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# LEGISLATIVE ASSEMBLY DEBATES

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## FIRST SESSION

OF THE

## THIRD LEGISLATIVE ASSEMBLY,

1927



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# LEGISLATIVE ASSEMBLY.

*Tuesday, 23rd August, 1927.*

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

## QUESTIONS AND ANSWERS.

### THE SOUTH AFRICAN AGREEMENT.

107. \***Diwan Chaman Lall** : Will Government make a statement as to the actual position to-day in regard to the South African agreement ?

**Mr. G. S. Bajpai** : With your permission, Sir, I shall state briefly the developments regarding the South African agreement that have occurred since Mr. Bhole made his statement on the subject to the Assembly on the 21st February, 1927. In May last, the Government of India appointed the Right Honourable V. S. Srinivasa Sastri as their first agent in the Union. Mr. Sastri arrived at Pretoria on 27th June, 1927, and after a brief halt there, proceeded on a short tour of Natal where, as Honourable Members are no doubt aware, the Indian element in South Africa is most numerous. Mr. Sastri has gone to Natal to familiarise himself with local conditions and to work for carrying out the programme of upliftment, especially in regard to education, which is part of the agreement. Honourable Members will be gratified to hear that so far Mr. Sastri's reception in South Africa by all sections of the community has been very cordial. (Applause.)

In order to assist Mr. Sastri, the Union Government have appointed one of their senior officials Mr. Venn, formerly Under Secretary in the Department of the Interior, to be Commissioner of Asiatic affairs. Mr. Venn is working in close and friendly co-operation with Mr. Sastri.

In accordance with the terms of the agreement, the bonus for Indians returning to India has been increased from £10 to £20 for each adult and from £5 to £10 for each minor. Up to the middle of July, 1,319 Indians had returned from South Africa to India. A special staff has been appointed in Madras with effect from the 1st August to meet Indians returning to that Presidency, and to help them to bank their savings and find occupation suited to their capacity and resources.

The legislation introduced in the Union Parliament to implement the agreement roused some apprehension among Indians in the Transvaal on the ground that one of its provisions, which authorised cancellation of certificates of registration, obtained by fraudulent means, would have retroactive effect. Their misgivings should have been set at rest by the assurance given in the Union Assembly by the Honourable the Minister of the Interior that retrospective effect will not be given to this provision, provided that the Transvaal Indians co-operate with the Government of the Union in carrying out the Cape Town agreement.

The Bill itself has now become the Immigration and Indian Relief (Further Provision) Act. The Government of India feel sure that the House will receive with satisfaction the assurance that the relations between them and the Government of the Union continue to be most friendly.

In conclusion, Sir, I would like to pay a tribute to Mr. Andrews for the great services rendered by him to the Indian cause in South Africa (Applause), especially during the interval that elapsed between the termination of the conference at Cape Town and the arrival of Mr. Sastri in the Union.

#### RECOMMENDATIONS OF THE DELHI CONFERENCE REGARDING JOINT ELECTORATES.

108. \***Diwan Chaman Lall** : (a) Have Government seen the recommendations of the Delhi Conference regarding joint electorates ?

(b) Have Government decided to accept those recommendations, agreed to by the All-India Congress Committee, for future guidance in revising the constitution ?

**The Honourable Mr. J. Orerar** : (a) Yes.

(b) As far as Government are aware the proposals of the Delhi Conference have not yet been accepted by all the parties concerned.

**Mr. K. Ahmed** : Are Government aware that the conveners of the Delhi Conference and their supporters wanted simply to advertise their names in the newspapers so that the people might see that.....

**Mr. President** : Diwan Chaman Lall.

**Diwan Chaman Lall** : May I ask the Honourable Member whether it is the policy of the Government that any recommendations unanimously accepted by all parties should receive their consideration ?

**The Honourable Mr. J. Orerar** : No, Sir. We have not received any assurance that these recommendations have received even a partial acceptance among some of the most important interests concerned.

**Diwan Chaman Lall** : Is the Honourable Member aware that the recommendations have received the support of a large number of people in this country ?

**The Honourable Mr. J. Orerar** : Judging from the references to these recommendations in the press, it would appear that a considerable number of persons have endorsed the recommendations.

**Diwan Chaman Lall** : May I ask whether the Government is not desirous of introducing joint electorates in view of the condition of the country ?

**The Honourable Mr. J. Orerar** : That, Sir, is a matter which I think would be more appropriate for debate than for question and answer.

**Diwan Chaman Lall** : Have Government not made up their minds in regard to this question at all ?

**Mr. K. Ahmed :** Are Government aware that the Delhi Conference was neither constitutional nor formal and that the Muhammadans in all the major provinces, as well as other provinces, such as the Punjab, Bengal, Madras, Bombay and the North West Frontier Province I believe, if I am not mistaken, have stated that they do not want joint electorates, and the conveners of these meetings and their supporters have said so in order to circulate their names in the sphere of politics and they are not really for the interests of their country and the community ?

**The Honourable Mr. J. Orerar :** In reply to that question, I have merely to say that I find it extremely inconvenient to be the channel for a controversy carried on between the Honourable gentlemen opposite and the Honourable gentlemen behind me.

**Mr. E. K. Shanmukham Chetty :** Do Government intend to convene a Conference of the leaders of various communities to settle the communal question ?

**The Honourable Mr. J. Orerar :** That again, I suggest, is a matter more appropriate for debate.

#### THE SKEEN COMMITTEE'S REPORT.

109. **\*Diwan Chaman Lall :** Will Government state what immediate action they intend to take in regard to the Skeen Committee's Report ?

**Mr. G. M. Young :** I am afraid the Honourable Member's question cannot be answered until final decisions have been reached on the recommendations of the Indian Sandhurst Committee.

**Diwan Chaman Lall :** May I ask how long it is likely to take before a final decision is reached ?

**Mr. G. M. Young :** I am afraid I cannot give any idea.

**Diwan Chaman Lall :** May I ask what the delay is due to ?

**Mr. G. M. Young :** I should not admit that there was any delay. Final decisions will not be reached until this House has been fully consulted. His Majesty's Government have also to reach their conclusions.

**Mr. A. Rangaswami Iyengar :** May I know exactly in what stage this matter is now ?

**Mr. G. M. Young :** If my Honourable friend will wait till the day after to-morrow, he will be informed in the course of the debate on this question.

**Mr. A. Rangaswami Iyengar :** Is there any particular harm in giving the information just now ? Are any interests of the State involved ?

**The Honourable Sir Basil Blackett :** I would suggest that it would be for the convenience of the House and of the Government if this matter were left to come up in debate in the ordinary course the day after to-morrow.

**Diwan Chaman Lall :** With your permission, I do not intend to ask the next question, No. 110.

† 110.\*

**RECOMMENDATIONS OF THE INTERNATIONAL LABOUR CONFERENCE REGARDING  
SOCIAL INSURANCE.**

111. \***Diwan Chaman Lall** : Will Government state what action they intend to take in regard to the recommendations of the International Labour Conference in connection with social insurance ?

**The Honourable Sir Bhupendra Nath Mitra** : I am unable to say. Government have not yet received either the report of their Delegates to the Conference or the authentic copies of the Draft Conventions and Recommendations. When these are received the question will be examined.

**Mr. K. Ahmed** : Was not there any representative representing the Government of India and the people of this country in the Conference ?

**The Honourable Sir Bhupendra Nath Mitra** : I am sorry, Sir, I did not catch the Honourable Member's question.

**Mr. K. Ahmed** : It is very simple, Sir. Was not there any representative from India and on behalf of the Government—the Government of my Honourable friend—sent there, who must have been familiar with these questions, and must have informed the Honourable Member's Department about it ?

**The Honourable Sir Bhupendra Nath Mitra** : If the Honourable Member had kindly listened to what I said in reply to my Honourable friend Mr. Chaman Lall, he would have got the answer to that question.

**Mr. K. Ahmed** : Then what is the difficulty now, Sir, for the Honourable Member to answer the question ?

**RATIO OF MILITARY EXPENDITURE TO CENTRAL REVENUES.**

112. \***Diwan Chaman Lall** : Will Government state (a) whether the answer given by Lord Winterton in the House of Commons when asked to give the ratio of military expenditure to revenue included the total of Provincial as well as Central Revenues ? (b) the exact ratio of military expenditure to Central Revenues ?

**The Honourable Sir Basil Blackett** : The answer to part (a) is in affirmative. As regards part (b) the ratio of net military expenditure to gross Central revenues in 1925-26 was 27 per cent. Complete figures are not yet available for 1926-27.

**Mr. A. Rangaswami Iyengar** : Does that include the revenue of the Railways and the other developmental revenues ?

**The Honourable Sir Basil Blackett** : The ratio of military expenditure to the gross Central revenues is the figure that I gave.

**Mr. A. Rangaswami Iyengar** : Does that include the Railway revenue ?

**The Honourable Sir Basil Blackett** : Yes, the Central Revenues include Railway revenues.

**Mr. A. Rangaswami Iyengar** : Will the Honourable Member kindly tell us what proportion the military expenditure bears to the actual taxation revenues of the Central Government.

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† Not asked by the Honourable Member. (Diwan Chaman Lall).

**The Honourable Sir Basil Blackett** : I would suggest that the Honourable Member should work it out for himself.

**Diwan Chaman Lall** : Is it not a fact that the figure that the Honourable Member wants my friend Mr. Rangaswami Iyengar to work out is somewhere near 47 to 48 per cent. ?

**The Honourable Sir Basil Blackett** : I once said that I could produce a figure of over 100 per cent. if I were asked.

**Diwan Chaman Lall** : Is that the method in which the finances of the Government are conducted ?

**The Honourable Sir Basil Blackett** : No, Sir. The method is as stated in my answer.

**Diwan Chaman Lall** : Will the Honourable Member give the ratio of military expenditure to net revenue in Great Britain ?

**The Honourable Sir Basil Blackett** : If the Honourable Member will put the question down, I shall consider whether I will answer it.

PLACING OF RAILWAY CONTRACTS WITH MEMBERS OF RAILWAY ADVISORY COMMITTEES.

113. **\*Diwan Chaman Lall** : Will Government state whether any members of Railway Advisory Committees have been given railway contracts ?

**Mr. A. A. L. Parsons** : Government have no information. But if the Honourable Member wishes to know whether appointment to a Railway Advisory Committee constitutes a bar to a member receiving a railway contract, the answer is in the negative. Nominations to these Committees are, as the Honourable Member is, I think, aware, made by various legislative and commercial bodies.

ACTION TAKEN AGAINST INDIANS BY THE RESTAURANT PROPRIETORS OF EDINBURGH.

114. **\*Diwan Chaman Lall** : Has the attention of the Government been drawn to the action taken against Indians by the restaurant proprietors of Edinburgh ? If so, what protest, if any, has been made by the Government of India ?

**The Honourable Mr. J. Crerar** : I invite the Honourable Member's attention to the answer I gave on the 22nd August 1927, to a similar question by Mr. Gaya Prasad Singh. The restrictions were withdrawn as a result of the action taken by the city authorities.

STATEMENT ISSUED BY MR. SUBASH CHANDRA BOSE IN REPLY TO LORD WINTERTON'S CHARGE.

115. **\*Diwan Chaman Lall** : (a) Have Government seen the statement issued by Mr. Subash Chandra Bose in reply to Lord Winterton's charge ?

(b) If so, is it a fact that many of the detenus are being detained in spite of there being no charge against them of complicity in any revolutionary crimes ?

(c) Will Government inform this House of the evidence alleged to have been examined by two Judges in the case of Mr. Subash Chandra Bose ?

(d) Will Government place all relevant documents on the table ?

**The Honourable Mr. J. Crerar :** Government have seen the statement. The answers to the remaining parts of the question are in the negative.

**Mr. Satyendra Chandra Mitra :** Is not the Honourable the Home Member aware that Government have recently styled these charges not as charges but as mere allegations when it was pointed out to them that these charges lack all the three essentials of a valid charge, namely, the definiteness as to time, the nature of the crime and the place of occurrence.

**The Honourable Mr. J. Crerar :** I missed the Honourable Member's point. Will he put his point a little more precisely ?

**Mr. Satyendra Chandra Mitra :** Is not the Honourable the Home Member aware that the Government no longer style these charges as charges but as mere allegations when it was pointed out to them that these wild allegations really lack all the three essentials of a valid charge, namely, the definiteness as to time, place of occurrence or the nature of the crime ?

**The Honourable Mr. J. Crerar :** No, Sir. I cannot agree with the Honourable Member that Government regard the charges as mere allegations.

**Mr. Satyendra Chandra Mitra :** Is it not a fact that now the detenus are not asked to answer the charges but are merely asked to explain the allegations against them ? Formerly they were asked to answer to the charges but now Government have accepted them as mere allegations and not as charges.

**The Honourable Mr. J. Crerar :** That is a point of detailed procedure of which I have not such means of direct acquaintance as the Honourable gentleman. Nevertheless, I do not think that the use of the word "allegation" in substitution for the word "charge" means or implies any difference in the attitude of the Government.

**Diwan Chaman Lall :** May I ask, Sir, whether the Honourable Member is aware of the definition of "charge" as given in the Criminal Procedure Code ? What is the definition of "charge" ? Does it not mean that in any criminal proceedings against a particular accused a definite statement should be made of the offence committed by him and the approximate time of the offence ?

**The Honourable Mr. J. Crerar :** The Honourable and learned Member raises this as a point of law. I feel that it is rather superfluous for him, a lawyer, to apply to me, a layman.

**Diwan Chaman Lall :** May I ask the Honourable Member whether he is not aware that certain charges have been levelled against these detenus and that Lord Winterton said in the House of Commons that there is no specific allegation in regard to any criminal charge against these people and that therefore it is necessary for the Government to explain what "charges" have been levelled against these people ?

**The Honourable Mr. J. Crerar :** The substance of the Honourable Member's question appears to me to be this : whether, when the word "charge" has been used in the particular sense arising out of the question, it has been used in the precise legal and formal sense of the Criminal Procedure Code ? That, of course, is not the case.

**Diwan Chaman Lall :** Is it not a fact that these detenus are arrested under due process of law whatever it might be—it might be a lawless law ?

**The Honourable Mr. J. Crerar :** They are certainly arrested under the process of law.

**Diwan Chaman Lall :** Therefore am I not right in asking the Honourable Member that he ought to reply to my question in regard to the "charge" ?

**The Honourable Mr. J. Crerar :** I have already replied to the Honourable Member's question.

**Mr. A. Rangaswami Iyengar :** May I ask the Honourable Member whether the Government in dealing with these matters make absolutely no distinction between what are the allegations and what are the charges ?

**The Honourable Mr. J. Crerar :** There is nothing in what I have said which would justify the Honourable and learned gentleman in making this suggestion.

**Mr. A. Rangaswami Iyengar :** May I know, Sir, whether the Government have not definitely made this alteration in regard to inquiring from the detenus as to mere allegations where formerly they were stated to be charges ? I want a specific answer to my question.

**The Honourable Mr. J. Crerar :** I have already replied to that question and my reply was to the effect that I am not personally aware whether, when the question was actually put to the detenus, the word used was "allegation" or "charge". My point was that there is no essential distinction between the two words in that context.

**Mr. A. Rangaswami Iyengar :** Really !

APPOINTMENT OF LORD RONALDSHAY AS CHAIRMAN AND SIR MALCOLM HAILEY, AS A MEMBER OF THE STATUTORY COMMISSION ON REFORMS.

116. \***Diwan Chaman Lall :** (a) Is it a fact that Lord Ronaldshay has been offered the chairmanship of the Statutory Reforms Commission ?

(b) Is it a fact that His Excellency Sir Malcolm Hailey has been offered a seat on that Commission ?

**The Honourable Mr. J. Crerar :** (a) and (b). Government have no information.

PRESIDENTS OF CANTONMENT BOARDS.

117. \***Pandit Thakur Das Bhargava :** (a) Are Government aware that an Officer Commanding a station begins to discharge the duties of the President of the Cantonment Board of that station immediately or his assumption of the command ?

(b) Are Government aware that under section 18 of the Cantonment Act no member of the Cantonment Board can take his seat as such member unless he has taken the oath prescribed in that section ?

(c) Is it a fact that the oath in question is to be taken at a meeting of the Cantonment Board, and that in many Cantonments in the past, the Officer Commanding the station has commenced working as the President of the Cantonment Board without taking the oath in question ?

(d) Are Government prepared to consider the question of issuing instructions that the Vice-President of the Cantonment Board may discharge the functions of the President till the Officer Commanding the station has taken the oath at a meeting of the Board ?

**Mr. G. M. Young :** (a) and (b). Yes, Sir.

(c) Yes. Under the Act the President is bound to take the oath before he can preside at a meeting, but he can enter upon any of his other duties as soon as he becomes President.

(d) The question does not arise.

#### GRANT OF DEFINITE POWERS TO THE NON-OFFICIAL VICE-PRESIDENTS OF CANTONMENT BOARDS.

118. **\*Pandit Thakur Das Bhargava :** (a) Are Government\* aware that as far back as July 1926, His Excellency the Commander-in-Chief gave a definite assurance to a deputation of the All-India Cantonments Association that early steps will be taken to give some definite powers to the non-official Vice-President of the Cantonment Board ?

(b) Is it a fact that in spite of the above assurance no step has been taken by the Government so far in the direction indicated above ?

(c) Are Government aware that the All-India Cantonments Association has since repeatedly pressed this point on the attention of the Secretary, Army Department, Government of India, who has informed the Association that he will soon bring the amending Bill to the Cantonment Act before the Legislature, to make a statutory provision for the powers of the non-official Vice-President ?

(d) Are Government aware that the people of the Cantonments are anxiously waiting for this much-needed reform ?

(e) Do Government propose to bring the amending Bill in the Simla Session of the Assembly ?

**Mr. G. M. Young :** (a) and (c). The facts are substantially as stated by the Honourable Member.

(b) and (d). The answer is in the negative.

(e) A Bill is under preparation and will be introduced, if possible, during the current Session.

#### AGENDA OF BUSINESS OF CANTONMENT BOARDS.

119. **\*Pandit Thakur Das Bhargava :** (a) Are Government aware that in Ambala Cantonment and also in some other cantonments, the Executive Officer discusses the agenda of a meeting of the Cantonment Board with the President before the date of the meeting ?

(b) Is it a fact that as a result of this discussion, resolutions are framed about each item of the agenda and brought in the meeting in a cut and dried form for the acceptance of the Board ?

(c) Is it a fact that the President and the Executive Officer being invariably in possession of official votes, use these votes for getting these resolutions either accepted by the non-official members or passed by the official majority ?

(d) Are Government aware that the result of this procedure has been to throttle free discussion of the agenda in the meeting and to render the non-official voice absolutely ineffective ?

(e) Are Government prepared to stop this practice and direct that discussions about the items of the agenda of a meeting should be arrived at after the same have been discussed in the meeting of the Cantonment Board ?

**Mr. G. M. Young :** With your permission, Sir, I will answer this question as a whole. Government have no precise information, but it is clearly desirable that the Executive Officer who prepares the agenda should submit it for scrutiny and discussion, if necessary to the President, and if the latter chooses to prepare draft resolutions before the meeting, there is no objection to his doing so. Government are aware that there is an official majority on elective Cantonment Boards.

#### REST-HOUSE AT MANDAPAM ON THE SOUTH INDIAN RAILWAY.

120. **\*Mr. M. S. Sessa Ayyangar :** (a) Has the attention of the Government been drawn to a letter regarding the Mandapam rest-house on the South Indian Railway, that appeared in the *Hindu* dated 28th May 1927 by Mr. Watrap S. Subramanya Iyer, High Court, Vakil, Madras, under the heading "Indian visitors and Mandapam rest-house" ?

(b) Have Government taken any action in the matter ?

#### RESERVATION OF THE REST-HOUSE AT MANDAPAM ON THE SOUTH INDIAN RAILWAY FOR EUROPEANS AND AMERICANS.

121. **\*Mr. M. S. Sessa Ayyangar :** (a) Will the Government be pleased to state if it is a fact that the rest-house at Mandapam (South Indian Railway), a health resort, is exclusively intended for Europeans and Americans ?

(b) If so, what is the justification for this racial discrimination ?

(c) If not, are Government prepared to direct the South Indian Railway to delete Rule No. 71 from the current Time-table and Guide ?

**Mr. A. A. L. Parsons :** I propose, with your permission, Sir, to answer questions Nos. 120 and 121 together.

The Honourable Member's question first drew the attention of Government to this complaint, and they have made enquiries on the subject from the Agent of the South Indian Railway. According to rule 71 of the South Indian Time Table and Guide the use of the rest house accommodation at Mandapam was restricted to Europeans and Americans, but a separate rest-house with similar accommodation has now been provided at Mandapam for Indians, and rule 71 of the South Indian Railway Time Table and Guide is being amended.

**Mr. A. Rangaswami Iyengar :** May I ask, Sir, whether the rest-house that has been separately provided for Indians is of the same standard as the rest-house provided for Europeans and Americans ?

**Mr. A. A. L. Parsons :** I understand so. The information I have given has been supplied by the South Indian Railway, and I think the words that I used namely, " similar accommodation " were taken from their letter.

#### INCOME OF THE IMPERIAL X-RAY INSTITUTE AT DEHRA DUN FOR THE YEARS 1920 TO 1926.

122. **\*Mr. Mukhtar Singh :** (a) Will the Government be pleased to inform the Assembly, how much was the income derived by the Government from the Imperial X-Ray Institute, Dehra Dun, during the years 1920, 1921, 1922, 1923, 1924, 1925 and 1926 ?

(b) And also the number of cases treated by the Institute during the years above named ?

**Mr. G. S. Bajpai :** (a) Information is being collected.

(b) A statement giving the information required has been placed in the Library of the House.

#### EXPENDITURE ON THE IMPERIAL X-RAY INSTITUTE AT DEHRA DUN FOR THE YEARS 1920 TO 1926.

123. **\*Mr. Mukhtar Singh :** Will the Government be pleased to state the amount of recurring expenditure per annum on the X-Ray Institute, Dehra Dun, from the year 1920 to 1926, both years inclusive ?

**Mr. G. S. Bajpai :** A statement giving the information required has been placed in the library.

#### PRIVATE PRACTICE ALLOWED TO OFFICERS OF THE IMPERIAL X-RAY INSTITUTE AT DEHRA DUN.

124. **\*Mr. Mukhtar Singh :** Is it a fact that officers employed in the X-Ray, Dehra Dun Institute are allowed private practice ? If the answer be in the affirmative, will the Government be pleased to state the salaries of the officers who are allowed private practice ?

**Mr. G. S. Bajpai :** The medical members of the staff are allowed private practice in X-Ray work, subject to the condition that half the fees recovered from private patients treated with the aid of Government apparatus, material or staff, are credited to Government. The salaries of the medical staff are :

Superintendent	.. Rs. 1,350	plus £30	Overseas pay,
			per mensem.
Assistant Surgeon	.. Rs. 575		per mensem.
Sub-Assistant Surgeon	.. Rs. 175		per mensem.

