part of the Act which really did apply to these movements was Part I which has already been repealed. Part II deals with unlawful associations, whether you know their names or not. And what do you do ? The Government issue a notification that such and such an association is an unlawful association. Is it possible to conceive that any anarchical association, any secret society, will ever be known to the Government in that sense and the Government will issue a notification against that society ? Has it ever been done ? Can you conceive, can any practical man conceive, that a secret society will act in such a manner that the Government will be able to issue a notification ? And, if the Government are not able to issue a notification what happens ? Why anarchical crime is committed. And when it is once committed, you have to catch the offender just as you would any other offender, whether this Act is applicable or is not applicable, whether it is in force or is not in force. The whole argument of my learned friend is based upon the list of outrages which have recently happened in Bengal. I put it to him and to every Member of this House to tell me, how any of those outrages could have been stopped by the application of Part II. If a man is caught red-handed or if he is subsequently traced and put on his trial and if Part I were in force he could have been dealt with under that part, but I say again that Part II has absolutely no reference to a case of the kind that has been mentioned. Well, then, what is the substitute for this law which should be adopted in a case like this ? What is first of all the evil which has to be removed ? The substitute for the Act will, of course, be the remedy for that evil. The evil is this alien rule—this government by force—this government against the will of the people whom you are governing, and the one remedy for it is to let the people govern themselves. There is no other remedy. You may try your best. You may invent and manufacture all sorts of engines of repression, I can assure you that they will be of no avail and they will

[Pandit Motilal Nehru.]

recoil upon you in course of time. Has any nation in the world yet succeeded in governing a people as you are trying to do ?

Then, I wish to say a word about the interview of Mr. Das which my Honourable friend has given to the House as a confession of the Swaraj Party. Now, Sir, the Swaraj Party stands upon its own legs. It treats the charges of corruption, such as those that were mentioned at question time this morning with the contempt they deserve. It challenges public inquiries into every act and conduct of theirs. They are people who act above-board. No C. I. D., no special laws are necessary. You know when this very enactment was used against members of the Congress Party, what did they do ? They went to the Court ; they broke the law, and they said they had broken it and there was an end of the matter. Well, Mr. Das says there is a more serious anarchical movement than the authorities realise. Now, Sir, I do not know upon what materials Mr. Das made that statement, but I wholly endorse it, every word of it, and not only that, but I say that, if you do not take care, you will one fine morning wake up to find the whole country full of a honeycomb of secret conspiracies and you will not know how to deal with it. Why do I say so ? Not because I am in concert with any of these conspirators. If I were I would admit it, but in fact I am not and my own inclinations do not take me that way. But I say as a reasonable man, who can put two and two together, that I know what ails my countrymen. I know how the wave of anarchy arose, I have watched the ebb and flow of the wave. You may pride yourself in the belief that it was your repressive laws that put down anarchy in Bengal for a time. Nothing can be farther from the truth. What actually happened was that Gandhi came in with his non-violent non-co-operation and put an effectual stop to all these anarchical crimes for the time being. It is you who crippled him. It is you who deprived him of the opportunities he possessed, and you must take the consequence. These conspiracies must revive in the ordinary course of things, and you cannot expect otherwise. Now, as I have already said—and I need not for that purpose read the provisions of the Act, it has nothing whatever to do with the activities of the anarchists, because they work underground. You cannot catch them. They have no tangible associations. They have no name for their associations except perhaps Red Bengal. By all means declare Red Bengal as an unlawful association. How many people will you catch ? Who will come forward and say " I am a member of the Red Bengal society " ? Red Bengal will commit its crimes. It will work underground. Only when a crime is committed you will be able to identify a man as a member of the Red Bengal society or association, whatever you may call it. But Part II will never come into play. It is only Part I that could come into play. The real use of the Act has been—as my learned friends who have spoken before me have already mentioned—against people of a more dangerous character than even anarchists. And who are they ? People like my friend Mr. C. R. Das and myself. Why are we so dangerous ? Because we have made it our business to awaken the people to a knowledge of their real rights, to inform them how they are misgoverned and to demand that they should be governed by themselves. That is the danger of it.

I do not wish to detain the House any further. I will only say that this Act is a most outrageous law. It is a blot upon that magnificent system I have referred to above. It is a blot upon the English nation

and upon British character. I will say one thing before I sit down and it is this. If this law continues in force and if this law is applied in my own provinces or if a notification is issued in provinces to which this law applies, I shall take it to be my highest duty to break the law myself and to call upon others to break it.

The Honourable Mr. A. C. Chatterjee (Industries Member) : Sir, as I listened to the speech of my Honourable friend opposite (Pandit Motilal Nehru), I could not help regretting that for some years at any rate the courts had lost one of the best advocates in this country, an advocate who feels that although he has not really a very good case, he must make a good case and he does make a good case at least for the time being. But, Sir, I fear that my Honourable friend has on this occasion proved a little too much. I gather from his speech that he thinks that this particular Act, this particular law which we are now discussing, can be of no value whatever to the Executive in its present form. (*A Voice* : "Great use.") I think he said it was of no use at all against anarchical activities. The only use that can be made for the present law was against persons like himself and like Mr. Das. Well, I can assure my Honourable friend that in his present frame of mind there is not the least chance of this Act being used against him. (*Mr. Amar Nath Dutt* : "It is no compliment to him.") I think times have changed since 1921 when my Honourable friend did break the Act. I am perfectly certain, in spite of the assurance that he conveyed to the House a little while ago, that he will not break this Act again. So, I should like all my Honourable friends in this House to disabuse themselves of the fear that this Act was again going to be used against my Honourable friend opposite. (*A Voice* : "What about Regulation III ?") One good service my friend has done is that he has demolished the arguments that were used by my Honourable friend, Pandit Madan Mohan Malaviya. Pandit Madan Mohan Malaviya seemed to doubt the statements that had been made by the Honourable the Home Member with regard to anarchical movements in Bengal and elsewhere.