#### USE BY OFFICERS OF THE IMPERIAL X-RAY INSTITUTE OF GOVERNMENT APPARATUS AND MACHINERY IN THEIR PRIVATE PRACTICE.

125. **\*Mr. Mukhtar Singh :** (a) Have Government permitted the officers employed in the X-Ray Institute, Dehra Dun, to make use of the Government apparatus, and X-Ray machinery for private practice ?

(b) If the answer be in the affirmative, will the Government be pleased to state how the above practice affects the income derived from the Institute ?

**Mr. G. S. Bajpai :** (a) The Honourable Member's attention is invited to the answer given to the first part of his last question. Government apparatus can be used for such practice at the institute provided that half the fees are credited to Government.

(b) Government get one half of the fees and the medical staff divide the rest among themselves. A statement showing the income derived by Government from this source for the years 1922-1926 has been placed in the Library of the House.

**LEAVE ALLOWED TO MEMBERS OF THE INDIAN STAFF OF THE IMPERIAL X-RAY INSTITUTE AT DEHRA DUN.**

126. **\*Mr. Mukhtar Singh :** (a) Will the Government be pleased to state the number of days for which members of the Indian staff of the X-Ray Institute, Dehra Dun, were allowed to take leave during the year ?

(b) Will the Government also state the number of holidays that are allowed to the servants and staff of the Institute ?

(c) Is it a fact that holidays are not allowed in the Institute to the Indian staff and servants even on gazetted holidays ?

(d) Are Government aware that the Indian staff is put to considerable hardship on account of the above stated fact ?

(e) Will the Government be pleased to state the number of days for which holidays used to be allowed to the Indian staff during the years 1923, 1924, 1925 and 1926 ?

(f) What is the number of days for which casual and privilege leave are allowed to the staff during the last four years ?

(g) Has it come to the knowledge of the Government that at the present time no privilege leave or casual leave is allowed to the staff even on medical certificate, thus entailing a great hardship on the Indian staff ?

**Mr. G. S. Bajpai :** (a) The Honourable Member has not specified the year, but a statement giving the information asked for the years 1926 and 1927 has been placed in the Library of the House.

(b) The staff are usually allowed the provincial and local gazetted holidays, a list of which has been placed in the Library.

(c) No. When pressure of work has made it necessary, Hindu members of the staff have been asked to work on Muhammadan holidays and *vice versa* ; but such occasions have been few.

(d) No.

(e) All gazetted holidays besides Sundays and Saturday afternoons were allowed.

(f) Up to 1925 casual leave as required and privilege leave, averaging about one month per person, were allowed to each person. In 1926 the practice of giving privilege leave was stopped owing to the number of holidays enjoyed by the staff. Orders have been issued directing the

Superintendent to grant privilege leave or leave on average pay as it is called, in accordance with the ordinary rules.

(g) Government understand that casual or privilege leave to sick-members of the staff has not been refused, except in one case, in which it was considered that the person who had applied for sick leave was not really sick.

**Mr. Mukhtar Singh :** Are the European members also not allowed the gazetted holidays ?

**Mr. G. S. Bajpai :** They are allowed gazetted holidays and so are the Indian members.

**Pandit Hirday Nath Kunzru :** The point is whether the European staff has been asked to work on gazetted holidays just as the Indian servants have been asked to work.

**Mr. G. S. Bajpai :** The Indian staff could not possibly have been asked to work at the Institute during the gazetted holidays if the European had not been there, because the Superintendent happens to be a European.

**Pandit Hirday Nath Kunzru :** The question is whether the European staff was asked to do work when the Indian staff was required to be on duty.

**Mr. G. S. Bajpai :** I shall invite the Honourable Member's attention to the actual composition of the staff which is given in the answer which I am going to give to the next question. The Superintendent and the Electrician are the only European members of the staff. There are no other Europeans on the staff.

#### NUMBER OF EMPLOYEES OF THE X-RAY INSTITUTE AT DEHRA DUN DRAWING MORE THAN RS. 200 A MONTH.

127. **\*Mr. Mukhtar Singh :** Will the Government be pleased to state (a) the number of employees drawing more than Rs. 200 a month in the Dehra X-Ray Institute ? (b) How many of them are Hindus, Muhammadans, Anglo-Indians and Europeans and how much salary each of them draws ?

**Mr. G. S. Bajpai :** A statement giving the information required has been placed in the Library of the House.

#### TRAINING OF INDIANS IN THE USE OF X-RAY MACHINERY.

128. **\*Mr. Mukhtar Singh :** (a) Are there any facilities provided for Indians to learn the use of X-Ray machinery ? If so, will the Government be pleased to state the arrangement made for such instruction and how many Indians undergo the training provided in the Institute ?

(b) Are the medical students in the Medical College, Lucknow, taught the use of the apparatus and machinery provided at the X-Ray Institute, Dehra Dun, and are they qualified to work as officers in the said Institute ?

**Mr. G. S. Bajpai :** (a) Yes. Two courses of instruction lasting two months each are given every year. To each course 40 candidates are admitted. 22 of these are military medical officers. The remaining seats

are primarily reserved for civilian officers nominated by Local Governments. If these latter are not filled, private medical practitioners, holding medical qualifications registrable in India, are admitted on payment by each student of a fee of Rs. 150 for a course. The class held from 15th September to 15th November 1926 was attended by 21 Indians ; the class held early this year by 24.

(b) The exact meaning of the Honourable Member's question is not quite clear. But if he wishes to know whether medical students of the Lucknow Medical College receive X-Ray instruction at the Institute as part of their course, the answer is in the negative. Nor are such students employed on the staff of the Institute *qua* students. As to whether they would be eligible to serve on the staff would depend on their qualifications.

**DIVISION OF THE STAFF OF THE X-RAY INSTITUTE AT DEHRA DUN INTO INDIAN AND NON-INDIAN.**

129. \*Mr. Mukhtar Singh : Are the officers in the X-Ray Institute divided into Indian and non-Indian staff ? If so, will the Government be pleased to state the reason for such distinction ?

Mr. G. S. Bajpai : The reply is in the negative.

**SCALE OF FEES CHARGED AT THE X-RAY INSTITUTE AT DEHRA DUN.**

130. \*Mr. Mukhtar Singh : (a) Will the Government be pleased to state the scale of fee prescribed to be charged from the patients who want to make use of the apparatus and machinery provided at the X-Ray Institute, Dehra Dun ?

(b) What facilities are provided to treat poor patients at this Institute and how is the poverty ascertained ?

(c) How many patients have been treated in the institute free of charge besides those who might have been officially sent there for treatment ?

(d) Is the record of every patient for whom the apparatus or machinery is used kept at the Institute ? If so, is an entry made about the patients who are under private treatment of the officials employed at the Institute ?

Mr. G. S. Bajpai : (a) Non-entitled patients who are treated in the Institute are charged fees according to the nature and extent of the X-Ray or Electro-therapeutic work required.

(b) Poor patients attending at the Institute are treated free of charge. The question of poverty is in each case investigated by the senior members of the staff.

(c) No record is kept of such patients.

(d) Records of all entitled patients only are kept in the Institute. A separate account of fees received from private patients is maintained.

**REGULATION OF THE STORAGE AND HANDLING OF EXPLOSIVES ON THE SURFACE,**

131. \*Mr. N. M. Joshi : (a) Has the attention of the Government been drawn to a statement on page 15 of the report of the Chief Inspector of Mines for 1925, that, at present, there are no rules under the Indian

Mines Act regulating the storage and handling of explosives on the surface ?

(b) Will the Government of India be pleased to state why such rules are not yet made and when they will be made ?

**The Honourable Sir Bhupendra Nath Mitra :** (a) Yes.

(b) Provision has been made in Chapter IX of the Indian Coal Mines Regulations, 1926, for the handling and storage of explosives on the surface.

#### ACCIDENT IN A MINE DUE TO NON-FENCING OF THE SURFACE.

132. \***Mr. N. M. Joshi :** With reference to an accident mentioned on page 16 of the report of the Chief Inspector of Mines for 1925, due to non-fencing of the surface, will Government be pleased to state whether the person who had violated the Local Government rule was punished, and, if so, how ?

**The Honourable Sir Bhupendra Nath Mitra :** There was not sufficient evidence to prove that before the accident occurred there was any reason to anticipate a subsidence of the surface : hence no one could be prosecuted for violating the Local Government's rules.

#### PREVENTION AND CONTROL OF UNDERGROUND FIRES IN COAL MINES.

133. \***Mr. N. M. Joshi :** (a) Has the attention of the Government of India been drawn to the paragraph on page 9 of the report of the Chief Inspector of Mines for 1925, regarding underground fires due to spontaneous combustion and showing the urgency of tackling the problem of preventing these fires ?

(b) Will the Government of India be pleased to state what steps they have taken to solve this problem ?

**The Honourable Sir Bhupendra Nath Mitra :** (a) Yes.

(b) The Indian Coal Mines Regulations, 1926, require provision to be made to the satisfaction of the Mines Inspectors to prevent an outbreak of fire in a mine or the spread of fire to a mine from an adjacent mine. The Regulations also prevent a mine from being worked within a distance of 25 or 50 feet from the boundary of an adjacent mine. As stated by the Chief Inspector of Mines in his report fires may be prevented by hydraulic stowing, but under present conditions the universal adoption of hydraulic stowing is not economically possible, and Government would not be justified in endeavouring to enforce the adoption of measures of this kind.

#### PREVENTION OF ACCIDENTS IN MINES.

134. \***Mr. N. M. Joshi :** (a) Has the attention of the Government been drawn to the statements on page 15 of the Report of the Chief Inspector of Mines for 1925, that 9 accidents resulting in ten deaths due to falls of ground and five accidents resulting in 8 deaths caused by the collapse of the sides had taken place during the period of the report and that practically all of these accidents could have been avoided ?

(b) Will Government be pleased to state why steps were not taken to avoid these accidents ?

(c) Will the Government of India be pleased to state whether those owners of mines who were responsible for the accidents were prosecuted and if not, why not ?

(d) Will Government be pleased to state what punishments were awarded to those who were guilty ?

**The Honourable Sir Bhupendra Nath Mitra :** (a) Yes.

(b) Steps are taken to prevent accidents as far as possible but the prevention of accidents requires the co-operation of miners and others and about fifty per cent. of the total avoidable accidents in 1925 were attributed to the fault of the deceased.

(c) and (d) Prosecutions were instituted wherever possible and convictions obtained. The punishments varied from a fine of Rs. 20 to Rs. 500.

**Diwan Chaman Lall :** May I ask, Sir, whether the evidence of the deceased was taken after the occurrence ? (Laughter.)

**The Honourable Sir Bhupendra Nath Mitra :** The answer is obviously in the negative.

**Mr. N. M. Joshi :** May I ask the Honourable Member whether the punishment meted out is not inadequate ?

**The Honourable Sir Bhupendra Nath Mitra :** No, Sir ; so far as we are aware the punishments were mostly adequate.

**Diwan Chaman Lall :** May I ask the Honourable Member what is the usual punishment for murder ?

**Mr. N. M. Joshi. :** May I ask, Sir, whether the Government of India have considered the question of punishment inasmuch as a fine of Rs. 20 to Rs. 500 cannot be held to be sufficient punishment for a crime which involves the death of several persons ?

**The Honourable Sir Bhupendra Nath Mitra :** Sir, that is a hypothetical question and involves an element of opinion.

**Diwan Chaman Lall :** May I ask the Honourable Member whether he considers that the life of an Indian miner is worth about Rs. 500 ?

**Mr. N. M. Joshi :** May I tell the Honourable Member, Sir, that my question is not a hypothetical question ? I ask Government whether they consider the punishment adequate in view of the fact that the punishment consisted only of fines varying from Rs. 20 to Rs. 500 for accidents in which the lives of several persons were involved.

**The Honourable Sir Bhupendra Nath Mitra :** The punishments are given under an Act of the Legislature and by people who are authorised to administer the Act. I am sorry, Sir, I am unable here to admit the correctness of my Honourable friend's allegation that these punishments are not adequate.

**Mr. K. Ahmed :** Are not the Government supposed to safeguard the interests of labourers and miners ? Have Government no liability whatever in the matter to the people of this country ?

**USE OF SAFETY LAMPS IN MINES.**

135. \*Mr. N. M. Joshi : (a) Has the attention of Government been drawn to a statement on page 15 of the Report of the Chief Inspector of Mines for 1925, that an explosion causing the death of one person had taken place in a mine due to an ignition of fire-damp caused by an open light ?

(b) Will the Government of India be pleased to state whether they provide by rules under the Indian Mines Act that only safety lamps should be used in such mines ? If not, why not ?

**The Honourable Sir Bhupendra Nath Mitra :** (a) Yes.

(b) The Indian Coal Mines Regulations, 1926, require the use of locked safety lamps in a mine where inflammable gas is found or is likely to be found or where gas was found during the previous twelve months. In the mine in which the accident in question occurred gas had not previously been found.

**PROHIBITION OF THE USE OF OTHER THAN " PERMITTED EXPLOSIVES " IN COAL MINES.**

136. \*Mr. N. M. Joshi : (a) Has the attention of the Government been drawn to a statement on page 10 of the report of the Chief Inspector of Mines for 1925, that the use of " permitted explosives " is safer ?

(b) Will the Government be pleased to state whether they will take steps to prohibit the use of other explosives in coal mines in securing greater safety to human life ?

**The Honourable Sir Bhupendra Nath Mitra :** (a) Yes.

(b) Under the Indian Coal Mines Regulations of 1926 " permitted explosives " must be used in mines in which inflammable gas has, within the previous twelve months, been reported to be present.

**PREVENTION AND CONTROL OF UNDERGROUND FIRES IN COAL MINES.**

137. \*Mr. N. M. Joshi : (a) Has the attention of the Government been drawn to the following sentence in the report of the Chief Inspector of Mines for 1925, page 9 :

" There is no doubt but that the problem of the prevention and control of underground fires in coal mines is one of the most pressing of the technical difficulties facing colliery owners."

(b) Will the Government be pleased to state what steps they have taken to prevent and control underground fires in coal mines ?

**The Honourable Sir Bhupendra Nath Mitra :** This question seems to be substantially a repetition of question No. 133 which I have already answered.

**EMPLOYMENT OF APPROVED TYPES OF COAL-CUTTING MACHINES IN MINES.**

138. \*Mr. N. M. Joshi : (a) Has the attention of Government been drawn to a sentence in the report of the Chief Inspector of Mines for 1925, page 10, referring to one type of a coal-cutting machine having been found defective ?

(b) Will the Government be pleased to state what steps they have taken to get the types of machines to be used first approved by the Chief Inspector of Mines ?

**The Honourable Sir Bhupendra Nath Mitra :** (a) Yes.

(b) Owing to the large number of designs of coal-cutting machines in use it is not considered desirable to require that every type of machine shall be approved by the Chief Inspector of Mines before it is employed in mines. The designs of the machines in use in India are in general satisfactory, and defects brought to the notice of managers by the Mine Inspectors are speedily remedied. Bye-laws are being made under section 32 of the Indian Mines Act for the guidance of operators of coal-cutting machinery and there were no fatal accidents due to coal-cutting machinery in 1926.

**FIRING BY CERTAIN EUROPEAN AND ANGLO-INDIAN EMPLOYEES OF THE BURMA OIL COMPANY ON INDIAN WORKERS IN MADRAS IN MAY 1927.**

139. \***Mr. N. M. Joshi :** Will the Government of India be pleased to state :

- (a) the circumstances under which certain European and Anglo-Indian employees of the Burma Oil Company had fired on the Indian workers at Madras in May 1927 ?
- (b) whether any enquiry by a Government officer was made into these circumstances and what is the result of the enquiry ?
- (c) under what law these Europeans and Anglo-Indians were permitted to shoot at Indian workers ?

**The Honourable Mr. J. Crerar :** (a) and (b). The Chief Presidency Magistrate, Madras, held an enquiry into the matter and directed the prosecution of certain employees of the Burma Oil Company, who were alleged to have taken part in the firing. The Magistrate's order, which was read out in Court and has been reproduced in the Press, gave an account of the circumstances of the case. Government understand that the case against those who were alleged to have fired as well as the case against the strikers has been withdrawn on the initiative of the Oil Men's Union in consequence of the harmonious relations subsequently established between the employers and the employees.

(c) Presumably the defence would have been based on the provisions in the Indian Penal Code relating to the right of private defence. These provisions, as the Honourable Member is doubtless aware, apply to all communities alike.

**Mr. N. M. Joshi :** May I ask whether Government are justified in withdrawing a prosecution for a serious offence on the ground of the harmonious relations between the employers and the employees ?

**The Honourable Mr. J. Crerar :** The precise ground, I understand, on which the prosecutions were withdrawn was that the Oil Men's Union themselves desired it and that view was concurred in by the employers.

**Mr. T. C. Goswami :** Was any pressure put on the Union ?

**The Honourable Mr. J. Crerar :** There has been no suggestion of that nature.

**Diwan Chaman Lall :** May I take it to be the policy of Government that when a political murder is committed, provided the political murderers show willingness on their part, the Government will be quite willing to withdraw the prosecution ?

**The Honourable Mr. J. Orerar :** I do not think that question arises.

**Mr. N. M. Joshi :** I want to know whether Government are justified in withdrawing the prosecution in a serious offence like this ?

**The Honourable Mr. J. Orerar :** There is considerable substance in what the Honourable Member suggests and the Government of Madras took that point into careful consideration ; but in view of the desirability of not interfering once more with the relations of harmony which had been re-established they decided to permit the withdrawal of prosecutions on both sides.

#### NUMBER OF INDIANS EMPLOYED AS WIRELESS OPERATORS.

140. **\*Mr. N. M. Joshi :** (a) With reference to the answer given to my supplementary question arising out of the reply given to my question No. 719 on the 4th March 1927, will Government be pleased to state what steps they have taken to increase the number of Indians (excluding Anglo-Indians) as wireless operators ?

(b) Will Government be pleased to state whether the number of Indians (excluding Anglo-Indians) working as wireless operators has been increased from one as stated in reply to my question No. 719 given on 4th March 1927 ?

(c) If so, what is the present number of Indians (excluding Anglo-Indians) working as wireless operators ?

**The Honourable Sir Bhupendra Nath Mitra :** (a) The matter is still under consideration.

(b) The Honourable Member has misunderstood the reply which I gave to his question on the 4th March. The figure "one" related to the increase in the number of Indian operators and not to their total number. Since that date one Indian wireless operator has been promoted and one has been reverted to traffic. From July 1st, 1927, 13 additional Indians have been under training as wireless operators, in connection with an experimental scheme for working Wheatstone between Madras and Rangoon.

(c) 11, excluding the 13 under training.

#### NUMBER OF STUDENTS RECEIVING TRAINING FOR GENERAL SERVICE AND STATION SERVICE IN GOVERNMENT TELEGRAPH TRAINING CLASSES.

141. **\*Mr. N. M. Joshi :** Will Government be pleased to state the number of Government Telegraph Training Classes with the number of students receiving training for General Service and for Station Service, and stating the number of Anglo-Indian students studying for General Service and Station Service ?

**Mr. H. A. Sams :** There are no Government Telegraph Training Classes in which probationers for General Service and for Station Service are now receiving training.

**TERMINATION OF AGREEMENTS WITH ANGLO-INDIAN SCHOOLS FOR CONDUCTING TELEGRAPH TRAINING CLASSES.**

142. \*Mr. N. M. Joshi : (a) Will Government be pleased to give the names of Anglo-Indian Schools with which Government is, at present, in agreement for conducting Telegraph Training Classes ?

(b) Will Government be pleased to state when the agreements with these schools will terminate ?

**Mr. H. A. Sams :** (a) (1) St. Fidelis' High School, Mussooree.

(2) Bernes High School, Devlali.

(3) Lawrence Memorial High School, Lovedale.

(4) St. Joseph's College, Coonoor.

(b) The question of terminating the agreement is now under the consideration of the Government of India.

**PROVIDENT FUND FOR GOVERNMENT EMPLOYEES.**

143. \*Mr. N. M. Joshi : Will the Government of India be pleased to state whether the consideration of the question of establishing a Provident Fund for their employees has now been any further advanced than on 3rd February 1927 when a question on the subject was replied to by Government, and if it has advanced, to what extent ?

**The Honourable Sir Basil Blackett :** The question is being further considered in consultation with the Government Actuary but no final decision has yet been reached.

**REVISION OF THE PENSION AND LEAVE RULES OF INFERIOR SERVANTS OF THE GOVERNMENT OF INDIA.**

144. \*Mr. N. M. Joshi : (a) Will the Government of India be pleased to state whether they have finished the consideration of the question of revising the pension and leave rules for inferior servants of the Government of India ?

(b) If they have finished the consideration, will they be pleased to state the decision ?

(c) If they have not finished the consideration, will they be pleased to state whether it will be finished before the end of the year ?

(d) If not, when do they expect to come to a decision ?

**The Honourable Sir Basil Blackett :** The question is still under consideration. The Government of India are unable at present to say when the final decision will be reached.

**SELECTION OF STUDENTS FOR THE GOVERNMENT TRAINING CLASS FOR WIRELESS OPERATORS IN CALCUTTA.**

145. \*Mr. N. M. Joshi : (a) Will the Government of India be pleased to state what is the method by which students for the Government Training Class for wireless operators at Calcutta are selected ?

(b) What steps are taken to secure students from all provinces ?

**Mr. H. A. Sams :** (a) and (b). The training classes in wireless at Calcutta are primarily arranged to train officials of the Department of Posts and Telegraphs in wireless to meet departmental requirements. Volunteers are obtained from suitable grades in the Department all over India and Burma and the most suitable candidates are then selected with due regard to efficiency and economy. In addition instruction is arranged on behalf of Local Governments and other bodies on payment of certain prescribed fees when departmental requirements permit. Permission has also been granted for the admission of a very limited number of private students at reduced fees but departmental requirements have not hitherto permitted the formation of special classes for this purpose.

#### AMOUNT OF CASUAL LEAVE GRANTED TO TELEGRAPHISTS IN BOMBAY CITY.

146. **\*Mr. N. M. Joshi :** Will Government be pleased to state :

- (a) the maximum number of days for which casual leave is allowed in a year to a telegraphist in the Government Telegraph Department ;
- (b) the average number of days of casual leave actually given to telegraphists in Bombay City ?

**Mr. H. A. Sams :** (a) Twenty days.

(b) The average number of days of casual leave granted to each telegraphist in the Bombay City in the last official year is 16.

#### CASUAL LEAVE OF TELEGRAPHISTS.

147. **\*Mr. N. M. Joshi :** Will Government be pleased to state :

- (a) whether it is a fact that telegraphists in the Government Telegraph Department find it very difficult to secure casual leave ?
- (b) If so, will they be pleased to explain why it is so ?

**Mr. H. A. Sams :** (a) No.

(b) Does not arise.