Pandit Madan Mohan Malaviya : I did not doubt, Sir, the facts stated by the Honourable the Home Member. I challenged the conclusions which he drew from those facts for keeping this Act on the Statute-book.

The Honourable Mr. A. C. Chatterjee : One of the conclusions of the Honourable the Home Member was that there was anarchical conspiracy in Bengal and I understood the Honourable Pandit, who is also one of my oldest friends in this Assembly, to say that he did not believe that statement.

Pandit Madan Mohan Malaviya : The Honourable Member is utterly mistaken. I did not say that about the non-existence of conspiracy. I simply said that the Honourable the Home Member had not shown how those facts justified the keeping up of a special enactment.

The Honourable Mr. A. C. Chatterjee : I am very glad, Sir, that the Honourable Pandit has explained his position. I am very glad that he has admitted that there is anarchical conspiracy in Bengal, and I should like all my Honourable friends opposite to search their hearts and to say whether it is not likely that there may be a revival of similar conspiracies in provinces other than Bengal.

Pandit Motilal Nehru : There is bound to be.

The Honourable Mr. A. C. Chatterjee : Exactly ; that is what my Honourable friend Pandit Motilal Nehru has said, and I should like every

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Member in this House to ponder over that fact and to consider whether, when Government say that an enactment like this is necessary in order to combat such conspiracies, they should accept the motion of the Honourable Dr. Gour and proceed to the consideration of this Bill.

Sir, Pandit Motilal Nehru made another extraordinary statement, a statement which came to me with a great deal of shock coming as it did from a learned lawyer like himself. He said that there were no special laws in any other country.

Pandit Motilal Nehru : Who said that ?

The Honourable Mr. A. C. Chatterjee : I certainly understood my Honourable friend to say that.

Pandit Motilal Nehru : I said there are special laws, emergency laws and all sorts of laws in every country. But they are laws. They do not violate all notions on which laws are founded by being called special or being qualified by any other word. This particular law is no law at all. That is what I said.

The Honourable Mr. A. C. Chatterjee : I really do not know how a lawyer can say that a particular law is no law at all. If a law is passed by the constituted authority, I take it it is law. The position is exactly the same in England, only the constitution of the authorities who pass the law may be different. My Honourable friend said that no such special laws or emergency laws were ever passed in England. He paid a very high compliment to the English people and to their traditions. I wonder if he had never heard of the suspension of the Habeas Corpus Act and of the various other laws that have been passed in the United Kingdom from time to time to deal with special emergencies or to deal with special forms of crime.

Pandit Motilal Nehru : I admit that. I can understand the suspension of the law for the time being, but I cannot understand the ordinary law to go on with your special law superimposed. You have got an extraordinary special law running on for years.

The Honourable Mr. A. C. Chatterjee : What about the coercion Acts in England or in the United Kingdom ? I really am surprised that my Honourable friend, who is always so straightforward in his arguments, should simply overlook that fact.

Mr. A. Bangaswami Iyengar (Tanjore *cum* Trichinopoly : Non-Mohammadan Rural) : May I know, Sir, on a point of information, whether any coercive Act has been passed in England for being applied to the people of England except during the time of the war when we had the Dora—whether any Act suspending the Habeas Corpus Act has been passed since the French Revolution days ?

The Honourable Mr. A. C. Chatterjee : The Honourable Member will have an ample opportunity of asking any questions after I have finished. I am not a lawyer and it is not for me to give him an answer, but certainly I was surprised to hear extraordinary statements made by a lawyer. Then, Sir, coming back to the arguments of my Honourable friend, Pandit Madan Mohan Malaviya, I noted that he said that there were no revolutionary activities in Bengal at all during the War, and therefore this Act was never applied and therefore it was not necessary. I do not know if my Honourable friend has for the moment forgotten the existence during the war of the Defence of India Act. The Defence of India Act gave for the time being the most extraordinary powers to Government and I think my Honourable friend must have forgotten that

both Lord Carmichael and Lord Ronaldshay stated more than once that it was because the Government of Bengal were enabled to apply the extraordinary provisions of the Defence of India Act that the revolutionary activities in Bengal had for the time being been stopped. I do not agree at all with my Honourable friend opposite that it was only the cult of Mahatma Gandhi—for whom I have the greatest respect—that it was merely the cult of Mahatma Gandhi which stopped the revolutionary activities in Bengal. They had been stopped at least for the time being during the war when Mahatma Gandhi's cult was not in existence, and if Mahatma Gandhi's cult was responsible or was instrumental in stopping revolutionary activities in Bengal, why has it failed now? Mahatma Gandhi is out of jail, and why cannot he exercise his potent influence over again? If he cannot exercise his influence I expect my Honourable friends opposite are responsible for that and not Government. Sir, Pandit Madan Mohan Malaviya also referred to the application of this Act in recent months in the Punjab. He characterised the members of the Parbhandak Committee as so many gentlemen whose spirit had been broken and crushed by this most repressive measure.

Pandit Madan Mohan Malaviya : I did not say that their spirit had been broken or crushed. It will never be broken or crushed.

The Honourable Mr. A. C. Chatterjee : I am very glad that the Honourable Member thinks that their spirit has not been broken or crushed. Then what harm has this Act done?

Pandit Madan Mohan Malaviya : If the Honourable Mr. Chatterjee does not know it, no amount of expression of my opinion will convince him. I objected, because the Government had not the courage to fight them honourably in the open field.

The Honourable Mr. A. C. Chatterjee : Is it not fighting in the open field to declare their association unlawful under the law? Any way. I defy my Honourable friend to show that everything is well in the Punjab. He himself has tried times without number to restore peace in the Punjab. I acknowledge his services, but he must admit that the efforts of himself and his friends have been in vain and it is for the Government which is responsible for law and order in the Punjab to apply such measures as they consider necessary to maintain law and order. Now, my Honourable friend, the Home Member started by saying that all his training had been towards looking upon laws of this kind with suspicion. I expect my Honourable friend was referring to his legal and judicial training. Sir, I was a Judge only for a few months. I expect I was a very bad Judge because I was at once transferred back again to the Executive. Anyhow, Sir, I wish as an officer,—as a servant of the Indian Government and as a servant of the Indian public who has spent most of his time in discharging executive functions,—I wish to state on behalf of executive officers that they also look upon such laws with very great suspicion and very great diffidence. They would much rather use the ordinary provisions of the law, but, Sir, they have a very much more sacred duty to perform—a duty which they often perform amidst great danger and in the midst of very great difficulties, and that duty is the maintenance of the King's peace, and for that reason they have to use any laws which have been provided for them by the constituted authorities. I hope that when Members of this House proceed to vote on this measure they will think of all these officers, and I would remind them that most of these officers are their own countrymen. I wish Members of this House to think of these Indian officers all over India trying to carry out the law and trying

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to maintain peace and order in circumstances which are extremely difficult and sometimes extremely dangerous to themselves. I wish Members of this House to think of these Indian officers from the Commissioner down to the police constable and the Tahsil *chaprassi*, and in their interests I would ask Honourable Members of this House not to vote for Dr. Gour's motion.

Mr. M. A. Jinnah : I regret to say that even after the eloquent speech of my Honourable friend, Mr. Chatterjee, I am not convinced, and therefore I will not only vote for but wish to lend my entire support to the motion of Dr. Gour. Sir, I am sure that the Honourable Mr. Chatterjee would not have made the speech or advanced the arguments which he made if he had been a lawyer. It is because of his associations with the Executive that what little law he learnt he has forgotten. I ask Mr. Chatterjee, was he really serious in the name of maintaining the King's peace,—was he really serious in suggesting to this House that because there was a suspension of the Habeas Corpus in England, because there was a Defence of India Act passed in India during the war, therefore, to-day conditions prevail in India that justify the retention of the Statute ? This Statute was passed in 1908 and I know the circumstances under which it was passed. I know that it was due to the partition of Bengal when the Honourable Member's province was aflame, and in order to pacify public opinion in this country we know that soon after this Act was passed by the then Imperial Legislative Council we got the Minto-Morley reforms. The Minto-Morley reforms followed this, but Government had already taken the instrument in their hands before the Minto-Morley reforms came into existence. Ever since then, Sir, what has happened ? Owing to the introduction of the Minto-Morley reforms the country, at large changed its attitude. And I am sure that the Honourable Members across the Treasury Benches there who know anything about India will bear me out that the bombs that appeared in 1906, 1907 and 1908, disappeared and disappeared for a considerable time. Then came the war in 1914. The Minto-Morley reforms worked from 1909-10 and in 1914 came the war. What was the position ? Did you not have the entire bulk of the population of India supporting you ? Did you not pass the Defence of India Act with the unanimous consent almost of the non-official Members in the Imperial Council ? What did you do ? You wanted to present us after the war with the Rowlatt Bill and you want to retain this now. Now, Sir, I for one have no hesitation in saying that I believe and I believe firmly that it is the primary function of every Government to maintain law and order. We do not deny that. That is your function, that is your business. But the question that this House has got to ask itself is this. How is that function to maintain law and order to be performed ? Is it to be performed against the will of the people ? Is it to be performed in spite of the will of the people ? Is it to be performed by not responding to the public opinion and by retaining a most reactionary and oppressive measure on the Statute-book. Is that your function of Government ? Are not the people entitled to say to you that we are here as the representatives of the people and would never give you this power if you had come to us to-day ? Why, because you are the cause of the trouble, you are the root cause of the trouble, you are the primary cause of the trouble and you talk of the primary duty of

maintaining law and order. I maintain Sir, that if the Government were really responsive to public opinion, all the revolutionary organisations and anarchical organisations that you are now talking of and which you want to arrest and to destroy by means of this little Statute will disappear. On the other hand you may have this little Statute and you can have many more Statutes and if you do not respond to the wishes of the people, if you do not respond to the opinion of the people, in spite of any number of Statutes you will not destroy these revolutionary movements. Now, I particularly appeal to the Honourable the Home Member. You have ruled this country for nearly one hundred years, at any rate if not one hundred years, very near it. In 1857 Queen Victoria assumed the reins and the power of ruling this country. Was there a bomb or an assassination, was even the hair of an Englishman in this country in danger until 1906 or 1907? (*A Voice* : "What about the mutiny?") I will make a present of that argument to the Honourable the Home Member because I do not wish to be misunderstood and I do not want to be side-tracked. I will concede to you the mutiny if that is all that you want.

The Honourable Sir Alexander Muddiman : I never referred to the mutiny, I spoke about assassination. (*A Voice* : "Lord Mayo.")