#### RETRENCHMENT IN RAILWAY WORKSHOPS AND CLOSING OF COTTON TEXTILE FACTORIES AND MINES.

148. **\*Mr. N. M. Joshi :** Will Government be pleased to state :

- (a) How many employees of the various railway workshops were deprived of their employment on account of retrenchment during 1923, 1924, 1925 and 1926 ?
- (b) How many cotton textile factories were closed during the years 1925 and 1926 and the number of employees of these factories ?
- (c) How many mines in India have ceased to work during 1923, 1924, 1925 and 1926 and the total number of their employees ?

**The Honourable Sir Bhupendra Nath Mitra :** (a) As a measure of retrenchment 782 men were discharged from the Bengal-Nagpur Railway workshops in 1923 and 867 from the Assam Bengal Railway workshops in

1923, 68 in 1924 and 41 in 1925. It is possible, though not very likely, that retrenchment was also the cause of the discharge of 69 men from the South Indian Railway workshops and 20 men from the Eastern Bengal Railway workshops in 1923, but I will obtain the exact facts if the Honourable Member desires. Other discharges in the years mentioned by the Honourable Member on these and the remaining State-owned Railways, except the Madras and Southern Mahratta Railway, were not due to a policy of retrenchment but to other causes, chiefly the re-organisation of the workshops or the fact that there was not sufficient work offering. The Madras and Southern Mahratta Railway have not yet supplied information on this point but it will be communicated to the Honourable Member as soon as it is received.

(b) The Government of India understand that six cotton textile factories were closed during 1925 and 11 during 1926 in the Bombay Presidency. The number of employees affected was 3,622 and 7,100, respectively. These figures include one mill which was burnt down.

The Government of India are not in possession of similar statistics for the rest of India.

(c) I lay on the table a statement giving the number of mines governed by the Indian Mines Act which were opened and closed annually in the period 1923—1926.

Information of the number of employees who were engaged in the mines which were closed is not available. But the total number of persons employed in coal mines fell by about 12,000 between 1923 and 1926 and the total number of persons employed in other mines rose by about 37,000 in the same period.

Year.	Closed.	Opened or re-opened.	Net reduction or addition per annum.
<i>Coal Mines—</i>			
1923 .. ..	182	63	—119
1924 .. ..	102	81	—21
1925 .. ..	118	65	—53
1926 .. ..	122	48	—74
<i>Other Mines—</i>			
1923 .. ..	94	179	+85
1924 .. ..	185	405	+220
1925 .. ..	261	439	+178
1926 .. ..	847	840	—7

**FURNISHING OF STATISTICS ABOUT UNEMPLOYMENT IN INDIA TO THE INTERNATIONAL LABOUR OFFICE, ETC.**

149. \*Mr. N. M. Joshi : (a) Are Government aware that on account of their having ratified a Convention regarding unemployment passed at the International Labour Conference at Washington they have undertaken the responsibility of furnishing the statistics about unemployment in the country to the International Labour Office and to establish Public Employment Agencies ?

(b) If so, will they be pleased to state how they have discharged their responsibility in this matter ?

(c) Are Government aware that a Committee appointed by the Governing Body of the International Labour Office has made comments on the conduct of the Government of India in this matter ?

(d) If so, will they be pleased to state what the comment is ?

**The Honourable Sir Bhupendra Nath Mitra :** (a) Yes.

(b) In the manner explained to the Legislative Assembly by Sir Thomas Holland during the discussion of this Convention on 19th February 1921.

(c) and (d). The Committee commented on the position of India in respect of this Convention. It would take too long to read the whole of the Committee's observations, but I am sending a copy to the Honourable Member. After referring to the action taken in India the Committee added :

"The Committee notes that the Government of India appears to have interpreted the Convention as only involving an obligation to create employment exchanges to the extent to which circumstances may render them necessary. Nevertheless the Office might be instructed to enquire whether the development of industry in India in the last few years may not have modified somewhat the situation which led the Government of India to decide the question of the creation of employment exchanges negatively."

I may add that the Conference was informed that the Government of India would have no objection to an enquiry on the lines suggested.

#### HOURS OF WORK AND WEEKLY REST DAY OF RAILWAY EMPLOYEES.

150. \***Mr. N. M. Joshi :** (a) Are Government of India aware that in ratifying the Conventions regarding the hours of work and weekly rest day, in industrial undertakings they have undertaken the responsibility of applying the regulations in the Conventions to such branches of the railway work as shall be specified for this purpose by the competent authority ?

(b) Will Government be pleased to state which branches of the railway work are specified for this purpose ?

(c) What steps they have taken for the enforcement of the regulations ?

(d) Have the Government of India enquired from the International Labour Office or from their own legal advisers whether their responsibility can be entirely fulfilled without passing legislation on the subject ?

**The Honourable Sir George Rainy :** (a) Yes.

(b) and (c). For the purposes of the Convention relating to hours of work, the Government of India have specified, first, work performed by workshop staff except running and maintenance staff of power houses, maintenance staff in shops who can be classed as millwrights, and maintenance staff on outside work who are required to work on maintenance of electric installations, distribution mains, etc., and, secondly, work performed by station staff not employed in connection with the working of trains. Orders to this effect have been issued to railway administrations.

For the purpose of the Convention relating to the weekly rest day, no branches of railway work have as yet been specified. I should explain that the whole subject is now under consideration and with a view to

reducing to a minimum the classes of staff to be excluded from the provisions of these Conventions, the Railway Board have referred the matter to the Indian Railway Conference Association both with regard to the hours of work and with regard to the weekly rest day.

(d) The Government of India are examining this question in consultation with their legal advisers.

**REGULATION BY LEGISLATION OF THE HOURS OF WORK OF RAILWAY EMPLOYEES.**

151. \*Mr. N. M. Joshi : (a) Are the Government of India aware that in Great Britain under the Regulation of the Railways Act, 1869, section 4, the Railway Companies are bound to submit statements to the Board of Trade regarding the persons in the employment of the Company whose duty involves the safety of trains or passengers and who are employed for more than such number of hours as may be from time to time fixed by the Board ?

(b) Are the Government of India also aware that under Railway Regulation Act, 1893, section 1, the Board of Trade has a right to regulate the hours of work of railway employees ?

(c) Are the Government of India prepared to consider the desirability and practicability of regulating by legislation the hours of work of railway employees both in the interest of the travelling public and of the employees themselves ? If not, why not ?

**The Honourable Sir George Rainy :** (a) Yes.

(b) Yes, through the Railway and Canal Commission.

(c) I do not think Government can at present contemplate legislation beyond what may be found necessary to carry out any obligation involved by the ratification of certain international Conventions.

**(1) MINIMUM AGE OF EMPLOYMENT AS STOKERS AND TRIMMERS, ETC.**

**(2) COMPULSORY MEDICAL EXAMINATION OF CHILDREN EMPLOYED AT SEA.**

152. \*Mr. N. M. Joshi : (a) Are the Government of India aware that they have ratified Conventions of the International Labour Conference fixing the minimum age of employment as trimmers and stokers and for the compulsory medical examination of children employed at sea ?

(b) Will they be pleased to state what steps they have taken to enforce the regulations of the Convention and when they propose to introduce legislation for the purpose ?

(c) Will the Government of India be pleased to state when these Conventions were passed and when they were ratified and why there is delay in giving legislative effect to the regulations ?

**The Honourable Sir George Rainy :** (a) Yes.

(b) Executive instructions have been issued by Local Governments to give effect to the provisions of both of these Conventions pending legislation in the matter which will be taken up when the Indian Merchant Shipping Act is next amended.

(c) These Conventions were adopted by the Third International Labour Conference convened in October 1921 and the ratifications of the Government of India were registered with the Secretariat of the League of Nations on November 20th, 1922. As already stated the necessary legislation will be undertaken when the Indian Merchant Shipping Act is next amended.

**Mr. N. M. Joshi :** May I ask, Sir, when the Indian Merchant Shipping Act is going to be amended ?

**The Honourable Sir George Rainy :** I cannot give an absolute pledge, Mr. President, but there are certain amendments which we should like to put through in the cold weather Session, and, if we find it possible to do so, then the amendments referred to in the answer to this question will also be made.

#### RULES REGARDING RECRUITMENT TO THE INDIAN POSTAL AND TELEGRAPH DEPARTMENT.

153. **\*Mr. Anwar-ul-Azim :** Will the Government be pleased to state when the rules regarding recruitment to the Post and Telegraph Department as promised by the Member in charge of that Department during the last Delhi Session are likely to be out ?

**The Honourable Sir Bhupendra Nath Mitra :** The matter is under the consideration of Government.

#### INADEQUATE REPRESENTATION OF MUSSALMANS IN THE INDIAN POSTAL AND TELEGRAPH DEPARTMENT.

154. **\*Mr. Anwar-ul-Azim :** (a) Are the Government aware of the fact that Mussalmans are very ill represented in the Post and Telegraph Department ? If so, what steps if any are the Government contemplating to take in the matter ?

(b) Do the Government propose to issue orders to make recruitment according to the numerical strength of each community in each Postal Division ?

(c) Do the Government propose to issue orders to reserve the first few vacancies in each Division for the Mussalmans so that the community may get a part of its due share in the Department ?

**The Honourable Sir Bhupendra Nath Mitra :** (a) The number of Mussalmans employed in the Indian Posts and Telegraphs Department represents about 20 per cent. of the staff.

(b) No.

(c) No. The Director General has, however, been instructed to issue general orders in accordance with the policy adopted by the Government of India on the subject of the representation of minority communities in the various services.

**Mr. K. Ahmed :** Is it not a fact that the Honourable Member has repeatedly promised in this House since 1924 and 1925, and when he came into the Assembly, that he is going to give effect to the statement in the declaration of Lord Reading and that he has not satisfied the Assembly hitherto that he has given appointments to Muhammadans up to the percentage mentioned in that declaration ?

**The Honourable Sir Bhupendra Nath Mitra :** I do not understand the Honourable Member's question. I cannot find anything in the reply which I have already read out that Government are not acting up to the declarations of policy which they have made.

**Mr. K. Ahmed :** In view of the fact that the Honourable Member himself, reading an answer written out by his assistants probably in the Department, besides what he had promised previously, now says that only 19 per cent. of the appointments have been given to Muhammadans and not the adequate percentage mentioned in Lord Reading's declaration....

**The Honourable Sir Bhupendra Nath Mitra :** I regret, Sir, that it is not possible for me to instill intelligence into my Honourable friend over there. What I said was this : The number of Mussalmans employed in the Posts and Telegraphs Department represents about 20 per cent. of the staff. That does not mean that the recruitment of Mussalmans in the last two or three years has amounted to 20 per cent. of the vacancies. Moreover, the Honourable Member forgets that the 33 per cent. refers to all minority communities and not to Mussalmans only.

**Sir Hari Singh Gour :** Sir, I rise to a point of order. Is the Honourable Member in order in stating that he is not in a position to instill intelligence into an Honourable Member ?

**Mr. President :** That was merely by way of retort to the Honourable Member's own insinuation that the Honourable Member was reading the notes made by his clerk.

**INFORMATION RELATING TO THE SILCHAR HEAD POST OFFICE AND THE SILCHAR HEAD RECORD OFFICE.**

155. **\*Mr. Anwar-ul-Azim :** 1. Will the Government be pleased to lay on the table the following information regarding (i) Silchar Head Post Office and (ii) Silchar Head Record Office, separately ?

(a) What are the grades of the Postmaster, Silchar and Head Record Clerk, Silchar ?

(b) What is the monthly average cash handled at Silchar Head Office and Silchar Head Record Office, separately ?

(c) How many direct subordinates are under the Postmasters, Silchar, and Head Record Clerk, Silchar ?

(d) What are the monthly average amounts of receipt and payment of the cash account of the Silchar Head Office and Silchar Head Record Office for which the Postmaster and Head Record Clerk are responsible ?

(e) What are the number and insured value of insured articles dealt with in the Silchar Head Office during 1926-27 ?

(f) What are the number and value of V. P. articles dealt with at the Silchar Head Office during 1926-27 ?

(g) Does the Head Record Office deal with any valuable except the work papers ?

(h) Is the Head Record Office required to deal with the public ?

2. What is the reason for fixing the pay of the Head Record Clerk at a higher figure than that of the Head Postmaster, Silchar ? Do Government propose to consider the question of removing this difference. f...

**The Honourable Sir Bhupendra Nath Mitra :** (1) A statement containing the information asked for under heads (a) to (h) of the Honourable Member's question is laid on the table.

(2) A Head Record Clerk of the Railway Mail Service has heavy responsibilities other than those of a monetary nature. The reply on the second point is in the negative.

Office.	(a) Scale of pay of official in charge.	(b) Average monthly amount of cash handled.	(c) No. of officials directly subordinate to officials referred to under (e).	(d) Average monthly amount of receipts and payments.	(e) No. and value of insured articles for 1926-27.	(f) No. and value of V. P. articles for 1926-27.	(g) Whether Head Record office deals with any valuations.	(h) Whether Head Record office deals with public.
Silchar Head Post Office.	*175—10—225	4,16,580	34	4,16,580	Number 11,940 Value Rs. 11,21,787	Number 22,614 Value Rs. 6,20,241	..	..
Silchar Head Record Office, R. M. S.	*145—5—175—10—225	4,470	55	20,612	..	..	No.	No.

\* With effect from the 1st September 1927, the existing grades of Rs. 145—5—170 and Rs. 175—10—225 for non-gazetted Postmasters and other officials in post offices will be replaced by a single grade of Rs. 160—10—250, which will also be substituted for the existing grade of Rs. 145—5—175—10—225 for Head Record clerks, Head Sorters, Accountants, etc., in the R. M. S. and for the existing grade of Rs. 100—5—175 for Inspectors of Post Offices and of the R. M. S. It is, however, under contemplation to have a grade of Rs. 250—20—350 for Head Record clerks (of whom there are 19 in all), as there is already for non-gazetted Postmasters, etc.

#### GRIEVANCES OF POSTMASTERS.

156. \***Mr. Anwar-ul-Asim :** (a) Would the Government lay on the table the result of the examination of the grievances of Postmasters in detail as represented by Sjt. Chandradhar Barooah, late Honourable Member of the Council of State, in September, 1925 ?

(b) Why could not the recommendation of Sjt. Chandradhar Barooah be accepted ?

**The Honourable Sir Bhupendra Nath Mitra :** (a) and (b) A detailed statement containing the desired information is being furnished to the Honourable Member.

PAY OF POSTMASTERS.

157. \***Mr. Anwar-ul-Asim** : Are the Government aware of the fact that the responsibility of Postmasters in respect of money, valuables dealing with the public and accounts is unique in the Department ? If so, on what ground has their scale been fixed lower than the Head Record Clerks and equal to the Inspectors of Post Offices ?

**The Honourable Sir Bhupendra Nath Mitra** : Government are aware that Postmasters have considerable monetary responsibilities and due allowance was made for this fact in fixing their pay. Monetary responsibilities are not, however, the only criterion for fixing an official's pay. The responsibilities of all kinds of a Postmaster in charge of one of the smaller head offices are not considered on the whole to be greater than those of an Inspector of Post Offices and are definitely less than those of a Head Record Clerk in the Railway Mail Service. With effect from the 1st September, 1927, no Head Postmaster will be on a lower scale of pay than Rs. 160—10—250 which will also be the scale of pay sanctioned for Inspectors of Post Offices.

PROMOTION OF POSTMASTERS AND INSPECTORS TO THE 2ND SELECTION GRADE.

158. \***Mr. Anwar-ul-Asim** : How do the Government propose to regularise the promotion of Postmasters and Inspectors to the 2nd selection grade ?

**Mr. H. A. Sams** : Promotion is at present regulated according to the method prescribed in the Director-General's letter No. A.X.-127, dated the 2nd December, 1922, a copy of which is laid on the table.

*Copy of a letter No. A.X.-127, dated the 2nd December, 1922, from the Director-General of Posts and Telegraphs, to all Postmasters-General, and the Deputy Postmaster-General, Sind and Baluchistan.*

PROMOTION OF INSPECTORS AND HEAD CLERKS TO SUPERINTENDENTS OF POST OFFICES TO THE SELECTION GRADES.

\* With reference to your reply to this office letter No. A.X.-127, dated the 21st April, 1922.

† With reference to the correspondence ending with your letter No. A.-29, dated 23rd September, 1922.

‡ With reference to your letter No. A.D.-1150, dated the 28th September, 1922.

I am directed to say that the Director-General considers that a definite method should be prescribed on the subject of promotion of Inspectors of post offices and Head Clerks to Superintendents of post offices in the time-scale of Rs. 100—5—175 to the selection grades. He has accordingly decided that with effect from the 1st December, 1922, the following revised orders should be acted upon in supersession of all previous orders issued on the subject :

- (i) In the event of an Inspector or Head Clerk to a Superintendent being reverted or voluntarily reverting to the general line, he will be given the position in that cadre that he would have held if he had never been appointed to the rank of Inspector. For this purpose Postmasters-General should keep a note of the proper position of each Inspector in the general line. It will not be necessary to publish this information in Circle gradation lists.

\* To all except P. M. G., By. and D. P. M. G., S. B.

† To P. M. G., By. only.

‡ To D. P. M. G., S. and B.

(iv) Inspectors and Head Clerks to Superintendents are eligible for promotion to the second selection grade of Rs. 175—10—225 along with officials in the general line according to their seniority to be determined in the following manner :

- (a) Inspectors and Head Clerks to Superintendents who attained this position *before the introduction of the revised scales of pay* will be ranked with the officials in the general line according to the dates of entry into their respective grades of Rs. 100—5—175 and Rs. 145—5—170. If the dates happen to be the same, seniority should be reckoned by the position held prior to the entry into these grades.
- (b) Inspectors and Head Clerks to Superintendents who attained this position *after the introduction of the revised scales of pay* will be ranked with the officials in the general line according to the date on which they reach the Rs. 145 stage of pay in their own respective cadres.

\* 2. This also disposes of your letter No. A.T.-2060, dated the 30th October, 1922.

#### PURCHASE OF STORES BY THE EAST INDIAN RAILWAY.

159. \*Mr. K. C. Neogy : (a) Has the attention of Government been drawn to a letter published in the *Forward* of Calcutta dated June. 25 (Town edition), under the heading of " Government and Railway Supplies ", in which Mr. Baijnath Bhotika of 63, Bartola Street, Calcutta, gives specific instances in which higher tenders of European firms for paint have been accepted by the authorities of the East Indian Railway in preference to Indian firms who quoted 50 to 75 per cent. less ?

(b) If so, will Government be pleased to state the reasons for such action ?

(c) Is there any truth in the observation made in the said letter that " Indian manufacturers get very few contracts from the East Indian Railway for the supply of goods and materials, even in the face of cheaper competitive prices " ?

(d) To what extent does the East Indian Railway make use of the Indian Stores Department in the matter of its purchases ?

Mr. A. A. L. Parsons : (a) Yes.

(b) I have obtained particulars of the cases mentioned by Mr. Baijnath Bhotika in his letter. The Tender Committee of the East Indian Railway rejected the lowest tender for lamp black, Prussian blue, ultra-marine blue, Venetian red and bath enamel green, because the firm tendering was not on the list of the Indian Stores Department as a supplier of paints, and in accordance with the recognised procedure their tender was in consequence not considered. The tenders of another firm, which were lower than those accepted, were also rejected because it had been recently found necessary to reject supplies from this firm. The lowest tender for white lead was also rejected because the firm was not known to the East Indian Railway Administration or to the Controller of Purchase of the Indian Stores Department.

(c) No. A very large number of contracts for almost all classes of supplies are placed by the East Indian Railway Administration with Indian firms. The East Indian Railway Administration is in no way interested in the nationality of the tendering firms, but merely in the prices quoted and in the suitability and reliability, as regards quality, of supplies offered

\* To P. M. G. only.

(d) The East Indian Railway entrust the Indian Stores Department with practically the whole of their purchases of cement, clothing, textiles such as paulins, cotton waste, cop bottoms and a large portion of their oil requirements. These purchases represent in the aggregate very large sums—over Rs. 34 lakhs in 1926-27.

†160. \*Mr. K. C. Neogy : I do not put question No. 160.

INDIA'S ANNUAL CONTRIBUTION TOWARDS THE COST OF THE IMPERIAL NAVY.

161. \*Mr. Gaya Prasad Singh : (a) Has the attention of the Government been drawn to the following Reuter's cable, dated London, 14th March, and published in the *Amrita Bazar Patrika*, dated the 17th March 1927 :

“ Earl Winterton said that the question of revising the Government of India's annual contribution of £100,000 towards the cost of the Imperial Navy would arise when the Indian Navy was in a position to perform an appreciable portion of the services in respect of which it paid the cost. The cost of the Indian Navy would be borne by the Indian revenues, but the total cost was not estimated to exceed the present cost of the Royal Indian Marine by more than relatively a small amount ” ?

(b) Are Indians eligible for appointment in the Imperial Navy ; and, if so, how many Indians are so employed ? If not, will the Government give reasons for giving a contribution out of Indian revenues ?

Mr. G. M. Young : (a) Government have seen the message.

(b) Indians are not eligible for appointment to the commissioned ranks of the Royal Navy. They are, however, eligible for employment on the East Indies stations as domestic and clerical ratings ; the Government of India are not aware of the number of Indians so employed. The annual contribution of £100,000 is made in consideration of the general and effective defence of Indian shores and the protection of Indian trade by the Royal Navy.

Mr. Gaya Prasad Singh : May I know, Sir, why Indians are not eligible for appointment in the commissioned ranks of the Royal Navy ?

Mr. G. M. Young : The Royal Navy, Sir, is a British force. Indians are not eligible for appointment to commissioned ranks in the Royal Navy any more than in the Royal Air Force or the British Army.

Mr. Gaya Prasad Singh : May I know, Sir, the reason why India is made to contribute towards the Royal Navy when her children are excluded from its commissioned ranks ?

Mr. G. M. Young : That question has been answered.

ENHANCED CUSTOMS DUTIES LEVIED ON INDIAN GOODS IN TURKEY.

162. \*Mr. Gaya Prasad Singh : With reference to the reply of Government to my starred question No. 1065 of the 8th March, 1926, have Government enquired as to whether Indian goods exported to Turkey have now to pay highly enhanced customs duties ? If so, will the Government be pleased to make a statement on the subject, and also indicate how far it is in agreement with the commercial convention with Turkey ?

† Not put by the Honourable Member (Mr. K. C. Neogy).

**The Honourable Sir George Rainy :** The Government of India made the enquiry and as a result of representations made by them Indian goods are now accorded the benefits of the Turkish Commercial Convention.

**IMPOSITION ON AMERICANS, RESIDENT IN INDIA, OF DISABILITIES SIMILAR TO THOSE IMPOSED UPON INDIANS IN THE UNITED STATES OF AMERICA.**

163. **\*Mr. Gaya Prasad Singh :** (a) With reference to my starred question No. 1100 of the 8th March, 1926, regarding the imposition upon Americans, resident in India, of disabilities similar to those imposed upon Indians in the United States of America, will the Government kindly state if the examination of this question has been finished, and if so, what decision has been arrived at ?