Mr. M. A. Jinnah : I think Mr. Chatterjee has forgotten his history. Was Lord Mayo's assassination a political assassination? A particular person who happened to have a grievance and who happened to be in the Andamans assassinated Lord Mayo and surely you are not saying that it is a political crime. My point is this and I do not want to be side-tracked. Was there an Indian for a long time, until 1906, who threw a bomb in this country? Now, who are the people who are really the members of these organisations? You have caught some of them. You ought to have some fair idea of it. Why do these educated young men take to bombs? Have you ever thought of it? Why do these young men, bright youths who have drunk at your own literature and who have imbibed those principles of liberty and freedom, come together in secret organisations in order to assassinate you, the very people who have taught those fine principles? Why? Because they feel that this Government do not respond to their aspirations, to their ideals and to their ambition to secure complete political freedom for their country. Now, Sir, you are not going to put this right unless you meet those aspirations and those principles. They are deeper than you imagine.

Now, coming to this Act itself, it has been already pointed out what this Act is and how it can be used. The danger of this Statute is this. It has been already pointed out and I do not wish to repeat it, but a suggestion was made by my Honourable friend Sir Chimanlal Setalvad. I want the House to understand that. I do not know whether the Government are going to accept that proposal, but if the Government did, I am afraid the very object that they have will be destroyed. But, even if the Government are prepared to accept that, I shall certainly not accept that. I will not be a party to that. I want this Act to be repealed and I do not want to see this Act again on the Statute-book. Sir, can you point me out a single country in the world, and I appeal again to Mr. Chatterjee's knowledge of history and law, that claims the name of a civilised government which has got a Statute of this kind because there are a few bombs thrown. Which country is free, where bombs are not thrown? Is this the way you are

[Mr. M. A. Jinnah.]

going to prevent bombs being thrown ? No. The way to prevent bombs being thrown is to meet the people, respond to their feelings, their sentiments and their legitimate and proper aspirations. I therefore strongly support this motion and I say that it is opposed to every principle of the constitution that in normal times the Executive should have such a power. Even if the Executive were responsible to the Legislature I would be the last person to give this power. Mr. Chatterjee said that the executive is also loath to use this Act. They also know the principles. They know that this Act is a very oppressive Act. They will be slow to use it. I recognise that, but you must remember that if the argument was applied, then why have at all any judicial tribunals in this country ? Why not leave everything to the Executive ? The very object, the very fundamental principle of law which says that no man's property or life is to be taken away without a judicial trial and without giving him the right to defend himself you take away by this Act. Mr. Chatterjee can sit in his room in one of these buildings not very far from here and notify that this Act is applied or notify that a particular association is unlawful, and if, Sir, it happens to be my fortune or misfortune to be a member of that association I go to jail like my Honourable friend Pandit Motilal Nehru. What remedy have I ? Where can I go for redress ?

The Honourable Mr. A. C. Chatterjee : You should resign.

Mr. M. A. Jinnah : Why should I resign, because you happen to pass an order under this Act which is a blot on the Statute-book ? Because you as an Executive Member without giving an opportunity to the Association to be heard, declare that Association unlawful, I have got to resign and the Association has got to be disbanded because Mr. Chatterjee pleases in his secret chamber to make an order without giving me a right to be heard. That is the very fundamental principle for which Englishmen have shed their blood, and, it is to their credit, they have done so ; and I say I would be prepared to shed my blood for the same principle.

Colonel J. D. Crawford (Bengal: European): Sir, it is with considerable amazement that I have heard, or rather I have not heard one word of condemnation fall from any of India's responsible leaders against the use of anarchical methods for political progress. I do desire to claim the right as a citizen of India, and I claim that right not from the fact that I have been in jail under the Statute which we are examining but that I have risked my life in the defence of India's frontiers, to say that I consider and I believe every law-abiding citizen considers, anarchical crime horrible and impossible. I desire for the moment to speak for my Province of Bengal and to say that every law-abiding citizen there views with grave misapprehension the recent outbreak of revolutionary tendencies in that Province. What is the proposal of Dr. Gour ? It is to repeal the balance of the Act—Part II. What is the proposition of Government ? Government say the situation at the moment, particularly in Bengal, does not justify us in forgoing any powers with which we are armed. And I do believe that the majority of people in Bengal believe and desire that Government should be thoroughly firm in dealing with revolutionary crime in Bengal. They do not desire to see their sons drawn again into the horrors which occurred from 1908 onwards. They desire, as many Members of this House desire, political progress, but they do not desire to

attain it by that method. Revolutionary activities do exist in Bengal. We have just heard from the Honourable Pandit Motilal Nehru and I from my own knowledge and every Member who has come from Bengal from his own knowledge, knows that such activities are in existence and are a danger and a very real danger to all law-abiding citizens. I will remind this House of my own distressful country Ireland. Organised crime is one of those things against which the ordinary law-abiding citizen and society cannot stand. In Ireland those of us who desired to speak what was in our mind, to give evidence on what we believed to be true on questions of fact, were only to be shot, to have our wives shot, to have our children shot; and that is a position which we must not allow to arise in India to-day. I have heard my Honourable friend Pandit Madan Mohan Malaviya state that this Act has been misapplied. We know, that is not an actual fact, because the Act when it was applied was intended to deal with associations which were becoming a menace to society and it was then that many politicians in their desire to give further assistance to their country as they thought, joined those associations simply to embarrass Government. That is the reason why so many Indians have been put in prison under that Act. The Honourable Pandit Motilal Nehru stated that the ordinary law of the land should be allowed to run. The ordinary law of the land is dependent upon the fact that you can protect the man who comes to give evidence in your courts of law. If you have an organised society capable of intimidating your witnesses, what chance has the ordinary law of the land to run? Absolutely none. Possibly the Honourable Pandit would prefer that we take this Act away from the list of repressive laws and make it one of the ordinary laws of the land, so that we may protect ourselves from organised crime and the intimidation of those who have the right of freedom of speech and freedom of thought. With these words I beg to oppose this Resolution.