(b) How many Indians are there in the United States of America, who have been affected adversely by the Supreme Court decision, and how many Americans are resident in India ?

**Sir Denys Bray :** As far as the Government of India are aware, the number of Indians who have so far been actually affected adversely by the Supreme Court decision is about 30. As these are only a small proportion of the total number, and as a process in the Courts now appears to be required in each separate case before a certificate of naturalization can be withdrawn or cancelled—a procedure which in the natural course and in the absence of any outside stimulus seems likely to check further cancellations—the Government of India do not consider it politic to proceed further with the suggestion in (a), at any rate for the present.

**Mr. Gaya Prasad Singh :** May I know what is the national status of those Indians who have lost their citizenship in the United States of America ?

**Sir Denys Bray :** I believe that that point has not been finally decided by any court of law, but His Majesty's Government have acted executively on the supposition that they return to British citizenship.

**DEFECTIVE CONDITION OF THE ROOF OF THE LEGISLATIVE ASSEMBLY CHAMBER BUILDING IN NEW DELHI.**

164. **\*Mr. Gaya Prasad Singh :** (a) Is it a fact that the roof of the Legislative Assembly Chamber in New Delhi, from which a brick fell down while the Assembly was sitting, is under repairs ? What exactly is the defect in the roof, and what is the precise nature of the repair that is being done to it ?

(b) Is it true that even photographs of the work in progress are not permitted ? Will the Government be pleased to lay on the table the report of Mr. Brebner and other experts who examined the roof ?

(c) What is the total estimated cost of the repairs, and who is responsible for the defect ?

(d) Are Government aware that cracks have been discovered in some of the walls of the Assembly building in New Delhi ? Has the entire building been carefully examined, and what is the report of the experts on it ? Is the building reported to be absolutely safe ?

**The Honourable Sir Bhupendra Nath Mitra :** (a) The ceiling in the Assembly Chamber is not under repairs. A scaffolding has been erected in the Chamber to enable the ceiling to be carefully examined by the engineers in charge of the building. This examination has revealed the fact that there is no serious defect in the ceiling, but, as I have already explained, in reply to another question put by the Honourable Member, it is proposed to keep the ceiling under observation for some time and temporarily to fix under it wire netting.

(b) Government are not aware that the taking of photographs has been prohibited. They are not at present prepared to lay on the table the reports of the experts who have examined the building.

(c) Exact figures are not available, but the cost will be quite small.

(d) Government are aware that cracks exist in some of the walls of the Assembly building. These have been examined and reported on by experts, who assure Government that such cracks are to be expected and do not mean that the building is in any way unsafe.

**Mr. Gaya Prasad Singh :** May I know, Sir, what is the reason for Government refusing to lay a copy of the reports of those experts on the table ? What questions of high policy are involved in this ?

**The Honourable Sir Bhupendra Nath Mitra :** There are no questions of high policy involved, but the reports are being examined by Government.

**Mr. K. Ahmed :** Is there any means of recovering the cost of the repairs due to the defect in the roof from the builders or contractors ? Can Government find any ways and means to recoup the loss to the Indian revenue sustained on account of this roof not being properly built by the contractors ?

**The Honourable Sir Bhupendra Nath Mitra :** Sir, my Honourable friend's question presupposes that it is the contractor who is responsible for that accident.

**Mr. K. Ahmed :** We do not want to be addressed like a schoolmaster teaching his pupils. We all understand what the question is. What we want is an answer, if there is any.

**APPOINTMENT OF MR. TYSON, I.C.S., AS SECRETARY TO THE RIGHT HONOURABLE SRINIVASA SASTRI.**

165. \***Mr. Gaya Prasad Singh :** Will the Government kindly state if Mr. Tyson, I.C.S., was appointed Secretary to the Right Honourable Srinivasa Sastri with the latter's previous consultation and approval ?

**Mr. G. S. Bajpai :** As Mr. Sastri had left it to Government to secure a suitable Secretary for him, the names of a number of officers were considered and Mr. Tyson, who appeared to be the most suitable, was invited to Simla to meet Mr. Sastri. Mr. Sastri saw Mr. Tyson in Simla and approved of the selection. Since reaching South Africa Mr. Sastri has written about Mr. Tyson in the highest possible terms.

NUMBER OF PERSONS DETAINED UNDER REGULATION III OF 1818.

166. \*Mr. Gaya Prasad Singh : Will the Government kindly lay on the table a statement showing, Province by Province, the number of persons detained under Regulation III of 1818 ?

The Honourable Mr. J. Orerar : I have laid on the table a statement showing the number of persons detained in the jails of each Province under Regulation III of 1818.

STATEMENT.				
Madras	..	..	..	.. 2
Bombay	..	..	..	.. 1
Bengal	..	..	..	.. 1
Burma	..	..	..	.. 4
Assam	..	..	..	.. 1

ACCUSATION MADE BY RESPONSIBLE OFFICIALS IN INDIA AGAINST MR. S. C. BOSE.

167. \*Mr. Gaya Prasad Singh : (a) Has the attention of the Government been drawn to the allegation made in the House of Commons by Mr. Pilcher, on the debate on the India Office Estimates, that :

“ Mr. S. C. Bose was the centre of the ganglion, which formed this conspiracy. The one object of the conspiracy was to assassinate the Governor of Bengal ”

and to the report that, when challenged by Mr. Saklatvala, Mr. Pilcher replied that :

“ this had been said in public in India, many times, not contradicted, by responsible officials ” ?

(b) Will Government kindly state what responsible officials in India have made this accusation in public against Mr. S. C. Bose, or any other detenu ?

(c) What steps do Government propose to take to counteract this accusation ?

The Honourable Mr. J. Orerar : I have seen the official report of Mr. Pilcher's speech, and find that it does not altogether correspond with the version given by the Honourable Member. The fact that Mr. Bose and the other detenus were placed under restraint on the ground of their participation in revolutionary conspiracy has been officially stated on several occasions. My predecessor, in February last, speaking in this Assembly on the general question of the repeal of Regulation III of 1818, mentioned that one revolutionary plot had been aimed at the life of the Governor of Bengal. I know of no public statement either here or in the Bengal Council to the effect that Mr. Bose was the centre of the conspiracy. The Government do not consider that the matter calls for any action on their part.

Mr. Satyendra Chandra Mitra : Is the Honourable Member aware that Mr. Moberly on the 24th February, 1927, in the Bengal Council said that these detentions in jail were merely preventive and that it was not for any commission of crime ?

The Honourable Mr. J. Orerar : I have not seen the passage in Mr. Moberly's speech to which the Honourable Member refers.

**Mr. K. Ahmed :** Is the Honourable Member aware that Mr. Pilcher, a Member of the House of Commons now, is the same Mr. Pilcher who represented the European community in the Legislative Assembly here and stated things which were not acceptable to this House ?

**Mr. Gaya Prasad Singh :** May I know what is the correct version of Mr. Pilcher's speech ?

**The Honourable Mr. J. Orerar :** If the Honourable Member will compare the version given in his question with the report of Mr. Pilcher's speech in Hansard, I think he will have no difficulty in seeing where the difference lies.

**Mr. T. C. Goswami :** Does the Honourable the Home Member endorse the statement of Mr. Moberly who, I understand, is Home Member in the Government of Bengal, when he said on the 24th February, 1927, " I would reiterate and emphasise that detention in jail is not resorted to in these cases " (*that is to say, cases of political prisoners*) " for any crime which a prisoner may be believed to have committed : the detention is partly preventive " ? And may I further remind the Honourable the Home Member of a statement which I made on the floor of the House in Delhi last winter, namely, that Lord Lytton had told me definitely that these detentions were of a purely preventive nature, that statement not having ever been contradicted ?

**The Honourable Mr. J. Orerar :** Before I could give any concurrence to, or express any dissent from, the views in either of these two speeches, it would be necessary for me to study them in detail and in their context, but as for the general proposition which appears to underlie the Honourable Member's question, I think it is undoubtedly the case that the measures taken in respect of detention are primarily in their object preventive.

**Mr. T. C. Goswami :** Does not the Honourable the Home Member think it desirable that when, on an important occasion like a debate in the House of Commons, the name of a man of the position of Mr. S. C. Bose,—a man for whom, whatever the Government may think, we have great respect,—is dragged into the debate, and he has been abused as having been the centre of a gang of conspirators, is it not proper that the Government should repudiate that statement ? Is it not only in the fitness of things that the Government of India should contradict Mr. Pilcher's libellous statement ?

**The Honourable Mr. J. Orerar :** In my reply to the original question I have explained as fully as it appears necessary that the Government do not consider that any action is called for.

**Mr. T. C. Goswami :** Shame !

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#### THE CRIMINAL LAW REPEALING AND AMENDING BILL—*contd.*

**Mr. President :** The House will now resume further consideration of the following motion moved by Sir Hari Singh Gour on the 15th February, 1927 :

" That the Bill to repeal and amend certain provisions of the Indian Criminal Law Amendment Act, 1908, and the Code of Criminal Procedure, 1898, be taken into consideration."

**The Honourable Mr. J. Orerar (Home Member) :** Sir, I rise to oppose this motion. I do so under the disadvantage of not having had the privilege of being present in this House when this measure was first debated. I have, however, perused the proceedings very carefully and there are two points which I wish at the outset to make. Mr. Tonkinson, during the course of the debate, I observe, pointed out certain somewhat grave imperfections in the Bill, and I observe further that no adequate reply was given to his criticisms. They were treated rather as minor matters of drafting. That point I shall have subsequently to revert to. An Honourable gentleman opposite, in the course of supporting the Bill, said that he considered it proper that Government should not base their case upon minor considerations of drafting but should oppose it, if they had a case, on its merits. Now, Sir, I think that is a very reasonable invitation and I propose now to accept it and to oppose the measure on its merits.

12 NOON.

Sir, it will be within the recollection of Honourable Members who were present at that debate that the Honourable the Mover placed very great reliance upon the Report of the Committee known as the Committee on Repressive Laws and he made two suggestions which it is necessary for me to correct. The suggestion contained in that part of the Honourable Member's speech, which appeared to be one of the main grounds on which he moved this measure, certainly the general impression which would undoubtedly be gathered from it, was that the Committee on the Repressive Laws had recommended the repeal of this Act, and that Government, who had given a general endorsement of the recommendations of the Committee, have, in so far taking no steps to repeal the Act, been guilty of something like a breach of promise. Now, Sir, I must ask the House to bear with me, because this is a very important point, when I proceed to point out that such a representation of the case is extremely inaccurate. At any rate it has a very remote and precarious contact with the facts. The truth of the matter is that the Committee expressly refrained for very good and very weighty and very deliberate reasons, from making any such recommendation as the Honourable Member suggested they had made. They not only spoke in the course of their well-considered Report with some degree of approval of the Act itself but also of the manner in which it had been applied, and as the Honourable and learned gentleman relies so much on the Report of this Committee, it is necessary for me to recall to the recollection of the House in some detail what the Committee actually had to say on this matter. Their first reference to the Act is in the following terms :

" There remain then two Acts, the Indian Criminal Law Amendment Act, 1908, and the Prevention of Seditious Meetings Act, 1911. It is around those two Acts that controversy has centred and regarding which we have been careful to obtain a full expression of opinion. These Acts also differ from those to which we have already referred in that, while the Committee was sitting, they were actually being used in the Punjab, Delhi and the United Provinces. The evidence of some of the witnesses goes to show, that their effect was beneficial and that their application was necessary to maintain public tranquillity. It is affirmed that local officers responsible for the maintenance of peace and order would, under existing conditions if these Acts were repealed, find themselves in an impossible situation faced, it might be, with disorder on a large scale which they could not prevent. The application of these Acts moreover is subject to safeguards which ensure that sanction to their introduction is only granted after careful scrutiny of the necessity for such action. The Local Governments are unanimous in asking for the retention of Seditious Meetings Act. Most of the Local Governments similarly affirm the need for retaining Part II of the Criminal Law Amendment Act, 1908."

The Committee go on to say :

" We realise also that substantial support is necessary for Government to meet the non-co-operation movement, which is the greatest obstacle to the successful development of the reforms recently introduced and to all political and industrial progress. \* \* \* Evidence has been adduced to show that in certain places the ordinary law is inadequate and this evidence we are not prepared to reject."

Later on they refer once more to the Act :

" We feel that we should not, under present conditions, be justified in advising the immediate repeal of these two Acts "

that is to say, the Seditious Meetings Act and the Act now under consideration.....

**Mr. K. Ahmed** (Rajshahi Division : Muhammadan Rural) : What happened in Ireland ?

**The Honourable Mr. J. Crerar :**

... " We may also point out that their provisions are not of a drastic character. \* \* \* Though seldom applied these two enactments have recently in the present situation been found necessary for the preservation of law and order. Further, an obvious objection to a more complete acceptance of this principle is that in allowing proof of the necessity for legislation to accumulate, even stronger measures than those now under consideration might eventually be required for the suppression of disorder."

Then, Sir, I invite special attention to the following passage which seems to me to show a remarkable foresight on the part of the signatories to this Report :

" As we have already seen, there is definite evidence of certain organisations encouraging acts of violence or resorting to intimidation. Recently in Delhi it has been necessary to declare certain Associations of Volunteers unlawful under section 16 of this Act. We have carefully examined the circumstances which led to this action. The Volunteer movement began with ' social service ', but the adherents soon developed a definite tendency to interfere with the duties of the Police and the liberty of the public. They then began to intimidate and terrorise the general body of the population. There was a tendency towards hooliganism. It has been proved that some of these Associations resorted to violence, that their behaviour at railway stations and public meetings was objectionable and rowdy, that they obstructed the funeral of an honoured citizen and held a most undesirable demonstration at the house of another. They actively interfered with the elections by threats and picketing. There was every reason to believe that their activities, if left unchecked, would lead to serious disorder. The conclusion we have arrived at is that some of these Volunteer Associations in Delhi were seditious organisations, formed for the purpose of intimidating loyal citizens, and interfering illegally with the administration of the province \* \* \* 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 India, and we cannot overlook the possibility of illegal associations promoted by them terrorising the population, and engaging in a campaign of crime and terrorism. Actually Part II of this Act has been sparingly used. 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."

Now, Sir, the Honourable Member has appealed to the authority of this Committee which he naturally, as he himself was a member of it, places very high and I agree with him, having regard to the important contents of the Report, that it deserves a very high authority. If the Honourable Member desires to have the controversies which he raises determined in the light of the views expressed by the Committee, of the recommendations they made, and in particular of the concluding and crucial sentences of their Report, I should myself be perfectly willing that the issue should be

[Mr. J. Crerar.]

tried in that manner. And the concluding sentences of that Report were as follows :

“ We advise that the repeal of Part II of the Indian Criminal Law Amendment Act, 1908, should be deferred for the present..... ”

**Mr. A. Rangaswami Iyengar** (Tanjore *cum* Trichinopoly : Non-Muhammadian Rural) : How long ago was that ? They said “ deferred ”.

**The Honourable Mr. J. Crerar :**

....“ Their retention is necessary in view of recent occurrences and possible developments, which we cannot but regard with the gravest apprehension.”

Sir, we have now to consider, with reference to that final pronouncement of the Committee, what were the “ recent occurrences and possible development ”. Before the Committee had actually framed their conclusions there occurred at Malegaon, a town in the Bombay Presidency, a very serious riot which resulted in the murder of four police officers and the burning of a Hindu temple. It has been judicially found that the proximate causes of that outbreak were the activities of local volunteer associations precisely of the kind referred to in the Committee's Report and which they prophesied might in the future be a serious danger to public security. I mention the case of Malegaon because I have myself to a certain degree responsibility in the matter. The Government of Bombay.....

**Lala Lajpat Rai** (Jullundur Division : Non-Muhammadian) : Will the Honourable Member give the date of that occurrence ?

**The Honourable Mr. J. Crerar :** That occurred on the 25th and 26th April, 1921. I mention this because I had to some extent special knowledge of the circumstances and some special responsibility in the matter. During these years, 1921 and 1922, the Government of Bombay were enabled to deal with the situation without any resort to Part II of the Criminal Law Amendment Act and I myself was consistently opposed to the use of that Act so long as conditions remained as they then were. But, in view of the judicial finding I have mentioned, it might have been alleged, and alleged perhaps with justice, that the Bombay Government were wrong. It might be alleged that if they had at an earlier stage and with greater promptitude applied this Act, those disastrous events at Malegaon could have been averted. I do not think myself that that is the case, but, at any rate, it is a reasonable attitude to take. I mention that merely to impress on the House, as the strongest instance that I can command, that the Local Governments do not resort to the provisions of this Act except under pressure of the gravest necessity.....

**Mr. K. Ahmed :** And what have they been doing since 1921 ?

**The Honourable Mr. J. Crerar :** I will continue the recital if the Honourable Member will permit. Shortly after the Committee had signed their Report, many of their prognostications were signally proved to be true, and during the months of November and December that immediately followed the signature of the Report, this Act was employed to a larger degree than it has ever been employed before or since. It was employed in respect of volunteer associations in the United Provinces, in Bengal, the Punjab, Assam, the North-West Frontier Province and Bihar and Orissa. Let me take only one out of the various instances set forth to explain

briefly the circumstances under which this Act was resorted to. In the United Provinces alone, in the early part of 1922, there were no less than 110,000 enrolled volunteers. Very extensive and very serious disturbances took place, and they culminated in the affair, that melancholy and tragic affair of Chauri Chaura.

**Mr. T. C. Goswami** (Calcutta Suburbs : Non-Muhammadan Urban) : Were they armed volunteers ?

**The Honourable Mr. J. Crerar** : The affair which took place at Chauri Chaura, I may remind the House, was an assault upon 23 police officers by a large crowd which was headed, according to the judicial decision in the matter, by several hundred volunteers. 23 police officers were done to death. On the following day there occurred a disturbance at Rae-Bareilly which unfortunately also involved blood-shed, but fortunately on not so extensive a scale. These are two most serious instances perhaps in that all deplorable time, and as I read through the records, it is really a matter of great surprise to me that the Local Government were able to pass through that critical and dangerous time without resort to more drastic expedients than the restricted and limited expedients of this Act, and it is largely because they had the Act as a weapon in their hands that it was possible for them to do so.

What followed next ? Even before the Committee had signed their Report, the first black clouds had already appeared on the horizon in Malabar, which in a few short weeks descended in the catastrophe of the Malabar rebellion. Must I remind Honourable Members of some of the occurrences in the Malabar rebellion ? Must I remind them of the fact that many prosperous and peaceful villages were destroyed, that murders of the most atrocious character were committed, and that many of those village communities were subjected in other ways to the grossest oppression and humiliation ? Must I remind them also of the retribution which fell upon the persons who were engaged in that rebellion ? The retribution which ultimately overtook them was almost as tragic as that they themselves inflicted upon their victims.

**Mr. K. Ahmed** : What about the 100 Moplah under-trial prisoners suffocated in the luggage van at Podanur station ?

**The Honourable Mr. J. Crerar** : Here it might be pertinently pointed out to me that the Malabar rebellion was indeed a very serious and a very tragic occurrence, but it is not a very apposite argument in favour of my case inasmuch as the second part of the Criminal Law Amendment Act was not employed. But the only reason was that the catastrophe was so extensive, so sudden and so widespread that much more drastic powers were necessary to enable it to be brought under control. The powers that had ultimately to be employed for that purpose comprised and went a great deal beyond anything that can possibly be extracted from the second part of the Criminal Law Amendment Act. A few months later several districts in the Punjab were terrorised by a series of murderous outrages committed by an organisation calling itself the Babar Akali Jatha. The state of affairs was so extremely serious that there were times when it appeared almost inevitable that peace and order could not be restored without resort to something in the nature of martial law. However, the Local Government held their hand and with the aid of the application of Part II of the Criminal Law Amendment Act they were eventually able to restore law and order without resort to any more drastic expedients.

[Mr. J. Crerar.]

Now, Sir, I should like to pause here and consider, on a reasonable construction of what the apprehensions the Committee themselves had expressed and of the recommendations they made—I should like to pause and speculate for one moment as to what might have been their conclusions if they could have foreseen the actual occurrences which followed so soon upon the promulgation of their Report. My own opinion is that so far from making any recommendation, even a provisional recommendation, for the repeal now or hereafter of the second part of the Criminal Law Amendment Act, they would have positively supported its permanent retention on the Statute-book.

Now, Sir, I have not unfortunately completed my recital, because very shortly after the affair of the Babar Akali Jathas a state of affairs arose in the Punjab which again necessitated resort to the Part II of the Criminal Law Amendment Act. I do not propose to go into the details of that use of the Act because matters have fortunately improved so much since in the Punjab that it would merely recall unhappy memories if I dealt with them in greater detail. I merely record the fact that the resort to the second part of the Criminal Law Amendment Act was again in that instance of the greatest value to the Local Government in restoring peace and order.

**Lala Lajpat Rai** : What year ?

**The Honourable Mr. J. Crerar** : October, 1923. Then followed the Cawnpore conspiracy case. It was judicially proved in the course of the Cawnpore conspiracy case that there existed an organisation, largely supported by inspiration and funds from abroad, for the promotion of a communist revolutionary movement in India. I am not asking the House to believe that on the assertion of any executive authority, but on the deliberate judgment of two Judges of a High Court. That was in the beginning of 1924. Later, disturbances unfortunately occurred in Burma and once more a prompt and early resort—there were very few prosecutions but a certain number of declarations—to the second part of the Criminal Law Amendment Act was again of the greatest value to the Local Government. Lastly I must refer to a case which culminated only yesterday. I refer to the Kakori conspiracy case, the trial of which has now been concluded in the Chief Court of Oudh.

**Pandit Hirday Nath Kunzru** (Agra Division : Non-Muhammadan Rural) : May I ask the Honourable Member whether it has been dealt with under the Criminal Law Amendment Act ?

**The Honourable Mr. J. Crerar** : No, Sir. That case was not dealt with under the Criminal Law Amendment Act.

**Lala Lajpat Rai** : Was the Bolshevik case tried under that Act ?

**The Honourable Mr. J. Crerar** : I have not suggested that it was. My point in referring to that case was this that the course of the judicial inquiry has undoubtedly proved the existence of one or more associations which were of a revolutionary character and that, if the prosecution in this particular case had not been successful, conditions might very well have arisen in which a resort to the second part of the Criminal Law Amendment Act would have been necessary as a preventive measure in the hands of the Local Government.

Well, Sir, I do not propose to continue the recital of this gloomy tale, nor to overload it with details, though it would be very easy for me to do so. What I wish to point out is this—that the Honourable the Mover in supporting his case to the House has singularly neglected two factors which I should have imagined ought to have been of the very greatest importance to his case. He has ignored them perhaps wisely from the point of view of his own case. He has ignored entirely the state of affairs which in the past required the application of the Act and the recurrence of which might necessitate the application of the Act in the future. Nor has he instanced a single case of the abuse of these powers. If the Honourable Member had a practical as well as an academic case against this Act, surely he would have been able, out of the considerable number of cases in which the Act has been applied, to cite some cases in which the Act has been abused. The Honourable Member did not instance one single case of the abuse of the powers under this Act.