Dr. H. S. Gour : Sir, I shall very briefly reply to the criticisms that have been made on my motion on this Bill for further consideration. I am glad to find that the Honourable the Home Member and the Honourable Mr. Chatterjee both agree on the main principle of my motion, namely, that this Criminal Law Amendment Act is a detestable piece of legislation.

The Honourable Mr. A. C. Chatterjee : I never said that I agreed that this was a detestable piece of legislation and I do not remember the Home Member having ever expressed that view.

Dr. H. S. Gour : Very well, Sir, I will assume that the Honourable Mr. Chatterjee regards it as a laudable piece of legislation.

The Honourable Sir Basil Blackett (Finance Member) : In those circumstances.

Dr. H. S. Gour : But at any rate so far as the Honourable the Home Member is concerned, he made no secret of the fact that he did not like it.

The Honourable Sir Alexander Muddiman : The Honourable Member will excuse my interrupting him, but what I said was that I did not like any laws of this kind and I approached them with a suspicious eye.

Dr. H. S. Gour : The Honourable the Home Member did not like any piece of legislation of this character unless it was justified by dire necessity, and the Honourable the Home Member therefore strove to establish

[Dr. H. S. Gour.]

a case of dire necessity. He said that in 1908 this measure was enacted for the suppression of anarchical crime in Bengal and he has enumerated a large number of cases of outbreaks of dacoity and murder during the last twelve months. Now, Sir, this enactment has been on the Statute-book during those last 12 months, and I ask the Honourable the Home Member if this Act was enacted for the benefit of Bengal and there was justification for its extension for the suppression of crime in that Province, has any notification been issued by the Local Government declaring any Association as unlawful as required by section 16 of the Act? The fact that the Act itself is in force in Bengal and is indeed in force elsewhere does not count. In order to bring the provisions of that Act into force what the section requires is that there must be a notification by the Local Government under section 16; and I beg to ask whether any association has been declared unlawful in Bengal as required by that section? I presume from the silence of the Honourable the Home Member that he is not in possession of any information declaring any association in Bengal as unlawful under the provisions of Part II. If so, Sir, the Act has failed of its effect and the existence of revolutionary crime in Bengal during the last twelve months has not been suppressed and no attempt has been made to suppress it by resorting to the provisions of Part II of the Criminal Law Amendment Act. I therefore submit that the justification which the Honourable the Home Member set out in his opening speech has not been made good by the facts which I have adverted to.

I now pass on to the next question. The Honourable the Home Member has asked this House to endorse his view on the ground that it is necessary for the Executive to suppress anarchical crimes in Bengal and elsewhere; which I pointed out could be done by resorting to the sections relating to conspiracy. The Home Member has also done me the honour to quote my remarks on the conspiracy sections. But may I also reciprocate that compliment by quoting the words of the Mover of the motion which culminated in the enactment of the Criminal Law Amendment Act of 1913, popularly known as the Conspiracy Act. Referring to the present Act, which I ask the House to repeal, he said:

“Experience has shown that dangerous conspiracies are entered into in India which have for their object some other than the commission of the offence specified in section 121-A. of the Indian Penal Code and that the existing law is inadequate to deal with modern conditions.”

Now, Sir, remember these words. The Criminal Law Amendment Act, 1908, was passed in that year; in 1913 the Conspiracy Bill was introduced in the Imperial Legislative Council and the justification for the introduction of the Conspiracy Bill was that this Act of 1908 had proved inadequate to suppress conspiracies in India. Now, I beg to ask, in face of this confession made by the accredited spokesman of the Government in 1913, what justification is there for retaining this Act on the Statute-book?

Then the Honourable the Home Member said “If we repeal this Act, where is the substitute?” I pointed out to him that the substitute exists in the Conspiracy Act; he then said that the Conspiracy Act requires a higher standard of proof. May I ask him to remember the words of the Honourable the Mover of the Bill in 1913 when he confessed that this Act of 1908 was wholly inadequate to deal with conspiracies?

I cannot understand, Sir, how in the face of that confession Government can resist my motion to take my Bill into consideration.

Then, Sir, my Honourable friend, Sir Chimanlal Setalvad, in his speech pointed out that Part II of the Criminal Law Amendment Act which I am asking this House to repeal contains a dangerous provision and he asked the Government to make a declaration whether they were prepared to table an amendment to remove this pernicious provision contained in section 15 (b) of the Act. Well, Sir, the Government had a sufficiently long time to do so. If they will turn to page 2207 of the Debates containing the speeches on the day of introduction, they will find that the identical point was brought to the notice of the then Home Member. I then pointed out that the Government were given the power of declaring any association as illegal without hearing the association or its representative or calling upon it to show cause. It was the condemnation of an association unheard and without the right to be heard and that association was powerless because it could not move any judicial tribunal to set aside the executive order of the Government. I further pointed out that once this declaration was made all members of that association became liable to be sentenced as provided in the next section, and it was not competent to the High Court to go into the question whether the declaration made by the Local Government was right or wrong. I further pointed out, Sir, that the terms of the Act had been greatly enlarged and the scope of its mischief extended by the enactment of the Act of 1920; for while in 1908 the power to declare these associations illegal was given merely to the Governor General in Council, by the Devolution Act of 1920 that power has been transferred to the Local Government with the result that the Local Governments who complained against an association are given the power to declare it as illegal and thereafter all members of that association become liable to sentence. I submit, Sir, that I further pointed out then that it was a very extremely humiliating position to ascribe to the Judges. The Executive Government says "this man has committed an offence; you pass the sentence", and the sentencing Judge is powerless to inquire into the innocence or guilt of that person. Is this a position which the Honourable the Home Member with his legal associations and traditions can ever justify and tolerate? Sir, that was the position which was pointed out to the Government in March last. What action have the Government taken to rectify this Act since then? They could then have said: "We are prepared to revise the provisions of this Act confining it to cases of anarchical crime and inserting salutary provisions and judicial safeguards".