Now, Sir, I must revert very briefly to the Bill itself. I pointed out that the criticisms which were made by Mr. Tonkinson have not been answered. An Honourable and learned gentleman from Madras proceeded on the assumption that the Honourable the Mover had been working on an old copy of the Act and that with a few slight and inconsiderable amendments the Bill would be a fit Bill to be enacted. I have no wish myself to stand upon any mere question of drafting. I must try, and I confess I do so with some considerable embarrassment in view of the actual condition of the Bill, to meet fairly what are the Honourable Member's objects and intentions. I take it that his principal motives are that the jurisdiction of the High Courts should be amplified and that the liberty of the subject should be enlarged and also that the powers of the Executive Government should be restricted. Now, Sir, as far as the amplification of the jurisdiction of the High Courts is concerned, any proposal which is conducive to the better administration of justice and to the better maintenance of the King's peace would have my warmest sympathy and I do not yield to the Honourable and learned gentleman in his solicitude for the liberty of the subject. As regards the restrictions on the powers of the Executive Government that is a matter on which we might very naturally differ. But taking the first two of these objects I am compelled to note that the Honourable Member proposes to give to the High Court an appellate power in respect of an order which cannot be passed under the Act as it stands, which could not be passed under the Act as he proposes to amend it, nor under any other Act on the Statute-book. With the best will in the world, therefore, I cannot see how, when we enact that part of the Bill, we should be doing anything likely either to amplify the jurisdiction of the High Court or to enlarge the liberties of the subject. However I pass from that point to one which has caused me even greater difficulties. The part of the Bill which is really effective is that which proposes to repeal section 15, clause (2) (b) of the Act. Now, to do so would completely eviscerate the Act. I have very carefully examined the records dealing with the use which has been made of this Act and I find that the cases in which action has been taken under section 15 (2) (a) were very rare. In at least 90 per cent. of the cases action was taken under the section which the Honourable Member proposes to repeal and for very obvious reasons. It was the simplest, it was the most convenient and in many cases the most appropriate

[Mr. J. Crerar.]

method of taking action. The effect of the Bill would be merely to make the whole Act ineffective and, personally, if I were offered the sole option between an amendment of the Act in this sense, which would really come to the Statute-book as a dusty and unintelligible piece of legislation, and a repeal of the Act, I should honestly prefer repeal.

Now, Sir, the difficulties presented by the Bill as it stands have caused me very great and, as I have said, very real embarrassment. I have seen recently stated in this House a certain doctrine with regard to the care which this House should exercise in examining the provisions of Bills which are brought before it. It is in the following terms :

“ Now, I submit, Sir, that this Legislature must be extremely careful in selecting its language and not use one word, one comma or colon, the meaning and extent of which it does not appreciate and understand ”.

That doctrine was laid down with such admirable precision and correctness by the Honourable and learned Mover in speaking on another Honourable Member's Bill, and I should certainly be glad to invite the House to join me and the Honourable the learned Mover in applying that doctrine to the present Bill. However, Sir, I have no desire to rely for a moment on any technical points or on any points which might reasonably be construed as technical. My case substantially is this. Past history has shown the necessity for a measure of this character. We should be extremely sanguine, and there is very little to justify us in assuming that such conditions would not possibly recur again. I contend that no abuse of this Act in the past has been proved—that has not even been alleged. If, Sir, the Honourable Member really insists that what I contend are the very limited provisions of this Act really amount to repression, may I invite his attention to an Act which, according to Press accounts, has recently been passed by the Legislature of the Irish Free State ? If the Press account is correct—and I cannot vouch for it—it may perhaps enable the Honourable Member to form a somewhat more accurate perspective of Acts which are repressive and Acts which are not repressive :

“ The Senate has finally passed the Public Safety Bill.... Provision has been made declaring certain Associations unlawful and making persons continuing membership of such Associations liable to a maximum sentence of 5 years' penal servitude.”

**Lala Lajpat Rai** : That is only a Bill and not an Act.

**Sir Hari Singh Gour** (Central Provinces Hindi Divisions : Non-Muhammadan) : What is the duration of the Act ?

**The Honourable Mr. J. Crerar** :

“ Persons associated with the activities of these organisations will be liable to expulsion from the Free State. Special courts may be established to include military officers as well as judges, and there shall be no appeal from them. The death penalty may be extended for possession of fire arms without authority if the Government so notifies.”

Now, Sir, I express no opinion either on the accuracy of that statement, or upon the propriety of such a piece of legislation or upon the circumstances which have been held to justify it. I merely suggest that if the Honourable Member classifies the second part of the Criminal Law Amendment Act as a repressive law, he should correct his perspective.

Perhaps, before I conclude, I should say a few words with reference to a provision of the Honourable Member's Bill to which I have not so far made any reference, and that is the provision relating to *habeas corpus*. That provision, as was noted earlier in the debate, has been tacked on to the Honourable Member's measure. My reason in not dealing with it is firstly that I have already detained the House for a somewhat longer period and I do not wish to detain it unduly, and secondly that this question of *habeas corpus* is so lacking in anything that can connect it with the other matter contained in the Bill that, it is impossible for us now to debate it effectively. It is a separate issue altogether, and therefore I do not propose to enter upon it. I conclude, then, with what is my substantial plea to the House, and it is this. When disorders occur, when the peace is broken, critics of Government emphasise the responsibility of the Executive Government in the matter. Sir, they are perfectly justified in doing so, and I make no complaint of it. Indeed, when widespread disorders occur, if the Legislature were not prepared to act upon their rights in holding the Executive Government to account in the matter, they would be failing in their duty. But surely they have a reciprocal responsibility in the matter. If Government are to be held responsible—and I do not deny that they should be held responsible for the maintenance of law and order—is the Legislature justified in taking away from us powers which have been proved in the past to be very valuable instruments for the preservation of law and order the necessity for the further exercise of which in future is still a matter of a strong probability? Would the Legislature be justified, I ask, in depriving the Executive Government of those powers and then insisting on enforcing their responsibility? I say, Sir, that that is not a reasonable proposition. If the Honourable Member wishes to decide the matter on legal grounds, I suggest that the legal maxim which ought to apply is *durante ratione, duret ipsa lex*.

**Sir Hari Singh Gour :** Sir, I wish very briefly to reply to the Honourable the Home Member. When I heard his speech I was wondering to myself whether the Honourable Member was not referring to matters which we had discussed and disposed of already, when I had introduced a Bill for the total repeal of Part II of the Criminal Law Amendment Act and which this House passed in spite of the opposition of Government. At that time, Sir, Honourable Members on this side of the House, nominated Members and Members who had held responsible positions as Executive Councillors like my friends Sir Chimanlal Setalvad and Sir Sivaswamy Aiyer, appealed to the Government that Part II of the Criminal Law Amendment Act was far too drastic and that they could not possibly support Government in that matter, but they were prepared to go half way if the Government would accede to their wishes to give some jurisdiction to the High Courts to revise and rectify the errors of the Executive. Upon that the Honourable Member said that that is entirely a different matter, and when it came up, it would be disposed of upon its own merits. I understood, Sir, that, while the Government then were not prepared to accede to the total repeal of Part II of the Criminal Law Amendment Act, they were not wholly undisposed to compromise the position by giving the High Courts jurisdiction to revise the orders of the Executive. And, Sir, impelled by that implication I redrafted my Bill, and the Bill that you see before you is a much diluted Bill, and, as I stated in the opening speech while introducing the Bill and asking the House to consider it further,

[Sir Hari Singh Gour.]

I have toned it down to these matters. I did not want the total repeal of Part II of the Criminal Law Amendment Act. I merely wanted the repeal, and I do want, Sir, the repeal of section 15, clause (2), sub-clause (b), and as for the rest I give the High Court jurisdiction, as in all criminal matters the High Court have and must have jurisdiction, to revise and control the action of the Executive. This is all I want, and this is all that my Bill implies. Now, I fail to understand what the Honourable the Home Member means by recounting those acts of 1921, 1922, 1923 and 1924, if it is not intended to prejudice this House against my measure which does not seek to repeal Part II of the Criminal Law Amendment Act, but the substantive object of it is to delete section 15, clause (2), sub-clause (b) and to give the High Court jurisdiction to revise the orders passed by the Executive. That is, so far as the Criminal Law Amendment Act is concerned. Now, Sir, what is the reply of the Honourable the Home Member on this part of my case? His reply is that "if you repeal section 15, clause (2) (b), you might just as well repeal the whole of Part II of the Criminal Law Amendment Act". Now, does the Honourable the Home Member justify the retention of section 15, clause (2) (b) on any ground? What is the section? The section says—and I am leaving out the other words,—I am reading only that part of section 15 which I wish to be repealed :

"In this Part 'association' means any combination or body of persons, whether the same be known by any distinctive name or not, and which has been declared to be unlawful by the Governor General in Council under the powers hereby conferred." Now, Sir.....

**The Honourable Mr. J. Crerar :** Sir, the Honourable Member is not quite correct in reading the Act.

**Sir Hari Singh Gour :** I am reading, Sir, from a copy which the Legislative Department has supplied to the Honourable Members of this part of the House, and if it is not the correct copy, they are responsible for it, not ourselves; it is the official copy supplied to us in the Library. I know the Devolution Act and the section in question, but probably the Honourable the Home Member's Department do not yet know, because the copy has not yet been corrected. I will deal with that part of the case later on. Now, Sir, what is my objection? My objection is that under this Act the Governor General, and now of course under the Devolution Act the Local Government, have the power to declare any association to be an unlawful association without giving any reason, without calling upon that association to show cause why it should not be declared unlawful, but merely because the executive say that it is an unlawful association, it becomes an unlawful association. But if that were all, that would be bad enough. What is the result? Will the Honourable Member kindly give me a corrected copy? (The Honourable Mr. J. Crerar handed one to the Honourable Member.) Now, Sir, what is the result of this declaration? The result of that declaration is that whoever is a member of an unlawful association or takes part in meetings of any such association or contributes or receives or solicits any contribution for the purpose of any such association, shall be punished with imprisonment for a term which may extend to six months. Now how does this Act work? The Executive Government says, "You are a member of an unlawful association". That cannot be revised by the High Court. After that, they send him up to the High Court for the purpose of awarding

punishment ; and as Sir Lawrence Jenkins in the case reported in Indian Law Reports which I cited on the last occasion pointed out, the High Courts have no jurisdiction to inquire into the legality, sufficiency, propriety or otherwise of the order passed by the Executive Government. They are merely to act as the sentencing court. Now, is this just ? Is this right ? Is this British justice ? That is the question I had put to the Honourable occupants of the Treasury Benches. Do they justify this procedure that the Executive sends up a man and says, " Here is a man ; I hand him over to the High Court to award the punishment. You, the Judges of the High Court, have no jurisdiction to go into the question whether this man is guilty or not : all that you have to do is to award the punishment ". And the High Court, if that is the procedure, may well ask " Why send it up to the High Court at all ? " Why do the Executive then not take upon themselves the power of also sentencing the man to imprisonment in accordance with some amendment which they may make to Part II of the Criminal Law Amendment Act ? That, I submit, is the point which we raised on this side of the House and it was on that ground that we carried the Resolution for the total repeal of Part II of the Criminal Law Amendment Act. Now, Sir, the Honourable the Home Member has said, " Can you give me any instance where we have misused section 15, clause (b) of the Act ? " My answer is, Sir, " How have you prescribed any procedure under this Act under which the judicial authority could have inquired whether the man who has been declared to be a member of an unlawful assembly has been rightly or wrongly so declared ? " If you had prescribed that procedure, then the High Court would have jurisdiction to say whether the man who has been sent up to the High Court for punishment is innocent or guilty. The jurisdiction of the High Court has been taken away. All that the High Court has to do is to sentence the man,—and the Judges may well say : " We regret we have not got the power to inquire whether you are innocent or guilty : the power that we have is to sentence you : therefore, you go to jail ". And for how long ? What is to be the measure of punishment if the Court is not to go into the measure of the offence ? That, Sir, is the position in which you place the High Court, and I wish to ask in what part of the civilized world have you got such a Statute on the permanent Statute-book. I have made some little study of the subject and I venture to submit that there is no part of the British Empire where such a drastic provision of law finds a place upon the permanent Statute-book of the country. Now, Sir, my Honourable friend, the Home Member, says, " If you are to take away clause (b) of section 15, then the whole of Part II of the Act might just as well be repealed ". I submit, that is not the case. Section 15, clause (a), says :

" An unlawful association is an association which encourages or aids persons to commit acts of violence or intimidation or of which the members habitually commit such acts."

The cases which the Honourable the Home Member has cited are cases which could have come and will come under clause (4), sub-clause (2) (a), Part II of the Criminal Law Amendment Act. But as my friend has just now pointed out, it is very easy for the Local Government : why should it inquire whether you are a dangerous man or not ? Why should it inquire whether you commit acts of violence or not when they have got the arbitrary, the uncontrolled, the undisciplined power under clause (b) of saying that you are a guilty man ? Why should it give reasons for it ?

**Mr. H. Tonkinson** (Burma : Nominated Official) : On a point of order, I should like to point out, Sir, with regard to the statement of my Honourable friend.....

**Sir Hari Singh Gour** : I cannot hear you.

**Mr. H. Tonkinson** : I should like to point out, Sir.....

**Mr. President** : It is not a point of order.

**Sir Hari Singh Gour** : I wish therefore to ask "Is this provision of section 15, sub-clause (a), not sufficient for all the purposes and in respect of all the cases to which you have adverted in the opening part of your speech?" I therefore submit, Sir, that in asking for the repeal of clause (b), I am asking this House to remove and purge from the Statute-book a most obnoxious provision of law for which there is no precedent in any known law of which I am aware in the British Empire. Now, Sir, the next thing I ask this House is, where a man has been declared to be guilty and he has appeared before the High Court, is the High Court merely to act as the hangman, or is the High Court to act judicially and inquire whether the man is guilty or not? That is the short question I ask any Honourable Member in this House to answer. The jurisdiction of the High Court to inquire whether a man sent up to the High Court for punishment is innocent or guilty—I give the High Court that jurisdiction. That is the second thing that I wish to do. Now, Sir, that finishes the first part of my Bill.

The second part of my Bill deals with a cognate matter. It was the subject of the Report of the Repressive Laws Committee, from which, I am afraid, my Honourable friend has cited from wrong places. I shall conclude my speech by citing from the passage upon which I rely, which the Honourable the Home Member will see was the cardinal note struck by the majority of the non-official members when they agreed to sign their Report. The second part of my Bill is to add a few words as regards British subjects. And let me remind Honourable Members of this House as to what is the effect of the second part of my Bill? It is this. There are a very large number of Regulations and Acts and miscellaneous Ordinances and so forth under which there is power of arresting and detaining and keeping people in jail without any trial. I think one Honourable Member of this House was a victim of one of those Regulations. Now, what do I want? I want to give them reasonable liberty. It was said in the course of the last debate that if you were to place everybody before the High Court and give the High Court jurisdiction either to release that man or to place him upon trial, what would become of non-British subjects that come from across the Frontier, marauders, Communists and persons who owe no allegiance to the British Crown? These people come in large numbers into this country and may come in large numbers into this country and stir up riots and acts of lawlessness with which the Government will have no power to deal. Well, Sir, I have acceded to that objection, and what I have done is to add the words which qualify the jurisdiction of the High Court only to protect British subjects. Now, Sir, is that not a reasonable protection? I venture to submit that the Honourable the Home Member feels himself in his conscience that it is reasonable. We are protecting the British people and placing them under the jurisdiction of the High Court and giving them that protection to which they are entitled. That is the meaning of my *habeas corpus* provision. The Honourable Member says, "You have tacked on in one Bill

2 Bills of a different character". Surely, Sir, those who live in glass houses must not pelt stones at others. Have we not seen in the last Assembly the Repealing and Amending Act running into six pages amending the Penal Code, Transfer of Property Act, Specific Relief Act, Limitation Act and, what not? Have not you done that? Do not you do that every year, and you who amend a dozen Acts by one Act come up and tell me that I amend in one Bill two provisions of inconsistent Acts. Are they inconsistent? They are of a most cognate character. Let me explain to the House. The Repressive Laws Committee were dealing not only with this question but also with the *habeas corpus* question, and in consequence of their recommendation certain High Courts were given jurisdiction in matters of *habeas corpus*. But persons arrested under the Regulations

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and other repressive laws were left out of the consideration of the High Court in the section dealing with *habeas corpus*. Our position then was, as our position now is, that so far as British subjects are concerned, no repressive laws should touch them without giving them the right of having recourse to a judicial tribunal before whom they should be tried and by whom they should be judged. Is that an unreasonable request? These two provisions of my Bill, therefore, are the direct outcome of one report dealing with a series of acts relating to one question.

Lastly, Sir, the Honourable the Home Member says that I have misread and misrepresented the recommendations of the Repressive Laws Committee and he took some little time in reading passages from the Report of the Repressive Laws Committee. Now, if the Honourable the Home Member had paid me the compliment of reading the speech when I introduced this Bill, he would not have compelled me to read the passage upon which I relied and which I cited to the House in justification of my Bill. That passage is contained in paragraph 25, page 11, of the Report and it is said there :

"Many of us hope that it may be possible for the Government to undertake the necessary legislation during the Delhi Session."

They recommended the total repeal of the Repressive Laws and hoped that the Government would introduce a measure during the ensuing Delhi Session for their absolute and total repeal. And what is the date of this Report? The date of this Report is the 2nd September, 1921. Consequently, the non-official members signed this Report in the hope that the Government would introduce in the winter Delhi Session of 1922 the measure for the repeal of all these Repressive Laws. Has that hope been fulfilled? I have been after the Government ever since the cold weather Session of 1922 reminding them of the promise and the understanding embodied in paragraph 25 of this Report. And what reply have I got? "The time is not yet". And now the Honourable the Home Member takes a different line altogether. In 1922 and onwards the apologia of the Government was : "Yes, we will do it, but the time is not yet. There is this disturbance going on and that disturbance going on, a woman has cracked somebody's head, and so on". But now when I ask what objection have you to repealing these laws and giving to the High Court the jurisdiction which it should possess, the reply is : "Oh, well, look at what took place in 1921, 1922 and 1923". Is that any answer to the recommendation of the Repressive Laws Committee? And have I, Sir, misrepresented any portion of the Repressive Laws Committee?

**The Honourable Mr. J. Crerar :** Yes.

**Sir Hari Singh Gour :** I have given the *ipsissima verba* of the Report of the Repressive Laws Committee, and I can assure the House, speaking for myself and I am afraid I am the only Member now in this House who sat in the Repressive Laws Committee, that I certainly would not have signed that Report if this paragraph had not been inserted. And I assure you, Sir, that there are many of my friends who would never have subscribed to that Report if that passage had not been inserted. I feel, therefore, in duty bound to carry out the promise which I gave to my constituents and to the country at large that these Repressive Laws would be removed from the Statute-book as soon as possible.

In asking this House, therefore, to carry this motion, I am carrying out a duty which I submit, Sir, it was incumbent upon the Government which had accepted the Report *en bloc* to carry out in fulfilment of the hope which we then expressed and in discharge of the obligation which it had undertaken.

Now, Sir, one more word and I have done. The Honourable the Home Member has criticised the draft of my Bill. I know that the drafting requires amendments. But I will only ask the Honourable the Home Member to ask his official draftsman to move the necessary verbal amendments which are required for the purpose of putting clause 3 in order. That, of course, is the work of the Legislative Department, and I, therefore, submit that that is a work in which we expect the assistance of the Government. The Act supplied to us on the basis of which this Bill was drawn up unfortunately was an incorrect copy and even to-day the Honourable Members of this House have been given only those incorrect copies. It is upon those incorrect copies that this Bill has been drafted. I therefore consider the question of amendment as a pure drafting amendment. If my motion for the consideration of this Bill is passed, I request the Honourable the Home Member to help us by putting the draft in order.

Sir, I move that the Bill be taken into consideration.

(Lala Lajpat Rai then rose to speak.)

**Mr. President :** The Honourable Member is too late. He must himself protect his own right.

**Lala Lajpat Rai :** Was the Honourable Member, (Sir H. S. Gour) replying to the debate ?

**Mr. President :** Of course.

**The Honourable Mr. J. Crerar :** Mr. President, I have already trespassed so long on the patience and indulgence of the House that I do not propose to do so again at any great length. I note as a preliminary point that the Honourable and learned gentleman referred in tone almost of indignation specially directed at me, to the fact that he is in possession of an uncorrected copy of the Act. The Honourable and learned Member is perfectly well aware that it is not the business of the Home Department to supply Honourable gentlemen with copies of Acts. I feel, Sir, that when he directed the vials of his wrath on me on that particular point he must have felt that his case in other respects was singularly defective.

Now, Sir, the first point I wish to take in reply is his further contention as to what the Committee actually did recommend. I am surprised

that, after I had laid before the House in very great detail actual recommendations of the Committee, that the Honourable and learned gentleman should have had the temerity to return to that point. It is perfectly true that the Committee recorded that many of its members expressed the hope which was referred to and quoted by the Honourable and learned gentleman, in moving his original motion, I observe that he quoted only a line and a half of the Committee's Report. He refrained with meticulous care from reproducing any part of the Report which dealt with the specific recommendations of the Committee. The Honourable Member went further. He has referred to a promise which has not been fulfilled. Now, Sir, what was the promise? If the Committee had made a specific recommendation for the repeal of this Act, if the Government of India had specifically approved and endorsed that recommendation and announced their intention to act upon it, that would have been a promise, and any failure to carry it out would have been a breach of promise. The facts, as I have already explained at great length to the House, are contrary. The Committee did express the hope of certain of its members in a line and a half, that it would be possible to repeal this Act. But in several passages in the course of its Report, and more particularly in what I called the crucial and concluding sentences, their express and definite recommendation was that that Act should not then be repealed. Yet in spite of all that, in spite of the care and detail I took to inform the House of what the recommendations of the Committee actually were, the Honourable and learned gentleman still says the Committee recommended the repeal of the Act and the Government, by not having repealed it, has been guilty of a breach of faith. If the Honourable and learned gentleman is compelled to rely upon arguments of that kind in substantiation of his case, I submit he ought not to convince a reasonable House.

Now, Sir, I go on to another point. I suggest—in fact, I venture to assert—that the Honourable and learned gentleman has not only misrepresented the attitude and recommendations of the Committee and the attitude of Government on those points; he has, as a matter of fact, misrepresented the Act itself. I hope that Honourable gentlemen who are in possession of a correct copy of the Act will look at it. The Honourable Member said the Local Governments do nothing except issue a declaration that a particular association is unlawful.

**Sir Hari Singh Gour:** That is not a correct statement. I never said the Local Governments do nothing. I said under that law the Government have the power of declaring an association unlawful though they may not give the accused a chance to show cause against it.