Have they taken any action in the matter? They have done nothing of the kind. In these circumstances I ask my friend, Sir Chimanlal Setalvad, whether he would not be justified in going into the lobby with us if this motion is pressed to a division.

As regards the other speakers, including Colonel Crawford, I am afraid, Sir, they have not really realised the real situation. What is the good of talking about the existence of anarchy and revolutionary crime throughout the country? What we are complaining of is not the weapons already existing in the armoury of the Government but of the method of trial under this Act, which we submit and the Honourable the Home Member was constrained to admit confers upon the Executive extraordinary powers of jurisdiction. On these grounds I submit that the House should support my motion.

The Honourable Sir Alexander Muddiman : Sir, I have listened to the debate with great attention. I have had confirmed all my worst fears and have heard that there is a serious anarchical movement in Bengal which may spread to other provinces. That, I understood in effect my Honourable friend to say. That, Sir, is a matter which the Government will have to consider and I can assure the Honourable Member we shall not forget our primary duty of maintaining law and order at whatever cost. Secondly, Sir, I referred to Bengal not so much for the purpose of showing that this particular Bill is being utilised in that province—I understood my Honourable friend's main point was that things in India were so quiet that he did not think it necessary for us to have these powers. He himself said in his speech when moving for leave to introduce the Bill :

“ That head of the State may be designated the Sovereign or the King or it may be a collective body of men like the British Parliament, or it may be one person chosen by that Parliament in days of great national crisis and emergency as a Dictator, such as was chosen in the early days of Rome. But whatever may be the position of the State, in times of emergency, all powers are centred in a small body of men or in one man. But in an ordinary state of society, when peace reigns supreme and ebullitions of crime are local and sporadic, constitutional law recognises no power in the executive to wield and perform judicial functions.”

That was in an ordinary state of society, but I gather that he argues that things are different here. Secondly, he argues that this part of the Bill has been used in other provinces for other purposes ; not connected with anarchical crime and that it has not been used purely for the maintenance of law and order. I did not deal with this point because my Honourable friend in his speech did not raise it. It has been dealt with by my Honourable friend Mr. Chatterjee.

Now, I have been charged with laying undue stress on a few dacoities in Bengal. Sir, there have been many dacoities in Bengal and it was not to emphasize that that I was addressing the House. I referred to these Chittagong occurrences for the purpose of making my point that in one of them ammunition was recovered which was not ammunition which could be legally obtained in this country and further to make the point that the subsequent murder on the 12th of January was committed with cartridges of the same kind. It was not merely for the sake of talking of dacoities in Bengal ; there are a great many dacoities in Bengal and I only referred to these occurrences by way of illustrating the point which I made and which has not been controverted.

Now, it is said : Why do not we let things drift ? Because that is really what it comes to—why do you want these unusual laws ? We do not like them ourselves. We hate them. Why not let things drift on till it comes to a question of martial law ? Well, Sir, I should be exceedingly unwilling to do that. If I can stop a leak with a small piece of wood, I do not take a large peg. If I can prevent the bursting through of law and order, I should prefer to do it when there is only a trickle coming through. I do not wish to wait till the waters have burst through.

Or take another analogy. When the fire is starting, you can throw a bucket of water on it, you may stop it. But when the fire once gets hold of one's house, then, Sir, sometimes nothing but the destruction of the house will save the neighbouring houses. (*Mr. V. J. Patel :* “ It is the fire of patriotism that you want to throw water on.”) No, Sir, I do not wish to throw water on the fire of patriotism—that is far from my intention. I desire to see India patriotic, but I do not desire to see India anarchical. (*Mr. V. J. Patel :* “ Give us Swaraj then.”)

Sir, the suggestion was thrown out by my Honourable and learned friend, Sir Chimanlal Setalvad, that something might be done to amend the Act. At present I think the Bill is merely for the repeal of the Act. If any alternative proposal is put forward I shall certainly consider it, but it is not in my power to say that I can do more because of course in a matter of this kind I can only speak subject to the authority of the Government of India. The present proposal however is for the repeal of the Bill.

Sir Chimanlal Setalvad : May I inquire whether we can have any thing more definite than what the Home Member has said ? Can we have any definite assurances of the character that I have suggested of introducing some judicial safeguards, because on such assurances will depend the votes of some Members.

The Honourable Sir Alexander Muddiman : It is quite obvious, as I said, that in a matter of this kind I can give no assurance. All I can say is that we will consider the matter. It is a matter that concerns my Government. Nor is it, strictly speaking, relevant to this particular discussion. This is a motion for the complete repeal of the Act—nothing more.

Pandit Motilal Nehru : And nothing less.

The Honourable Sir Alexander Muddiman : And nothing less, says my Honourable friend. I understood from something that fell from my Honourable friend, Mr. Jinnah, that he thought the period 1912—1917 was one which was immune from anarchical outrages. The point is a very small one, by I may say that there were 174 anarchical outrages in that period. I do not know whether that is sufficient.

The main issue, it seems to me, is this. We are told we may be confronted—and I do not suggest that it is a threat, I am quite prepared to accept it as a friendly warning—we are told that the Government may be confronted with very serious anarchical trouble. Well, Sir, if that is the case, are we going to throw away any weapon, however small ? (*Pandit Motilal Nehru* : “ Is it a weapon ? ”) Well, my point is—it may not be a strong weapon—I quite agree that you cannot notify the inner ring, because you do not know who they are. But anarchical movements are made up not only of those who have entirely gone over to the enemy, so to say, but of those who are in the condition, shall I say, of semi-solidification, and those persons you can affect. (*Mr. V. J. Patel* : “ Congress volunteers.”) Well, if the creed of the Congress is violent, it may be so. I am not prepared to say who. Section 15 of the Bill defines an unlawful association as an association which encourages or aids persons to commit violence or intimidation or whose members habitually commit such acts. Sir, if that part of the definition is not to be used. (*Dr. H. S. Gour* : “ What about (b) ? ”) But your Bill is to repeal the whole Act. You do not repeal (b)—you repeal (a) and (b) and the whole Act. Is there anybody in the House who would encourage the persons who commit acts of violence or intimidation ? No, Sir.

Pandit Madan Mohan Malaviya : May I ask the Honourable the Home Member to say whether there are not sufficient and abundant provisions in the existing law, the Criminal Procedure Code, the Indian Penal Code, etc., to deal with all the men who are mentioned in clauses (a) and (b) of the sections to which he has referred ?

The Honourable Sir Alexander Muddiman : Sir, that is a contention that my Honourable friend made out, but I do not admit that contention. The point of this Bill is that it deals with associations of this kind. You say : why do not you use the conspiracy law ? Is not that sufficient ? Sir, the answer is " Because our witnesses are intimidated, our witnesses are shot." That is why ? Does the House not admit our difficulties in this matter ? Am I to stand by and see the Commissioner of Police, Calcutta, hunted for his life ? Am I to stand by and see terrorism stalking over the land ? Am I to be told that when we have to cope with the bomb and the revolver, we should hand over any of the special powers we have ? No, Sir, not while I am in the Government of India.

Mr. President : The question is :

" That the Bill to repeal certain provisions of the Indian Criminal Law Amendment Act, 1908, be taken into consideration."

The Assembly divided :

AYES—71.

Abdul Karim, Khwaja.
 Abhyankar, Mr. M. V.
 Abul Kasem, Maulvi.
 Acharya, Mr. M. K.
 Aiyangar, Mr. C. Duraiswami.
 Aiyangar, Mr. K. Rama.
 Aiyer, Sir P. S. Sivaswamy.
 Aney, Mr. M. S.
 Badi-uz-Zaman, Maulvi.
 Belvi, Mr. D. V.
 Chaman Lall, Mr.
 Chanda, Mr. Kamini Kumar.
 Das, Mr. Bhubanananda.
 Das, Mr. Nilakantha.
 Datta, Dr. S. K.
 Duni Chand, Lala.
 Dutt, Mr. Amar Nath.
 Ghazanfar Ali Khan, Raja.
 Ghose, Mr. S. C.
 Ghulam Bari, Khan Bahadur.
 Goswami, Mr. T. C.
 Gour, Dr. H. S.
 Govind Das, Seth.
 Gulab Singh, Sardar.
 Hussanally, Khan Bahadur W. M.
 Hyder, Dr. L. K.
 Ismail Khan, Mr.
 Jyengur, Mr. A. Rangaswami.
 Jeelani, Haji S. A. K.
 Jinnah, Mr. M. A.
 Joshi, Mr. N. M.
 Kartar Singh, Sardar.
 Kazim Ali, Shaikh-e-Chatgam Maulvi
 Muhammad.
 Kelkar, Mr. N. C.
 Lohokare, Mr. K. G.
 Mahmood Schamnad Sahib Bahadur, Mr.

Malaviya, Pandit Krishna Kant.
 Malaviya, Pandit Madan Mohan.
 Mehta, Mr. Jamnadas M.
 Misra, Pandit Shambhu Dayal.
 Misra, Pandit Harkaran Nath.
 Murtuza Sahib Bahadur, Maulvi Sayad.
 Mutalik, Sardar V. N.
 Nambiyar, Mr. K. K.
 Narain Dass, Mr.
 Nehru, Dr. Kishenlal.
 Nehru, Pandit Motilal.
 Nehru, Pandit Shamlal.
 Neogy, Mr. K. C.
 Patel, Mr. V. J.
 Piyare Lal, Lala.
 Purshotamdas Thakurdas, Sir.
 Ramachandra Rao, Diwan Bahadur M.
 Rajan Bakhsh Shah, Khan Bahadur
 Makhdum Syed.
 Rangachariar, Diwan Bahadur T.
 Ranga, Iyer, Mr. C. S.
 Ray, Mr. Kumar Sankar.
 Reddi, Mr. K. Venkataramana.
 Samiullah Khan, Mr. M.
 Sarda, Rai Sahib M. Harbilas.
 Sarfaraz Hussain Khan, Khan Bahadur.
 Setalvad, Sir Chimanlal.
 Shafec, Maulvi Mohammad.
 Shams-uz-Zoha, Khan Bahadur M.
 Singh, Mr. Gaya Prasad.
 Sinha, Mr. Ambika Prasad.
 Sinha, Kumar Gangnand.
 Tok Kyi, Maung.
 Venkatapatiraju, Mr. B.
 Vishindas, Mr. Harchandrai.
 Yusuf Imam, Mr. M.

NOES—39.