**The Honourable Mr. J. Crerar:** Then I take it the Honourable Member is once more raising a merely theoretical objection to the Act which he is incapable of supporting by any practical instances. He went on to say that the courts of justice as a matter of fact have no power in the matter at all, that once a decree of proscription has been issued by the Local Government, all that is open to the judicial courts to do is to endorse their decree and to inflict the penalty. Now, Sir, is that actually the case? It is perfectly true that the Local Government are given an executive discretion by section 16, but the section very clearly lays upon them the obligation and necessity of coming on reasonable grounds to the conclusion that such an association is an

[Mr. J. Crerar.]

association within the terms of that section. That is sufficient to constitute the association unlawful ; but in order that a conviction may be obtained under the Act it is necessary to prove that the accused person was a member of such an association, and the other ingredients of clause (1) or clause (2) of section 17. On those points the Courts have got an absolute discretion. And moreover they have an absolute discretion with regard to the penalty they can inflict. It may be presumed that when this Act was in active operation unless the courts had some good reason for believing that these activities of the persons before them were of a dangerous character they would not inflict a very serious penalty. But in truth the operation of the Act had not much to do with prosecutions at all. As I have already pointed out, its use was almost entirely preventive and its use in performing that function of prevention was extremely efficacious.

Now, Sir, I pass on to another point on which I strongly based my case and which the Honourable and learned gentleman, with somewhat less than his usual agility, has attempted to evade. I said it ought to be possible for him, if he really had a good case, to show at least one instance in which there had been some notorious abuse of the powers conferred by this Act. What did the Honourable Member reply ? He did not instance any such cases.

**Lala Lajpat Rai :** There are many such instances.

**The Honourable Mr. J. Crerar :** " How could I instance such cases," he said ; " the discretion granted to the courts is so nugatory, so absurd, that it would be quite impossible for me to instance such cases."

That is to say, his argument was that he could not instance a case or abuse unless he had a judicial decision to that effect. Now, Sir, I submit that if there had been any numerous cases of abuse or even a single case of notorious abuse, what would be the effect ? What would be the effect if a certain association were to be declared very unreasonably and very improperly by a Local Government to be unlawful ? Would not the fact be well known without any judicial decision ?

**Pandit Madan Mohan Malaviya (Allahabad and Jhansi Divisions : Non-Muhammadan Rural) :** Take the case of the Congress Committees.

**Lala Lajpat Rai :** Or the Volunteer Associations.

**The Honourable Mr. J. Crerar :** I was replying to the Honourable gentleman's argument, when he said he could instance no such case unless he had a judicial decision before him. I claim, therefore, that on that point he has entirely failed to meet my case.

Then, Sir, there is a second part of my case which was conspicuously absent from my Honourable and learned friend's original case but which occupied a conspicuous part in my case, and that also has not been dealt with by him effectively. I referred to the justification, which the year or two immediately following the signature of the Report, gave to the apprehensions of the Committee of which the Honourable Member was a member. I recited at some length the disastrous and catastrophic occurrences in Malabar and elsewhere.....

**Lala Lajpat Rai :** This Act had nothing to do with these events.

**The Honourable Mr. J. Orerar :** I think I explained sufficiently the reasons why occurrences of that nature could reasonably be brought into the case which I made against the repeal of the amendment which the Honourable Member proposes to repeal. I recited cases which I should have thought would have been sufficiently convincing, but to which the Honourable and learned gentleman referred, I think, in a tone hardly adequate to the importance and gravity of the occasion or to the circumstances to which he was referring. He spoke, I think, of some quarrel in which a woman was cracked on the head. Sir, the Honourable and learned gentleman is notoriously interested in measures for the protection of women and children, and I should think that his instance of a woman being cracked on the head was not an extremely happy one. However, I do not propose to pursue that. My point is that the Honourable Member knows perfectly well that that part of my case was an important part of the case, a case which, whether you agreed with it or not, was one to be dealt with seriously, one which required a serious and considered reply. The Honourable gentleman has found himself unable to give it. Now, Sir, I have no doubt he congratulated himself on having in advance provided himself with a useful side issue—he dealt at some length with the question of *habeas corpus*. I do not myself propose to deal with it—for the reasons which I have already given. We have already a grave and specific issue before the House in the question of the proposal to repeal the second part of the Criminal Law Amendment Act. To deal with a matter which really has, as I have already said, no direct nexus with the considerations which arise on the repeal of the second part of the Criminal Law Amendment Act is really to divert the issue which ought to be the issue before the House. I therefore do not propose to deal with it.

Lastly, I will only say this. He first of all referred in tones of some indignation to the fact that he had not been provided with an accurate copy of the Act, and he said it was the duty of the Legislative Department to come to his assistance. But really I must point out that in February of this year the Honourable and learned Member received the most express notice from these benches of the inaccuracy into which he had fallen.

**Sir Hari Singh Gour :** Sir, I immediately pointed out that the official draftsman might oblige me by correcting the copy and giving it over to me for that purpose.

**The Honourable Mr. J. Orerar :** My point, Sir, is this that the Honourable Member had copies several months ago. It is not merely a question of a defect in the drafting but it is a serious defect in the frame and structure of his Bill, which as I have already said caused very grave embarrassment. But the Honourable Member has taken no steps to correct it, which he could quite well have done, and he is now, among other things, inviting this House to confer upon High Courts a power which they could not conceivably exercise. On the Honourable and learned gentleman's own doctrine as to the care which should be exercised in legislation, which I have already quoted to the House, I submit that he is not justified in asking the House to pass his Bill.

Sir, I oppose the motion.

**Pandit Madan Mohan Malaviya** : Sir, may I submit a point of order for your consideration ? In view of what the Honourable the Home Member has said regarding the two points being taken up together, is it open to us to request you, Sir, to put the two propositions separately, and is it open to this part of the House to ask the Honourable the Home Member, as he had notice of this matter this morning, to express the view of Government as to whether they are in favour of accepting the provision of the proposed *habeas corpus* or not ?

**Mr. President** : The question is :

“ That the Bill to repeal and amend certain provisions of the Indian Criminal Law Amendment Act, 1908, and the Code of Criminal Procedure, 1898, be taken into consideration.”

The Assembly divided :

AYES—54.

Abdoola Haroon, Haji.	Kelkar, Mr. N. C.
Abdul Matin Chaudhury, Maulvi.	Kidwai, Mr. Rafi Ahmad.
Abdullah Haji Kasim, Khan Bahadur Haji.	Kunzru, Pandit Hirday Nath.
Ahmed, Mr. K.	Lahiri Chaudhury, Mr. Dharendra Kanta.
Alyangar, Mr. C. Duraiswamy.	Lajpat Rai, Lala.
Aney, Mr. M. S.	Malaviya, Pandit Madan Mohan.
Ayyangar, Mr. M. S. Sesha.	Mehta, Mr. Jamnadas M.
Belvi, Mr. D. V.	Mitra, Mr. Satyendra Chandra.
Chaman Lall, Diwan.	Moonjee, Dr. B. S.
Chetty, Mr. B. K. Shanmukham.	Mukhtar Singh, Mr.
Dakhan, Mr. W. M. P. Ghulam Kadir Khan.	Naidu, Mr. B. P.
Das, Pandit Nilakantha.	Neogy, Mr. K. C.
Dutt, Mr. Amar Nath.	Pandya, Mr. Vidya Sagar.
Dutta, Mr. Srish Chandra.	Phookun, Srijut Tarun Ram.
Ghazanfar Ali Khan, Raja.	Rang Behari Lal, Lala.
Goswami, Mr. T. C.	Roy, Mr. Bhabendra Chandra.
Gour, Sir Hari Singh.	Sarda, Rai Sahib Harbilas.
Haji, Mr. Sarabhai Nemchand.	Shafee, Maulvi Mohammad.
Ismail Khan, Mr.	Shervani, Mr. T. A. K.
Iswar Saran, Munshi.	Siddiqi, Mr. Abdul Qadir.
Iyengar, Mr. A. Rangaswami.	Singh, Mr. Gaya Prasad.
Iyengar, Mr. S. Srinivasa.	Singh, Mr. Narayan Prasad.
Jayakar, Mr. M. R.	Singh, Mr. Ram Narayan.
Jinnuh, Mr. M. A.	Sinha, Mr. Ganganand.
Joglah, Mr. Varagiri Venkata.	Sinha, Mr. R. P.
Joshi, Mr. N. M.	Sinha, Mr. Siddheswar.
	Tok Kyi, U.
	Yakub, Maulvi Muhammad.

## NOES—41.

Abdul Qaiyum, Nawab Sir Sahibzada.	Irving, Mr. Miles.
Ahmad, Khan Bahadur Nasir-ud-din.	Jawahir Singh, Sardar Bahadur Sardar.
Alexander, Mr. William.	Kabul Singh Bahadur, Captain.
Ashrafuddin Ahmad, Khan Bahadur Nawabzada Sayid.	Keane, Mr. M.
Ayangan, Mr. V. K. Aravamudha.	Kirk, Mr. R. T. F.
Ayyangan, Rao Bahadur Narasimha Gopalaswami.	Lamb, Mr. W. S.
Bajpai, Mr. G. S.	Mitra, The Honourable Sir Bhupendra Nath.
Blackett, The Honourable Sir Basil.	Moore, Mr. Arthur.
Bray, Sir Denys.	Muhammad Nawaz Khan, Lieut. Sardar.
Coatman, Mr. J.	Mukherjee, Mr. S. C.
Cocke, Mr. H. G.	Parsons, Mr. A. A. L.
Cosgrave, Mr. W. A.	Rainy, The Honourable Sir George.
Courtenay, Mr. R. H.	Rajah, Rao Bahadur M. C.
Crerar, The Honourable Mr. J.	Boy, Mr. K. C.
Crofton, Mr. R. M.	Sams, Mr. H. A.
Dalal, Mr. A. R.	Sassoon, Sir Victor.
Dalal, Sardar Sir Bomanji.	Singh, Rai Bahadur S. N.
Donovan, Mr. J. T.	Toukinson, Mr. H.
Dunnett, Mr. J. M.	Wright, Mr. W. T. M.
Haigh, Mr. P. B.	Yamin Khan, Mr. Muhammad.
	Young, Mr. G. M.

The motion was adopted.

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

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

**Mr. President :** The House will now proceed to consider Sir Hari Singh Gour's Bill, clause by clause. The question is :

“ That clause 2 do stand part of the Bill.”

**Mr. W. A. Cosgrave** (Assam : Nominated Official) : Sir, I oppose this motion on several grounds. In the first place I would like to point out that this clause is a vital clause in the Bill. If this clause is carried, the Act as it stands at present will be eviscerated, as the Honourable the Home Member has said. This clause 2 reads as follows :

“ Sub-clause (b) of clause (2) of section 15 of the Indian Criminal Law Amendment Act, 1908, (hereinafter referred to as the said Act) is hereby repealed.”

In other words section 15 of Act XIV of 1908 will be shorn of its important sub-clause (b) which reads :

“ has been declared to be unlawful by the Local Government under the powers hereby conferred”.

[Mr. W. A. Cosgrave.]

Sir, the Honourable Mover has not been able to adduce any evidence whatever as to the abuse of this Act, although he was challenged to do so, and with all deference to him as one of the recognised legal authorities in India, if not in the world, I feel bound to state that he has somewhat misrepresented the procedure under this Act. The Honourable Member has spoken as if this Act proclaimed individuals. The real point is that it only proclaims associations, and under section 17 of the Act it is incumbent on the Crown or the prosecuting officer to prove that the accused person is a member of the association which has been declared to be an unlawful association. I think, Sir, many of us who have read Sir Hari Singh Gour's Bills with interest and pleasure were somewhat surprised at his talking about the executive dragging up people before the High Court which was only to be treated as a hangman. I am surprised at Sir Hari Singh Gour's speaking in this tone of levity about the High Court. I have tried several cases under this Act and I know that it is incumbent on the Crown to prove that a person is a member of an unlawful association and that also there is an appeal at the present time under section 17 in the ordinary way. The High Court is of course the second court of appeal. Well, another reason for opposing this motion which as I have already said cuts at the body of the present Act is that the Honourable the Home Member has given in my humble opinion most cogent reasons for retaining this Act on the Statute-book. He is in possession of information which is not at the disposal of an ordinary back-bencher like myself. He has told us on how many occasions, in all the cases which have arisen from Peshawar to Tuticorin, this Act has been used with advantage, and I think that Sir Hari Singh Gour is not doing a service to his country if he does anything to take away the strength of the Central Government in maintaining peace and order.

Sir, much has been said this morning about the Report of the Repressive Laws Committee. Well, the Honourable the Home Member has read certain paragraphs. The Honourable the Mover has also read certain paragraphs. I would also like to quote one or two lines from this Report to which my friend Sir Hari Singh Gour has appended his signature. I mention this fact, because Sir Hari Singh Gour has laid stress on the fact that he is the only member of the Repressive Laws Committee still sitting in this House. Now, Sir, what do I read? I see that Sir Hari Singh Gour put his signature to this Report which says :

"We recognise our responsibility in the maintenance of peace and order. We believe that the executive will use any exceptional powers with the utmost caution and discretion."

Sir, the Honourable the Home Member has mentioned a press communiqué showing that even in other parts of the Empire legislation of what is known as a repressive nature is considered necessary. Well, Sir, I would not bring this in again except to say that I spent part of my last leave in that part of the Empire. I have listened to debates in the Dail, I have spoken to people, I have been introduced to people who have a reputation for being champions of liberty like the Honourable gentlemen opposite, such as my friend Lala Lajpat Rai, and yet I say this, that when they have got to rule a country containing less than

four millions of people they consider it necessary to have a special Bill to proscribe unlawful associations. I have seen the press communiqué, and I cannot see anything in it that would seem to show that that Bill is only of a temporary nature. That point was raised, I think, by my Honourable friend Sir Hari Singh Gour. I mention this point to emphasise the fact that, however much a man may be in favour of liberty, as an ideal, when he is on the opposition Benches, when he gets into power, he sometimes has to undertake legislation which he would not have liked in previous years. Sir, I would only repeat my argument that this section cuts at the root of the whole of the present Act, and therefore, in the interests of peace and order for which Sir Hari Singh Gour took responsibility in 1921, I beg to oppose the motion.

**Lala Lajpat Rai :** Sir, the first speech of the Honourable the Home Member had raised expectations in my mind that he was going to be generous in dealing with the merits of the case and that he would not rely at all on the technical defects of the Bill before us. I am sorry to say that those expectations were not realised later on. After having said that he was not going to rely on the technicalities, time and again, he referred to the defects in the drafting of the Bill. It was not necessary to do so if he wanted to confine himself to the merits of the case. I am perfectly at one with him in holding that the drafting of the Bill is not perfect—it is defective—and I also plead guilty to the charge that the interval between the first debate and now has not been properly used to remove the defects of drafting. But all the same, it must be remembered that Members on this side of the House have not got at their disposal the services of a highly paid Legislative Department which is paid from the public exchequer for the purpose of drafting Bills and correcting these mistakes of drafting. In this respect, I should have expected a generous treatment from the Government side. I should have expected that if they saw palpable defects in the drafting of this Bill, they would have suggested the amendments themselves. The arguments on the merits, of course, stand aside. The Government have every right to oppose the Bill on the merits as they have done, and as they might always do—that is a different thing—but to base arguments on defects in the drafting of the Bill, and not to suggest amendments to put the drafting right, does not show a very generous and statesmanlike attitude on the part of a Government which of course, though we do not admit it to be national, claims to be national. So I submit that the complaint on the part of the Honourable the Home Member was not quite consistent with the spirit of the opening sentence of his remarks. Secondly, Sir, it must not be overlooked that the Honourable Sir Hari Singh Gour is not the only person who is interested in this Bill, as the Honourable the Home Member seemed to think when he was giving his final reply. I will readily admit that Sir Hari Singh Gour has been well punished for having at all appended his signature to that Report which deferred the repeal of this Act at the time when it was under the consideration of the Repressive Laws Committee : This was a measure which was obnoxious and vicious in principle, and he should not have agreed to the deferring of the repeal of the Act under any circumstances, and if he finds now that the fact that he agreed to have the repeal of this Act deferred is thrust at him, by Benches opposite, he has only himself to thank for it. Therefore, I have no sympathy with him on that account ; I want to proceed entirely on the merits of the legislative measure before us, and

[Lala Lajpat Rai.]

am prepared to say that the whole of this measure was conceived in a wrong spirit, carried out in a wrong spirit, and is being maintained on the Statute-book in a wrong spirit. It cannot be justified on any possible grounds. Sir, taking the Act as it is, it is admitted that it was an exceptional measure, meant for exceptional times and extraordinary conditions. If the issue is narrowed down to this that having been enacted in a time of supposed disorder, confined to one province—I do not admit that it was justified even then—but assuming that it was...

**Mr. President :** I do not desire to interrupt the Honourable Member, but would it not be better if he reserved his general observations for the last stage of the Bill? We are now dealing with clause 2 only.

**Lala Lajpat Rai :** I think, Sir, it will be more convenient for me and save time to place the whole of my argument about this Act before the House.

**Mr. President :** The Chair has merely made a suggestion which the Honourable Member need not accept if he does not wish to.

**Lala Lajpat Rai :** I have no objection to defer to the ruling or advice of the Chair, but I find that the speakers on the other side have been attacking the whole Bill all the time.

**Mr. President :** There was only one speech so far.

**Lala Lajpat Rai :** Sir, the position which the other side has taken is that it is necessary to retain this Act on the Statute-book.

**Mr. President :** The Chair has absolutely no objection to the Honourable Members making general observations at this stage, but on the distinct understanding that, when the final stage is reached, Honourable Members will not be allowed to make long speeches.

**Lala Lajpat Rai :** I do not propose, Sir, to make a second speech. So, with the permission of the Honourable the President, I might go on and finish what I have to say.

**Mr. President :** Lala Lajpat Rai.

**Lala Lajpat Rai :** I was saying, Sir, that under any circumstances it was admitted that this was an exceptional measure meant for exceptional times and extraordinary conditions. We are not enacting a new measure. We are just proposing to repeal a measure which is already on the Statute-book but which, I said, was admitted to have been enacted in special circumstances for extraordinary conditions. The issue then is whether it is desirable to retain this measure any longer or for all time to come on the Statute-book. That is practically the issue. Now, Sir, I know that the Governments generally are very fond of taking extraordinary powers and they never part with powers that they have once taken unless they are compelled to do so. Sir, I am not at all surprised at the attitude of the Honourable Members on the other side that they do not want to part with the powers that they have taken under this Act. Their anxiety for the liberties of the subject seems to be too superficial to be taken seriously. They do not care for the liberties of the subject as long as they can keep their hold tight on them by executive measures. No one objects to their exercise of their powers for maintaining peace or for checking disorders, or for doing anything which is permissible to them

to protect law and order, under the ordinary laws of the country. Exception is being taken to this exceptional measure being retained on the Statute-book as if it was an ordinary law of the land. We have to see whether any such exceptional measure is needed in the present circumstances to be retained on the Statute-book for the purpose for which it might have been needed at any particular time in the past. That is the real point, Sir. I might say that to my mind the whole of this measure beginning from the Preamble was a grave violation of the liberties of the subject and (subject to correction), I have been unable to find any parallel in the history of any country for such wide and general powers being given to the executive at any time. In order to satisfy myself on this point, I have just consulted the Coalition Acts of Ireland which were passed by the British Imperial Government in those times when there were disorders in Ireland, probably about the time when the Phoenix Park murders took place. There also I find that they were very careful to specify the particular circumstances which had necessitated such a legislation in the Act itself (in the Preamble), and did not use such general terms as have been used in this Act. The Preamble of this Act says that one of the objects of the law is "the prohibition of associations dangerous to the public peace." Such a phrase is very extensive and very drastic: it can cover anything. Looking at the general lines of progress, everything turns on public peace. Any progressive movement may be considered by the powers that be as dangerous to public peace. Ordinarily they do not need special measures of this kind to protect public peace. They have ample powers under the general criminal laws of the country to maintain public peace and order without resorting to special legislation, unless special circumstances justify such legislation. Are we to suppose that these special circumstances exist in the country at the present time? I submit, they do not. Is this law going to be a permanent feature of the law of the country? Are the powers that were given to the executive for exceptional circumstances going to be maintained for ever? I submit they should not.

The case on the merits which has been argued by the Honourable the Home Member is so extraordinarily weak that I do not think many arguments are needed to demolish it. I will divide his arguments into two parts. He has given you certain cases of disorder in the Presidencies of Madras and Bombay. He has said that he himself was connected with the Presidency of Bombay and he has also stated that in those Presidencies no need or occasion arose to apply the law or at least the Local Governments did not apply it in these Presidencies. Is not that conclusive evidence to the effect that the Government can carry on its administration and check such disorders and punish the people concerned in such disorders without the help of this special law?

**The Honourable Mr. J. Orerar** : I rise to a point of personal explanation, Sir. I think I pointed out quite clearly that so far at any rate as Madras was concerned, the condition of affairs that arose was so extensive and so dangerous that so limited and restricted a measure as the second part of the Criminal Law Amendment Act could not have been effective; I never contended for a moment that circumstances had not arisen which, if they had been less extensive and less dangerous, might not have been effectively dealt with by this Act.

**Lala Lajpat Rai :** I am not concerned at all with the opinions of the Honourable the Home Member as to the circumstances that existed. I am merely concerned with the fact that the law was not extended, and was not applied, to those Presidencies. That is the outstanding fact on which I rely and we know that the Government of the Bombay Presidency was given credit at that time that they practically suppressed the non-co-operation movement or at least they professed to have suppressed it, without the help of this law. They punished all disorders without having recourse to these repressive laws, i.e., without the extension of the Seditious Meetings Act or the Criminal Law Amendment Act. Credit was taken by that Government and that credit was extensively given to the then Governor of the Bombay Presidency, for this, though in those Presidencies, the non-co-operation movement was not a bit less strong than in Northern India. The disorders that are being relied upon in support of the contention that this law ought to be retained on the Statute-book were not very many. Instances of such disorders in the south and the west were in no way less than those which took place in the Northern parts of India. But still the Governors of those Presidencies did not consider it at all necessary for the preservation of the public peace and for the maintenance of law and order to extend the provisions of this law to their parts of the country. I submit this is conclusive evidence of the fact that the Government has ample powers in the ordinary criminal law of the country to punish all breaches of the peace and all breaches of order without having recourse to this extraordinary law and also to prevent disorder. That argument, instead of helping the Honourable the Home Member in opposing this Bill, practically demolishes the whole of his case. The fact is that when Governments become nervous and panicky, they do not want to have recourse to the ordinary provisions of the law and to the ordinary Criminal Procedure Code. They want executive summary powers to declare so and so, so that the presumptive evidence will be in their favour. That is what has been given to them under this Act. What was done in Northern India? This Act was originally enacted to suppress the alleged secret societies in Bengal, but when the non-co-operation movement came on and became strong in Northern India with an open volunteer movement, with its avowed legal objects, it was used to suppress it. Of course, all movements are liable to be abused and occasionally there is bound to be some violation of the original objects. People are liable to exceed their legitimate purposes and be carried away by their enthusiasm, but the ordinary law of the land ought to be sufficient for that purpose. But Governments are not satisfied with that; they do not want to adopt the ordinary course of proving their cases. They want a provision to declare by an executive order in the exercise of a summary secret power, like the one given by Regulation III of 1818, that such and such association is illegal, unlawful, and therefore it ought to be suppressed and persons who are members of that association ought to be punished. I submit there can be absolutely no justification for such a position. I submit that there was no justification whatsoever for declaring that the Volunteers movement of the Congress was an unlawful association at all, even assuming for the sake of argument that there were here and there such disorders and such breaches of the peace as might have been punishable under the ordinary criminal law of the land. The very fact that the Congress Volunteers Association was declared an unlawful association and that

people were punished under the provisions of this special law establishes a clear and flagrant case of the abuse of the powers given under this Act and no more instances are required to prove that the power should not be retained by the executive any longer.