Abdul Qaiyum, Nawab Sir Sahibzada.
 Ajab Khan, Captain.
 Akram Hussain, Prince A. M. M.
 Bhore, Mr. J. W.
 Blackett, The Honourable Sir Basil.
 Bray, Mr. Denys.
 Burdon, Mr. E.
 Calvert, Mr. H.
 Chalmers, Mr. T. A.
 Chatterjee, The Honourable Mr. A. C.
 Cocke, Mr. H. G.
 Crawford, Colonel J. D.
 Dalal, Sardar B. A.
 Duval, Mr. H. P.
 Fleming, Mr. E. G.
 Hezlett, Mr. J.
 Hindley, Mr. C. D. M.
 Hira Singh, Sardar Bahadur Captain.
 Holme, Mr. H. E.
 Hudson, Mr. W. F.
 Innes, The Honourable Sir Charles.

Lindsay, Mr. Darcy.
 Lloyd, Mr. A. H.
 Moncrieff Smith, Sir Henry.
 Muddiman, The Honourable Sir
 Alexander.
 Muhammad Ismail, Khan Bahadur
 Saiyid.
 Nag, Mr. G. C.
 Naidu, Mr. M. C.
 Parsons, Mr. A. A. L.
 Raj Nurnin, Rai Bahadur.
 Rushbrook-Williams, Prof. L. F.
 Sams, Mr. H. A.
 Bastri, Diwan Bahadur C. V. Visvanatha.
 Singh, Rai Bahadur S. N.
 Sykes, Mr. E. F.
 Tonkinson, Mr. H.
 Tottenham, Mr. G. R. F.
 Webb, Mr. M.
 Wilson, Mr. R. A.

The motion was adopted.

Mr. President : I propose to adjourn now and the order for the consideration stage of this Bill will be put down as the first order on the paper on the 23rd.

The Honourable Sir Alexander Muddiman : Sir, with your permission, I wish to refer to a telegram from Bengal which I have received this afternoon.

Dr. H. S. Gour : Is it possible to go on with this Bill now ? It will not take a long time.

Mr. President : I have had that kind of assurance from Members before that it will not take a very long time, but it has usually been otherwise.

DEATH OF Mr. BHUPENDRA NATH BASU.

The Honourable Sir Alexander Muddiman (Home Member) : Sir, I referred to Bengal in the course of my speech this afternoon, but I never knew that I would have to refer to it again so soon. A telegram has just reached me announcing the death of a very old friend of mine and a friend, I think, of many Members of this House,—I mean Mr. Bhupendra Nath Basu. I made an allusion to him in my speech on the Lee Commission Report. I knew that he was very ill, but it comes to me as a shock to hear that he has so soon passed away. He was a member of the old Imperial Legislative Council. He was a personal friend of mine and he was a great Bengali and a great servant of India, and I thank you, Sir, for having allowed me to express a few words of tribute to the memory of the deceased.

Sir P. S. Sivaswamy Aiyer (Madras : Nominated Non-Official) : The news that has been conveyed to the House by the Leader of the House must, I am sure, come as a shock to all the Members of the Assembly. We knew that Mr. Basu had been ill for some time past, but we had no idea that the end was so near. I cannot give expression adequately to my feelings of great regret at the death of Mr. Basu, nor can I now adequately express the respect which I and those who knew him entertained for him. He had been long associated with the public life of this country and he had done his best to forward the progress of this country along the path of constitutional evolution. His services to this

[Sir P. S. Sivaswamy Aiyer.]

country have been of a most valuable character, and we all expected, that he might be able to render further valuable service in his position as a Member of the Executive Council of Bengal. But fortune willed it otherwise. Sir, I associate myself with the expressions of sorrow and appreciation which have fallen from the Leader of the House, and I hope, Sir, that you will convey our sympathy to the members of the deceased's family.

Mr. M. A. Jinnah (Bombay City : Muhammadan Urban) : It is with the deepest regret that we have heard the news of one of the greatest Indians and a patriot who worked for more than 40 years in public life. I entirely associate myself in the expression of sorrow and regret at the news that we have received to-day.

Mr. Darcy Lindsay (Bengal : European) : Sir, I desire to associate myself with the expressions of regret of the Honourable the Home Member at the sad news that we have received of the death of one of India's most trusted sons. Mr. Basu is a very old friend of mine and I have been closely associated with him in the Calcutta Club which was, as you know, started to bring the Indians and Europeans together in closer social intercourse. He gave us the utmost assistance in that connection. I would like to express our very deep regret and sympathy with his relatives.

Pandit Motilal Nehru (Cities of the United Provinces : Non-Muhammadan Urban) : I associate myself with the remarks which have fallen from the previous speakers. Mr. Basu was one of our very old comrades in arms, and although he was separated from us for a series of years while he held office we all had the highest esteem for him. I sincerely regret his loss.

Maulvi Abul Kasem (Bengal : Nominated Non-Official) : Sir, just as I came into this room I was told of the sad death of our distinguished countryman, Mr. Basu. He was one of the foremost leaders of Indian public opinion, and, if I may say so, he belonged to that noble band of workers who did the spade work which has now brought about constitutional reforms in this country. Speaking as a Mussalman, I wish to say, and I believe I echo the feelings and sentiments of my co-religionists all over India and in Bengal in particular, that he was one of those prominent Hindu leaders with whom communal interests were absolutely negligible. He felt for the Muhammadans as keenly as he felt for the Hindus. He was a national asset and his death is a very great loss to India in general and to the Mussalmans of Bengal in particular, because they cannot find a man of the calibre of Mr. Basu in their midst, and I say, Sir, that it is desirable that this House should convey to the bereaved family our respectful condolences.

Mr. President : I am sure I shall be carrying out the unanimous desire of the House if I transmit a copy of these proceedings to the relatives of Mr. Basu conveying an expression of the deep sense of the loss with which we have received the news of his death.

The Assembly then adjourned till Eleven of the Clock on Wednesday, the 17th September, 1924.