I submit, Sir, that one of the complaints made by my Honourable friend Sir Hari Singh Gour was that he was not supplied with a correct copy of the Act on which this Bill is based. In that connection, just by way of a remark, I wish to say that we on this side of the House are in a very unfortunate position. We cannot be expected to bring all our library and up-to-date corrected copies of all Acts with us every time we come to the Assembly. We have to depend upon the library which is provided for the Legislative Assembly, and if in that Legislative Assembly Library, Government does not care to keep corrected copies and up-to-date amended copies of Acts, I submit the Government are to blame and not ourselves. It is very easy for the Government Members to get up and say to our face : " Oh, this is not based on a corrected copy of the Act ". Here, I want to remind Honourable Members that this complaint was made by us even in the last Session, when the Steel Industry (Protection) Bill was introduced, that correct copies of Acts were not available in the Library for the use of Honourable Members of the House. Complaints were also made that no adequate literature was available in the Library so that Members could consult it. Nothing has been done till now to improve the state of the Library. All the copies that are available in the Library are those which are said to be unamended and uncorrected. Yet when we use the copies supplied to us by the Library, the fact of the copy on which we rely being incorrect is thrown at us and used as an argument against our case. We cannot carry the whole law in our brains. When we are supplied with such uncorrected copies, I submit, Sir, it is the Government that is to be blamed and not we. I hope the Government will take care and keep the Library up-to-date so that we can be supplied with corrected and amended copies of all Acts when required.

But, Sir, I think the amendment pointed out by the Honourable the Home Member has made the case worse so far as open associations are concerned. The original Act gave power only to the Governor General in Council, but the amended Act gives that power to the Local Governments. So that the slight check which the Governor General in Council might have exercised over Local Governments and in this connection the little care and caution which the Government of India might have exercised in applying the provisions of the Act, have also been impossible under the so-called amended Act, as it stands now. Any Local Government can take it into its head to apply the provisions of this Act and declare *any* association unlawful.

**The Honourable Mr. J. Orerar :** Not *any* association.

**Lala Lajpat Rai :** Every Local Government, if it takes it into its head to suppress any association, may declare it unlawful, as they did in the case of the Congress Volunteers Associations on the ground that they considered it dangerous to public peace. My Honourable friend wanted us to give instances of the abuse of such powers by Local Governments. It may not be strictly relevant to this case, but I will give you

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an instance of the legal acumen and the legal understanding generally shown by Local Governments in applying this kind of laws to particular cases. The Punjab Government with all its legal machinery at its back declared the private meetings of the Provincial Congress Committee and the City Congress Committee of Lahore to be public meetings liable to be prohibited under the Seditious Meetings Act. (Shame). Having proceeded to interpret the law in that high-handed fashion, they prosecuted four honourable citizens, got them convicted and sent to jail. Then the Government of India had to come to the rescue and order the release of those people who had been convicted under that law at the instance of the Punjab Government. I do not say that all Local Governments do that ; I do not believe that all do so. But here is one concrete instance of a Local Government with all its machinery going entirely wrong and abusing the powers given to it by the law and declaring private committee meetings of a public body which had not been declared unlawful liable to be prohibited under the Seditious Meetings Act. I see an honourable member representing that Local Government adorning the opposite benches and he might justify the action and the conduct of the legal machinery of that Local Government. Having perpetrated that wrong, that outrageous wrong, the Government has not up to this time apologised for that mistake by which they sent four respectable citizens of the province to jail. They had to rot in jail for seven weeks and then the Local Government without any apology whatsoever and without any excuse simply said : "the Governor General has held that this is a mistake and that this is a wrong conviction and we therefore release these people". The conviction still hangs against their heads. I may also tell the Honourable the Home Member that it was not the virtuous and magic powers of this Act that caused the Volunteer movement, as he thinks perhaps, to collapse. We all went to jail, not because this Act existed, but because we did not want to defend ourselves. (Hear, hear.) We did not want to use the ordinary machinery of the law for the purpose of proving that we were innocent. It was not they who sent us to jail under the powers given under this Act. We voluntarily went to jail to vindicate what we considered to be our position. We might have been right, or we might have been wrong. But the Honourable the Home Member cannot take the credit of that result for this Bill, and say it helped the Government in maintaining law and order and restoring normal conditions.

Sir, the unlawful associations contemplated by this Act might be of two kinds—secret bodies or open associations. If they are secret bodies, and if they commit crimes of this nature—crimes of violence and intimidation—there is enough provision in the Indian Penal Code to punish them. We all know, and the Honourable the Home Member must know, that there is provision in the Indian Penal Code under which any member of an unlawful assembly can be proceeded against for the acts of other members done in pursuance of their common object and punished. If any member is proved guilty of violence or intimidation, surely all the members who took part in it in pursuance of that common object can be punished. Where is then the necessity for providing a special Act or to keep section 15 (b) on the Statute-book ?

The justification for such a law that was given at the time the Bill  
 3 P.M. was passed was that Bengal was then in a condition  
 of anarchy and the Government could not bring the  
 offenders to punishment by the ordinary processes of law. According  
 to their own statement, that necessity having ceased to exist or having  
 been provided by still more drastic laws, such as the Bengal Ordinance  
 and Regulation III of 1818, this Act has become useless and has no *raison*  
*d'être* to remain on the Statute-book. It is merely irritating and an-  
 noying, and the Government ought to have come forward itself to repeal  
 this Act and to show that they do not intend to maintain these powers,  
 which were taken for exceptional purposes, for all time to come. I sub-  
 mit that their not having come forward in this way shows that they are  
 not prepared to allow the progress of the country to proceed on normal  
 lines, that they must continue to irritate and annoy people who have the  
 progress of the country at heart and who do not want to make a fetish  
 of peace. Peace is a very good thing in itself, but sometimes in order to  
 make progress peace has to be disturbed, and there are the ordinary laws  
 of the country to meet such a situation. Every Government must main-  
 tain peace ; that is perfectly justifiable ; and we have laws for that  
 purpose. Special laws are only needed on special occasions and at  
 particular times. Therefore, I consider that every non-official Indian  
 who consents to the general application and unlimited duration of such  
 laws is practically guilty of being an enemy of the progress of his own  
 country—when he consents to the continuance of such laws or when he  
 signs a report like that of the Repressive Laws Committee. I think this  
 is nothing but a slur on our good sense and not only a slur but a handicap  
 to progress to let a Local Government say : “ Such and such  
 an association or body of people are very annoying, they are very in-  
 convenient, they cause trouble ” and thereupon let us declare them an  
 unlawful association. Of course it is said on the other side, that the  
 Heads of Local Governments or the Members of the Executive Councils  
 are not going to be so unreasonable as that ; but we know what “ reason-  
 able ” and “ unreasonable ” mean. The words reasonable and un-  
 reasonable practically have no meaning in the dictionary of Governments  
 and much less so in the dictionary of foreign Governments. It is the  
 exigencies of the times that practically determine the reasonableness  
 or unreasonableness of an action. If a Government thinks that the main-  
 tenance of their prestige demands the exercise of such extraordinary  
 power, they feel no hesitation in doing so. When they take that power and  
 exercise that power, how can they talk of being reasonable or unreason-  
 able ? Those words do not exist in their dictionary, or have a different  
 meaning. If a law can provide for the prohibition of all institutions and  
 societies that may tend even remotely to disturb the public peace then  
 good-bye to all progress. If that were the correct view then all sorts of  
 political associations and bodies in England, in France, must be declared  
 to be unlawful by executive orders of the Governments. My friends talk  
 of other parts of the Empire. But who can compare the case of Ireland  
 with that of India ? Is there any comparison, I ask, between the two  
 countries ? Absolutely none. My friend over there is laughing. He is  
 an Irishman who is very proud of the stand made by his people in getting  
 Home Rule for Ireland. I congratulate him in taking that pride, but is  
 there absolutely any comparison between the present condition of Ireland

[Lala Lajpat Rai.]

and this country? I admit that Governments do sometimes need special provisions of law; and if the Cosgrave Government wants to maintain its power by passing certain laws, is that any justification why in a country like this of 300 million people where sometimes and very occasionally disorder occurs, you should say that you are never going to let us alone except by the propagation and maintenance of these laws? I submit that is not honourable nor reasonable. Hit at us straight. There is the ordinary law. If we are guilty of any violence, if we are guilty of any intimidation, try us in the ordinary courts of justice and punish us if you will; we have no cause to complain. If we defy your laws we shall deserve punishment. But do not take this back-handed power to declare associations unlawful, to declare people guilty in your secret chambers and convict them upon no evidence but by the fact of the association to which they belong having been declared unlawful by the Governor General in Council or by the Local Government.

By that I submit you are pursuing what I would call a cowardly process which no respectable and civilised Government ought to pursue. We warn you, therefore, in your own interests; we want you to show yourself a brave Government, a civilised Government, depending upon the ordinary laws of the country and not on exceptional legislation of this kind to maintain peace and public order in this country. If you really cannot maintain peace and public order under the ordinary laws of the land, then you condemn yourself; you condemn yourself very severely of your own incapacity and your unfitness to govern. This Act is not needed. Why should you need these executive powers to declare associations unlawful and to declare committee meetings of public bodies to be seditious? In the case of secret societies such as you allege to have found in the Kakori case and the Bolshevik trial at Cawnpore, you cannot reach them except by the ordinary laws of the land. Did you at all use this Act in order to trace the Kakori dacoity or to prevent the spread of communist feeling or communist propaganda in this country? You cannot touch them in that way. You can only touch them under the ordinary laws of the land. You have not yet declared any associations unlawful under that heading. What is the use then of bringing forward an argument based on such cases? You only use the powers under this Act in the case of open bodies like the Congress Volunteers and you make improper use of this Act to declare such a high-minded association to be unlawful and to punish its members simply on presumptions and assumptions without giving the necessary proof in the court of law against them. I submit that is unworthy of a civilised Government. There is absolutely no need at the present moment—you yourself admit it—for such a law. The Under-Secretary of State says that the political situation in India has vastly improved, that the non-co-operation movement is dead and there is absolutely no resistance to your authority. These occasional outbursts, like the Kakori case or the Bolshevik trial at Cawnpore, do they justify your keeping this law? If on your own admission the country is at the present moment in a normal condition and the political situation has vastly improved as the Secretary of State says, where then is the necessity for your opposing the repeal of this Act? You should have generously come forward and said: "Yes, the political situation has

completely improved ; there is absolutely no need of any repressive laws at the present moment, and we shall readily agree to the repeal of this Act." But your opposition shows one of two things : either those statements are false, absolutely false, and the political situation has not improved, or it has really improved ; (though I think from our point of view it has deteriorated, not improved) but from your point of view it has improved and we are at the present moment considering your point of view. Well, if it has really improved and if you really boast of having improved it by your administrative measures, by your diplomacy and your policy, then why oppose the repeal of this Act ? Why do you not generously come forward and say : " We do not require this exceptional legislation now ; you have become good boys." Well, either we are good or we are bad. If we are good boys or have become good boys, then this Act is no longer needed. If we are still bad boys, then you are not right in saying that we have become good boys and have turned over a new leaf. One of these two statements must be wrong. I submit the Government are not properly advised in opposing the passing of this measure. In all countries which are progressive, where there is life, there will be occasional outbursts of disorder, there will be occasionally cases like the Kakori case, there will be occasionally cases like the Bolshevik trial at Cawnpore ; you cannot keep this kind of law for those occasional cases. If there is a widespread secret agency that is undermining the peace and progress of the country, then you may be justified in providing special legislation. But when you yourself admit that there is no widespread conspiracy—perhaps you may try to make out an exception in the case of Bengal—I do not know of any reason why you should still insist on having this law.

**Mr. President :** The Honourable Member is perfectly within his rights in speaking at this great length ; but I understand Honourable Members are very anxious to get through all the stages of this Bill to-day and they should not find fault with the Chair or with the Government if they are disappointed.

**Lala Lajpat Rai :** I am not going to prolong this argument ; but, Sir, you will pardon my saying that after the rhetorical speech of the Honourable the Home Member it was necessary to point out the flaws in his argument.....

**Mr. President :** Which is the more important from the Honourable Member's point of view ?

**Lala Lajpat Rai :** Under these circumstances, I appeal to this House that they should unanimously vote for the passing of this Bill. If there are any defects in the drafting of the Bill, I think those defects can be remedied by agreeing to verbal alterations in the Bill. I quite agree with the other side that the real vital part of the Bill is clause (b) of section 15. It is that we are attacking and it is that we want to get rid of.

**The Honourable Mr. J. Crerar :** Sir, I do not propose to follow the Honourable Member who has just resumed his seat after a very eloquent speech in the whole course of his argument, firstly, because I have already delivered my own case on the general merits and I do not wish to be guilty of vain repetitions, and secondly, because I frankly do not hope, expect or intend to compete with the Honourable Member in eloquence. I have, however, something to say on the question of his reasoning.

[Mr. J. Crerar.]

The Honourable gentleman complained that I had spoken of disturbances which arose in Madras and in Bombay and he contended that because those disturbances had not been brought under the application of this Act, that was a conclusive case against the merits of the Act. Now, Sir, I think I have already explained why I adduced those two cases. They were neither, I submit, irrelevant nor were they without cogency with regard to the general lines of my case. I will not, however, go over that ground. The particular point I wish to make in regard to the Honourable Member's speech is this. I have repeatedly challenged Honourable gentlemen on the other side of the House to adduce instances of any conspicuous abuse of the powers under this Act. Now, Sir, what did the Honourable gentleman reply? He adduced no instance whatsoever of the abuse of the second part of the Criminal Law Amendment Act, but he made one allegation of an abuse of the Seditious Meetings Act. Now, it appears to me that the argument is this: the Honourable gentleman adduced an instance of what he alleged was an instance of the abuse of the Seditious Meetings Act. Now that is a totally different Act.

**An Honourable Member** : This was also abuse.

**The Honourable Mr. J. Crerar** : The Honourable gentleman will excuse me, but it is as if a person should be accused of, let us say, criminal breach of trust and the prosecution, being unable to adduce a scintilla of evidence on that charge, adduced evidence alleging that on some other occasion he was guilty of, say, criminal trespass and on that plea he proposes that the accused person should be convicted of criminal breach of trust. That, Sir, so far as I understand, is the argument, and if that, Sir, is the kind of argument that is to be adduced against this Act as a whole or in favour of this particular clause, then I say it is an extremely faulty argument and the cause which it supports is not one to which the House ought to lend its support.

**Mr. Muhammad Yamin Khan** (United Provinces : Nominated Non-official) : Sir, I sympathise and I have got every sympathy with the Mover in his political aspirations on the grounds of which he has introduced his Bill. (*An Honourable Member* : "Many thanks.") All of us who live in India can share the sentiments of the Honourable the Mover of the present Bill. Nobody who is connected with the legal profession can in any way think it advisable that recourse should be had often to special laws or that special laws of that nature which give very extraordinary powers or are ambiguously worded should remain on the Statute-book for long. But here we are faced with one problem only. We are not to deal with the sentiments, we are not concerned with what ought to have been done or what should be done, but here we are faced only with one question—what the Bill is, whether it is desirable to pass clause 2 of the present Bill or not.

We have to judge it only on legal grounds. To my mind, Sir, if clause 2 of the Bill is passed, it will amend the existing law in such a way as to make it more ambiguous than it is at present. It will not remedy the disease which the Honourable Mover desires to cure. What will be the effect of passing clause 2 of the Bill? It will only take away one of the definitions from clause 15 of the Criminal Law Amendment

Act, and the definition of an "unlawful association" in clause (a) will remain as it is. An "unlawful association" has been defined in clause (b) as follows :

"which has been declared to be unlawful by the Local Government under the powers hereby conferred."

If this definition is removed but section 16 of the Criminal Law Amendment Act is allowed to remain on the Statute-book, the effect will be that an "unlawful association" will be defined in two ways, one as it is defined in clause (a) which reads as follows :

"which encourages or aids persons to commit acts of violence or intimidation or of which the members habitually commit such acts."

or—because the word "or" is not sought to be repealed—as defined in section 16 which says :

"If the Local Government is of opinion that any association interferes or has for its object the 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, the Local Government may, by notification in the official Gazette, declare such association to be unlawful."

This means, Sir, that we will have two definitions of "unlawful associations" still in the same Act, namely, as defined in section 15 (2) (a) and as defined in section 16. Repealing the definition in 15 (2) (b), which has to be read with section 16, has got no sense to my mind unless section 16 is also repealed. If Government are of opinion that certain associations are unlawful and declare them as such, and prosecute them, what will be the effect ? Section 17 does not want that any association, which has been declared to be unlawful, should be proved to be such by any evidence. If Government finds that any person belongs to an association which has been declared to be unlawful under section 16, they can at once arrest him and put him on his trial. All that they have got to prove is only that the man belongs to such-and-such an association or is still connected with such-and-such an association, and that man can only plead whether he belongs to that association or not.

The effect of this Act will still remain the same even if this Bill be passed and sub-clause (b) of clause (2) of section 15 be removed. The Honourable and learned Member is so well known for his books on criminal law and is supposed to be an authority on criminal law so far as books are concerned, that I do not know how it escaped his attention that this Bill will only make it the more ambiguous. It will make the law more intricate and more ambiguous, and the Honourable Member did not care to remove the real thing which is so obvious that anybody who reads the Act will understand it. The grievances which the people could have, have been pointed out by the Honourable Lala Lajpat Rai who has made a long speech, but even he did not point out where the remedy lies. The only remedy which he should have suggested was not the removal of sub-clause (b) of clause (2) of section 15, but the amendment of the words "the Local Government is of opinion." These words make everything so ambiguous that even if sub-clause (b) of clause (2) of section 15 were cut out it would not make any difference. I do not see therefore any advisability of passing this Bill. Of course, we deplore that the Legislature in 1908 passed a Bill like this giving extensive powers which they never should have done to the executive by putting in the words "is of opinion", and the Indian Members at that time did not care to think of this and put in a more suitable phrase. Even on the

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last debate which took place about two years ago it was pointed out by me that the only remedy which they ought to have put forward was to replace these words by some more suitable words. By not doing so you still leave the same weapon in the hands of the Government and go about the thing in a roundabout manner. Though the Legislature in 1908 did not notice it, is it befitting that a Legislature of this kind, where it is adorned by men like Sir Hari Singh Gour, should pass a Bill which will require further amendment in future Legislatures? We should have expected that experienced people as they are, they should have brought in a measure which will be good for a long time to come. But here we have a measure which speaks for itself. I am not going to beat about the bush by arguing whether the words are "Governor General in Council" or "Local Government". This might be a defect in drafting the Bill, this might have been ignored by Sir Hari Singh Gour because he had a copy which contained the words "Governor General in Council". But what about section 16? He read carefully section 16 and he still wants another clause to be added to section 16 as 16-A. But it does not remedy the matter at all. I am not going to comment on that section because we are dealing only with clause 2 at present. When the time comes, I will show that the addition of the new clause does not remedy matters at all. You will only leave an intricacy and the High Courts will be bothered and probably some of those who are in the legal profession may be benefited by an ambiguous provision like this, but the public as a whole will not benefit by it. On this legal ground I oppose the insertion of this clause. I have got several other grounds besides this. I will just give the Honourable Members of this House one instance. We hear the Honourable Dr. Gour say: "We gave a pledge to our constituencies. Here we are to please them". But, Sir, we are here to see that our country does not get a law which might be more abused than the present law.

**Mr. Jamnadas M. Mehta** (Bombay City : Non-Muhammadan Urban) : What is your constituency?

**Mr. A. Rangaswami Iyengar** : The Government.

**Mr. Muhammad Yamin Khan** : Is it not a fact that in 1921 the Congress did not want any violence? It wanted everything to go on peacefully. Is it not a fact that most of the people who acted in the name of the Congress and the Khilafat committed violence? Is it not a fact that those who disagreed with the Congress and the Khilafat were threatened, ridiculed and jeered at simply because they did not agree with the Congress and the Khilafat people? I will give you the instance of Maulvi Abdul Ahad who died in Delhi and whose corpse was returned from the cemetery. It was only taken back after certain assurances were given by the descendants of the deceased that he shared the same views as the Khilafat people. Don't you think that certain measures are necessary to check people of that kind? I do not refer to the real persons of the Congress and the Khilafat and the real followers of Mahatma Gandhi, but those who pretended to act in the name of those bodies. Is not a measure necessary to stop people from repeating those incidents, which took place only five or six years ago? It may be a justification to say that no such thing is happening to-day. But law is not

made for a day or two. Unless some time elapses which justifies your saying that these things have stopped and there is no likelihood of those things being repeated, you cannot ask for the removal of this Act from the Statute-book. You ought to bring in an amendment to section 16 instead of removing a clause which says : " has been declared to be unlawful by the Government under the powers hereby conferred."

Now, to limit those powers ought to have been your remedy, and not to repeal this clause and sub-section and retain section 16. Now, Honourable gentlemen opposite on the Swarajist benches may say here that they did not share the views of the United Provinces Ministers at that time, but I might tell the Nationalists that they did share their views. I know personally that in 1921 the head of the Government in the United Provinces, Sir Harcourt Butler, was not willing to have recourse to this Act, but action was taken under this Act only with the full concurrence and full approval of people of very nationalistic views like the Maharaja Sahib of Mahmudabad, Mr. Chintamani and Pandit Jagat Narain, who then formed the majority in the Cabinet in the United Provinces, and all the cases under this Act were tried with the full concurrence and support of these Ministers who, as I said, then formed the majority in the Government. (*Cries of 'No, no' from the Swarajist Benches.*)

**Lala Lajpat Rai and Pandit Madan Mohan Malaviya** : That statement is not correct.

**Mr. Muhammad Yamin Khan** : Nobody can deny it.

My friends Pandit Malaviya and Lala Lajpat Rai may cry " No " now, but these very gentlemen had several times accused the members of the Cabinet in the United Provinces for giving their concurrence to try cases under this Act.

**Mr. M. S. Aney** (Berar representative) : On a point of order, Sir. Is the Honourable gentleman in order in making a public statement here with regard to the proceedings which were of a confidential nature ? The Honourable Member evidently refers to the meetings of the Executive Council of the United Provinces Government.

**Mr. Muhammad Yamin Khan** : I make my statement from what appeared in the Press at that time, from the accusations that were levelled at the Ministers in the United Provinces at that time and the reticence which these gentlemen observed, and these things justify me in saying what I say to-day. There is no denying the fact that all these cases were tried under this clause with the full concurrence of the Ministers who formed a majority at that time in the United Provinces Government. But if that is not a fact, then it is an open convention that if a Member of the Government thinks that he cannot agree with the views of the majority of the Government and the Government is bent upon proceeding with a measure which he thinks is injurious to the country, the only course left to him is to resign from the Government. But as these Honourable gentlemen did not choose to do so, the only conclusion that the public can arrive at is that they gave their full concurrence and approval to Government's action.

**Mr. N. M. Joshi** (Nominated : Labour Interests) : May I ask the Honourable Member a question, Sir ? Does he not know that the

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Ministers are bound by oath not to divulge the proceedings which take place in confidence in the Cabinet ? (*Several voices from the Swarajist Benches* : " He knows all that.")

**Mr. Muhammad Yamin Khan** : Sir, I cannot go on replying to all these questions if Honourable Members do not know the ordinary conventions existing in all constitutional Governments. (Ironical cheers from the Swarajist Benches). As I have pointed out, the only course open to the Ministers or members of the Cabinet, if they cannot agree with the views of the Government, is to resign and come out honourably to show that they will have nothing to do with such a Government. As, however, they did not choose to do so, the only inference the outside public could draw was that they were in full agreement with the views held by the Government at that time on this question.

**Mr. Rafi Ahmad Kidwai** (Lucknow and Fyzabad Divisions : Muhammadan Rural) : May I ask a question, Sir ? Is the Honourable Member sure that the Ministers were consulted in the matter ?

**Mr. Muhammad Yamin Khan** : I have shown that clause 2, on account of legal difficulties, cannot be retained.

I have shown that politically it is not desirable at present. The challenge has been thrown out to Honourable Members to show that it had ever been abused. Talking of sentiment, what sentiment is there ? (Laughter.) Yes, some Members might please themselves by shouting or by loudly making a demonstration of a kind which befits them only, but they cannot influence the judgment of people who want with cool heads to go into matters (Laughter) which benefit the people. Legislation can never be improved by bluffing or getting emotional or simply by laughing. (Laughter.)

**Several Honourable Members** : I move that the question be now put.

**Mr. T. A. K. Shervani** (Cities of the United Provinces : Muhammadan Urban) : Sir, the only question before the House is whether the clause which is sought to be repealed should be retained in the Act or not. There could have been only two justifications, for the retention of the clause, one that there are times when the Government require certain special measures to protect society from certain political organisations. I assure the Honourable the Home Member that so far as that function is concerned, you have tried the measure not only once but several times and it has proved ineffectual. Instead of stopping or suppressing those associations, this clause, Sir, has served as an incentive to violate the Act. It has been tried in the past ; and try it again in future, the result will be the same. Another justification, however, for the retention of this clause in the Act would have been—and I had been anxiously waiting these two years and had been looking to the Government to do it—to make use of this Act in suppressing certain communal organisations. But I am sorry to say that the Government lost that opportunity. For the last two years certain communal associations are playing havoc in the whole country. There is more disorder created by these associations than by any other association which the Government wants to suppress by means of the Act, but Government would not apply

this Act, and I do not think Government are in a mood to apply this Act to them in future ; and therefore the Government have got no justification whatsoever for retaining the clause in the Act.

Sir, so far as the misuse of this Act is concerned, at least I can give the House one instance. In 1921 I believe 55 members of the United Provinces Congress Committee were arrested under this Act. I am not certain, but I think that 55 members of the Congress were arrested under this Act. Was there any justification for the Government of the United Provinces to apply the Act and arrest 55 Congress members and to apply this Act to an association like the United Provinces Congress Committee ? (*An Honourable Member* : Including Pandit Motilal Nehru). Now, Sir, I beg to submit that the Act is ineffectual in suppressing those associations which they want to suppress by it, and the Government do not apply the Act for suppressing those associations which they ought to suppress, therefore there is no justification whatsoever for the retention of this whole Act, still less of this clause.

As regards the arguments advanced by the learned gentleman who preceded me I am sorry to say that, so far as the legal aspect of the question is concerned, I could not follow him, though I tried my level best to do so ; so far as the logic and the argument were concerned, I was unable to appreciate them, and so far as sentiment was concerned, he had none. So, as a matter of fact, there was nothing in the argument which calls for a reply.

Now, as regards the arguments that Government do require some special Act, to meet special circumstances, no doubt certain things do occur in a country which require the help of special laws, but as to that I assure the Government that there is one section which fulfils the function of this Act as well as a hundred others which the Government might have enacted. That section is S.-144 of the Criminal Procedure Code. So long as section 144 is in the Criminal Procedure Code, Government do not require any special law. It is an all-sufficient and all pervading section. It has been used (*An Honourable Member* : " And abused ") and abused as my Honourable friend says in all sorts of cases and that gives all the powers to the Government which they need ; especially when there is another section also in the same Code, I mean section 108, I do not think Government require any special law to suppress individuals, to suppress associations and to suppress any and every measure which the people think fit to adopt. As the time is very short, I will not take up any more time of the House. The whole case which the speakers on the side opposite tried to make out referred to the period before the last two years. There may have been special circumstances then ; but the condition in which we are at present, the state of affairs and the conditions which are prevailing in the country to-day are such that they do not require any special law. We are sufficiently cowed down, and therefore, I submit that this is the most fit and proper time for repealing the clause which is sought to be repealed.

(Several Honourable Members moved that the question be put.)

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

The motion was adopted.

**Mr. President** : The question is :

" That clause 2 do stand part of the Bill."

**Mr. President :** The bell is not ringing ; the electricity has gone off. I would therefore ask the Whips of the Parties, if they choose, to call their members in.

(After the lapse of the usual interval the question was again put and the Assembly divided :)

## AYES—52.

Abdul Matin Chaudhury, Maulvi.  
 Abdullah Haji Kasim, Khan Bahadur Haji.  
 Aiyangar, Mr. C. Duraiswamy.  
 Aney, Mr. M. S.  
 Ayyangar, Mr. M. S. Sesha.  
 Belvi, Mr. D. V.  
 Bhargava, Pandit Thakur Das.  
 Chetty, Mr. R. K. Shanmukham.  
 Dakhan, Mr. W. M. P. Ghulam Kadir Khan.  
 Das, Pandit Nilakantha.  
 Dutt, Mr. Amar Nath.  
 Dutta, Mr. Srish Chandra.  
 Farookhi, Mr. Abdul Latif Saheb. \*  
 Ghazanfar Ali Khan, Raja.  
 Gour, Sir Hari Singh.  
 Haji, Mr. Sarabhai Nemchand.  
 Ismail Khan, Mr.  
 Iswar Saran, Munshi.  
 Iyengar, Mr. A. Rangaswami.  
 Iyengar, Mr. S. Srinivasa.  
 Jayakar, Mr. M. R.  
 Jinnah, Mr. M. A.  
 Jogiah, Mr. Varahagiri Venkata.  
 Joshi, Mr. N. M.  
 Kidwai, Mr. Rafi Ahmad.

Kunzru, Pandit Hirday Nath.  
 Lahiri Chaudhury, Mr. Dharendra Kanta.  
 Lajpat Rai, Lala.  
 Malaviya, Pandit Madan Mohan.  
 Mehta, Mr. Jamnadas M.  
 Mitra, Mr. Satyendra Chandra.  
 Moonje, Dr. B. S.  
 Mukhtar Singh, Mr.  
 Naidu, Mr. B. P.  
 Neogy, Mr. K. C.  
 Pandya, Mr. Vidya Sagar.  
 Phookun, Srijut Tarun Ran.  
 Rang Behari Lal, Lala.  
 Roy, Mr. Bhabendra Chandra.  
 Sarda, Rai Sahib Harbilas.  
 Shafee, Maulvi Mohammad.  
 Shervani, Mr. T. A. K.  
 Siddiqi, Mr. Abdul Qadir.  
 Singh, Mr. Gaya Prasad.  
 Singh, Mr. Narayan Prasad.  
 Singh, Mr. Ram Narayan.  
 Sinha, Kumar Ganganand.  
 Sinha, Mr. R. P.  
 Sinha, Mr. Siddheswar.  
 Tok Kyi, U.  
 Vishindas, Mr. Harchandrai.  
 Yakub, Maulvi Muhammad.

## NOES—40.

Abdul Qaiyum, Nawab Sir Sahibzada.  
 Ahmad, Khan Bahadur Nasir-ud-din.  
 Alexander, Mr. William.  
 Anwar-ul-Azim, Mr.  
 Ashrafuddin Ahmad, Khan Bahadur Nawabzada Sayid.  
 Ayyangar, Mr. V. K. Aravamudha.  
 Ayyangar, Rao Bahadur Narasimha Gopalaswami.  
 Bajpai, Mr. G. S.  
 Blackett, The Honourable Sir Basil.  
 Bray, Sir Denys.  
 Coatman, Mr. J.  
 Cocke, Mr. H. G.  
 Cosgrave, Mr. W. A.  
 Courtenay, Mr. B. H.  
 Crerar, The Honourable Mr. J.  
 Crofton, Mr. R. M.  
 Dalal, Mr. A. R.  
 Dalal, Sardar Sir Bomanji.  
 Donovan, Mr. J. T.  
 Dunnett, Mr. J. M.

Haigh, Mr. P. B.  
 Irving, Mr. Miles.  
 Jowahir Singh, Sardar Bahadur Sardar.  
 Kabul Singh Bahadur, Captain.  
 Keane, Mr. M.  
 Kirk, Mr. E. T. F.  
 Lamb, Mr. W. S.  
 Mitra, The Honourable Sir Bhupendra Nath.  
 Moore, Mr. Arthur.  
 Mukherjee, Mr. S. C.  
 Parsons, Mr. A. A. L.  
 Rainy, The Honourable Sir George.  
 Rajah, Rao Bahadur M. C.  
 Sams, Mr. H. A.  
 Sassoon, Sir Victor.  
 Singh, Rai Bahadur S. N.  
 Tonkinson, Mr. H.  
 Wright, Mr. W. T. M.  
 Yamin Khan, Mr. Muhammad.  
 Young, Mr. G. M.

The motion was adopted.

Clause 2 was added to the Bill.

**Mr. President :** The question is :

“ That clause 3 do stand part of the Bill.”

**Pandit Madan Mohan Malaviya :** Sir, I beg to move :

“ That in clause 3 the following amendment be made :

‘ For the word ‘ after ’, the word ‘ for ’ be substituted ; and

‘ For the word ‘ inserted ’, the word ‘ substituted ’ be substituted.”

That is my first amendment. We are grateful to the Honourable Mr. Wright for having put these amendments in proper form.

**Mr. H. Tonkinson :** Might I suggest, Sir, that it would be for the convenience of the House if the Honourable Member moves all his amendments together because they will leave one clause which can then be discussed as a whole.

**Sir Hari Singh Gour and Pandit Madan Mohan Malaviya :** We are quite prepared to do that.

**Pandit Madan Mohan Malaviya :** With your leave, Sir, I will do it.

**Mr. President :** Are they all connected amendments ?

**Pandit Madan Mohan Malaviya :** Yes, Sir.

**Mr. President :** In that case you can move all the amendments together, and I will treat them as one amendment.

**Pandit Madan Mohan Malaviya :** Sir, I propose :

“ That in clause 3 of the Bill the following amendment be made, namely :

(i) for the word ‘ after ’ the word ‘ for ’ and for the word ‘ inserted ’ the word ‘ substituted ’ be substituted ;

(ii) for the figures and letter ‘ 16-A ’ the figures ‘ 16 ’ be substituted ;

(iii) the words beginning with ‘ any person deeming himself ’ and ending with ‘ to be unlawful and ’ be omitted, and for the words ‘ the declaration should never have been made ’ the following be substituted, namely, ‘ the association in respect of which he was convicted was not an unlawful association ’.”

To make the matter clear, Sir, this is how the section will stand with the amendments which I have suggested :

“ For section 16 of the said Act the following section shall be substituted, namely:—

‘ 16. Any person convicted under the provisions of section 17 may appeal to the High Court on the ground that the association in respect of which he was convicted was not an unlawful association ’.”

**Mr. H. Tonkinson :** Sir, in regard to this amendment, I merely wish to point out that if it is carried, it will leave us with a Bill which is entirely different in its effect from the one which my Honourable friend asked for leave to introduce.

**Mr. President :** If that were so, it was the duty of the Government to object to the moving of these amendments without notice. The very fact that the Government did not do so shows that they regarded them as merely formal and not of substance. The Chair had certainly been all along under the impression that by common consent they were to be treated merely as formal amendments. I am therefore surprised at the line now taken by the Honourable Member.

**Mr. H. Tonkinson :** Sir, I regret that you should have had cause to object to the action which has been taken in this matter. It was only a few minutes ago that I saw and realised the purport of the amendment that has been moved by the Honourable Pandit. I said, Sir, that the effect of these amendments would be to substitute an entirely different Bill from the Bill which has been before us hitherto. Hitherto my Honourable friend has suggested that he intended by this Bill to give effect to the suggestion which was thrown out by Sir Chiman Lal Setalvad during the discussion of his Bill in 1924. According to that suggestion.....

**Mr. President :** I should like to hear the Honourable the Home Member on the question, whether, on behalf of the Government, he regards these amendments as merely formal amendments or as amendments of substance which would change the whole character of the Bill. All along the Chair understood that by common consent the amendments were to be treated as of a formal character, and therefore the Government did not make any objection to the moving of them at this stage without notice. Now an important Member, on behalf of the Government, rises in his seat and tells the House that these amendments are not merely formal but are of such a character that, if they are carried, it would leave us with a Bill entirely different in its effect from the original Bill.

**The Honourable Mr. J. Orerar :** Sir, my position in the matter is this : some objection was raised to the attitude of Government with respect to this Bill both by the Honourable the Mover and by the Honourable Lala Lajpat Rai on the ground that we stand on technical objections. I do not take any objection to the Honourable Pandit moving this amendment largely because I do not wish to give any ground for a reproach of that character. I do as a matter of fact think that the amendment does change very materially both the intention and the construction of the Bill that has hitherto been before us. However, I do not propose to stand on the ground of notice, but I shall at a later stage, if necessary, submit for your consideration an objection under Standing Order 49, if it is proposed on this occasion to move any further motion in connection with the Bill.

**Mr. President :** The Chair regrets the attitude of the Government in this matter. If it was the intention of the Government to object to the further passage of the Bill to-day under Standing Order 49, their clear duty was to object to the moving of these amendments at this stage without notice. If in their judgment these amendments were of substance and not merely of form, they should have asked the Chair to rule them out on the ground of want of notice. The Chair, and I am sure the House, were under the impression that these amendments were to be treated as formal amendments. The Chair is therefore surprised to find that Government had a mental reservation.

**The Honourable Sir Basil Blackett (Leader of the House) :** May I say a word, Sir ? Objection was taken by more than one speaker to what was supposed to be the attitude of the Government in not assisting the private Member who had introduced this Bill in getting it drafted into a shape in which it was intelligible. It was said that we were standing on formal objections in not giving that assistance which it was in our power to give from our draftsman. The draftsman immediately approached the Mover and asked him whether it was his desire that amendments that would put the Bill into a shape in which it was in formal order should

be given to him in order that he might move them. I understand that the Mover accepted that suggestion and it is in consequence of that that these amendments have been handed to the Honourable Pandit Malaviya and he has moved them. It was explained at an earlier stage that any amendment, in the view of the Government, to the drafting of this Bill was something more than a mere formality, that it was not merely a question of incorrect drafting, but that the form and structure of the Bill—I think those are the words used by the Honourable the Home Member—would require amendment, and it is only by such an alteration, which is more than an alteration of form and becomes an alteration of substance, that the Bill could be put into a shape in which it is technically correct. But, in view of the objection that you have raised, and after this explanation which shows that Government have done nothing more than try to be helpful with their draftsman, in view of your objection to the Government raising an objection under Standing Order 49 to the further passage of this Bill, I am sure that my Honourable friend, the Home Member, will have no objection to not pressing his right to make an objection under that Standing Order.

**Mr. President :** The Chair is much obliged to the Leader of the House for coming to its rescue in this somewhat difficult situation.

**Mr. H. Tonkinson :** Sir, as I was observing, my Honourable and learned friend, Sir Hari Singh Gour, has up to the present brought forward this Bill in the view that it gave effect to a suggestion thrown out by Sir Chimanlal Setalvad during the discussion of his Bill of 1924. On that suggestion, Sir, the Local Government would have been allowed to make a declaration. For the purposes of that suggestion, therefore, it was absolutely essential that clause (b) of section 15 of the Act should have been retained.

That clause has already gone. After the Local Government had made this declaration, Sir Chimanlal Setalvad suggested that there should be the possibility of a reference to the High Court in regard to the declaration of a Local Government. That was, I understand, the intention of the Honourable Member in bringing forward this Bill. With the clause as amended by the Honourable Pandit what we shall have will be another section for section 16 of the present Act, and under that section any person convicted under section 17 will be allowed to appeal to the High Court on the ground that the association in respect of which he has been convicted of being a member is not unlawful. That makes the Bill one of an entirely different character from the Bill which was introduced originally. That is the only point I have to submit, Sir.

**Mr. President :** The question is :

“ That in clause 3 of the Criminal Law Amendment Bill the following amendment be made :

- (1) For the word ‘ after ’ the word ‘ for ’ and for the word ‘ inserted ’ the word ‘ substituted ’ be substituted.
- (2) For the figures and letter ‘ 16-A. ’ the figures ‘ 16 ’ be substituted.
- (3) The words beginning with ‘ any person deeming himself ’ and ending with ‘ to be unlawful and ’ be omitted, and for the words ‘ the declaration should never have been made ’ the following be substituted, namely :  
 ‘ the association in respect of which he was convicted was not an unlawful association ’.”

The motion was adopted.

[Mr. President.]

Clause 3, as amended, was added to the Bill.

Clause 4 was added to the Bill.

Clause 1 was added to the Bill.

The title and preamble were added to the Bill.

**Sir Hari Singh Gour** : Sir, I move that the Bill, as amended, be passed.

**Mr. President** : Does the Home Member wish to speak on this motion ?

**The Honourable Mr. J. Orerar** : No, Sir, I have no remarks to offer on this motion. I fear I have already detained the House at length.

**Mr. President** : The question is :

“ That the Bill, as amended, be passed.”

(A division was called for.)

(When the division bells were rung, it was noticed that they were out of order.)

**Mr. President** : I hope the Whips of the Parties will take the place of the bell.

(After an interval.)

**Mr. President** : I think I have given sufficient time for Honourable Members to come in.

The question is :

“ That the Bill, as amended, be passed.”

The Assembly divided :

AYES—52.

Abdul Matin Chaudhury, Maulvi.  
Abdullah Haji Kasim, Kaaan Bahadur  
Haji.  
Aiyangar, Mr. C. Duraiswamy.  
Aney, Mr. M. S.  
Ayyangar, Mr. M. S. Sesha.  
Belvi, Mr. D. V.  
Bhargava, Pandit Thakur Das.  
Chetty, Mr. R. K. Shanmukham.  
Das, Pandit Nilakantha.  
Dutt, Mr. Amar Nath.  
Dutta, Mr. Srish Chandra.  
Farookhi, Mr. Abdul Latif Saheb.  
Ghazanfar Ali Khan, Raja.  
Gour, Sir Hari Singh.  
Haji, Mr. Sarabhai Nemchand.  
Ismail Khan, Mr.  
Iswar Suran, Munshi.  
Iyengar, Mr. A. Rangaswami.  
Iyengar, Mr. S. Srinivasa.  
Jayakar, Mr. M. R.  
Jinnah, Mr. M. A.  
Jogiah, Mr. Varahagiri Venkata.  
Joishi, Mr. N. M.  
Kelkar, Mr. N. C.  
Kidwai, Mr. Rafi Ahmad.  
Kunzru, Pandit Hirday Nath.

Lahiri Chaudhury, Mr. Dharendra Kanta.  
Lajpat Rai, Lala.  
Malaviya, Pandit Madan Mohan.  
Mehta, Mr. Jamnadas M.  
Mitra, Mr. Satyendra Chandra.  
Moonje, Dr. B. S.  
Mukhtar Singh, Mr.  
Naidu, Mr. B. P.  
Neogy, Mr. K. C.  
Pandya, Mr. Vidya Sagar.  
Phookun, Srijut Tarun Ram.  
Rang Behari Lal, Lala.  
Roy, Mr. Bhabendra Chandra.  
Sarda, Rai Sahib Harbilas.  
Shafee, Maulvi Mohammad.  
Shervani, Mr. T. A. K.  
Siddiqi, Mr. Abdul Qadir.  
Singh, Mr. Gaya Prasad.  
Singh, Mr. Narayan Prasad.  
Singh, Mr. Ram Narayan.  
Singh, Kumar Ganganand.  
Sinha, Mr. R. P.  
Sinha, Mr. Siddheswar.  
Tok Kyi, U.  
Vishindas, Mr. Harchandrai.  
Yakub, Maulvi Muhammad.

## NOES—39.

Abdul Qaiyum, Nawab Sir Sahibzada.	Haigh, Mr. P. B.
Ahmad, Khan Bahadur Nasir-ud-din.	Irving, Mr. Miles.
Alexander, Mr. William.	Jowahir Singh, Sardar Bahadur Sardar.
Anwar-ul-Azim, Mr.	Kabul Singh Bahadur, Captain.
Ashrafuddin Ahmad, Khan Bahadur	Keane, Mr. M.
Nawabzada Sayid.	Kirk, Mr. R. T. F.
Ayyangar, Mr. V. K. Aravamudha.	Lamb, Mr. W. S.
Ayyangar, Rao Bahadur Narasimha	Mitra, The Honourable Sir Bhupendra
Gopalaswami.	Nath.
Bajpai, Mr. G. S.	Moore, Mr. Arthur.
Blackett, The Honourable Sir Basil.	Mukherjee, Mr. S. C.
Bray, Sir Denys.	Parsons, Mr. A. A. L.
Coatman, Mr. J.	Rainy, The Honourable Sir George.
Cocke, Mr. H. G.	Rajah, Rao Bahadur M. C.
Cosgrave, Mr. W. A.	Sams, Mr. H. A.
Courtenay, Mr. R. H.	Sassoon, Sir Victor.
Crerar, The Honourable Mr. J.	Tonkinson, Mr. H.
Crofton, Mr. R. M.	Wright, Mr. W. T. M.
Dalal, Mr. A. E.	Yamin Khan, Mr. Muhammad.
Dalal, Sardar Sir Bomanji.	Young, Mr. G. M.
Donovan, Mr. J. T.	
Dunnett, Mr. J. M.	

The motion was adopted.

The Assembly then adjourned till Eleven of the Clock on Wednesday, the 24th August, 1927.