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OF THE

THIRD LEGISLATIVE ASSEMBLY, 1927



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Legislative Assembly.

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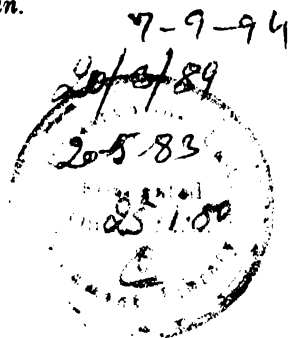
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LIEUT.-COLONEL H. A. J. GIDNEY, M.L.A.

MR. C. DURAISWAMY AYYANGAR, M.L.A.



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LEGISLATIVE ASSEMBLY.

Monday, 19th September, 1927.

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

QUESTIONS AND ANSWERS.

RESOLUTION REGARDING THE PROHIBITION OF LIQUOR.

1062. ***Maulvi Badi-uz-Zaman** : (a) Will the Government be pleased to state whether they have taken any steps to give effect to the Resolution passed in the Assembly regarding the prohibition of liquor ?

(b) If not, will the Government please state the reason for not giving effect to the Resolution ?

(c) Are the Government prepared to give effect to it without any delay ?

The Honourable Sir Basil Blackett : With your permission I propose to answer questions Nos. 1062 and 1126 together.

As stated last year on the 19th August in reply to question No. 134, Government have decided not to take any action on the Resolution in question for the reasons given by me in my speech on the 2nd September 1925.

Mr. K. Ahmed : How long will Government take to consider the question and give effect to the Resolution ?

Mr. President : The Honourable Member has not heard the reply. The reply was that the Government had decided not to take any action.

Mr. K. Ahmed : Declined to take any action ? Are Government aware that it is an insult to the Members of this House not to give effect to the wishes of the country.....

Mr. President : The Honourable Member knows that Resolutions passed by this House are recommendatory and not binding on the Government.

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

NEW PENSION RULES.

1063. ***Maulvi Badi-uz-Zaman** : (a) Have any new pension rules been sanctioned recently by the Secretary of State for India for Government servants ?

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

The Honourable Sir Basil Blackett : I would refer the Honourable Member to the reply which I gave on the 30th August, 1927, to part (a) of question No. 86, asked by Mr. Amar Nath Dutt.

**TOTAL NUMBER OF ASSISTANTS AND CLERKS IN THE NEW BRANCH OF THE
HOME DEPARTMENT CREATED IN CONNECTION WITH THE
STATUTORY COMMISSION.**

1064. ***Maulvi Muhammad Yakub :** (a) What is the total number of assistants and clerks in the new branch of the Home Department created in connection with the Statutory Commission ?

(b) Is it a fact that no Muslim has been taken in this section ?

The Honourable Mr. J. Crerar : (a) One assistant, a clerk, a typist and a stenographer have so far been appointed.

(b) Yes.

**PROPORTION OF MUSSALMANS IN THE OFFICE OF THE CENTRAL BOARD OF
REVENUE.**

1065. ***Maulvi Muhammad Yakub :** (a) What is the total number of office establishment in the office of Central Board of Revenue ? Is it a fact that within this year 4 or 5 Mussalmans who were employed in this office have been transferred to other offices and their place has been taken by non-Muslims ?

(b) What is the present proportion of Mussalmans in this office at present as compared to the proportion of last year ?

The Honourable Sir Basil Blackett : (a) The answer to the first part of the question is 42, and to the second part, in the negative.

(b) 19 per cent. in both the years.

NUMBER OF MUSLIM GAZETTED OFFICERS IN THE RAILWAY BOARD.

1066. ***Mr. Abdul Hye :** (a) Will the Government be pleased to state the number of gazetted officers including gazetted Superintendents employed in the Railway Board at present ?

(b) How many of these officers are Muslims and how many are Hindus ?

(c) Are Government taking any action to increase the number of Muslims ?

Mr. A. A. L. Parsons : (a) 23.

(b) Hindus 5 ; Muslim 1.

(c) No special steps have been taken.

Mr. K. Ahmed : In view of the fact that the Muhammadans are below the proper proportion in service, do Government propose to take steps to give a due share to them ?

Mr. A. A. L. Parsons : I did not catch the Honourable Member's question.

Mr. K. Ahmed : In view of the fact that the Muhammadans are entitled to a fixed proportion, do Government propose to take steps to give effect to their promise ?

Mr. A. A. L. Parsons : I do not accept the statement made by the Honourable Member.

NUMBER OF MUSLIM ASSISTANTS IN THE RAILWAY BOARD.

1067. ***Mr. Abdul Haye** : (a) Will the Government be pleased to state the total number of assistants excluding stenographers employed at present in the Railway Board ?

(b) Is it a fact that there is not a single Muslim permanent assistant in the Railway Board ?

(c) If the answer to (b) above is in the affirmative will Government please state what action is being taken to increase the number of Muslims ?

Mr. A. A. L. Parsons : 30.

(b) Yes.

(c) 4 Muslim clerks have been appointed to officiate as assistants.

Mr. K. Ahmed : In view of the fact that it has become absolutely necessary to act according to the promise of the Government, do Government propose for their own prestige and dignity to give effect to the promise of 33 per cent. which should be acted upon ?

Mr. A. A. L. Parsons : I think my reply shows that it has been doing so.

NUMBER OF MUSLIM GAZETTED OFFICERS IN CERTAIN SPECIFIED ACCOUNTS OFFICES.

1068. ***Mr. Abdul Haye** : (a) Will the Government please state the total number of gazetted officers in the following offices ?

I. Office of the Auditor General.

II. Office of the Military Accountant General.

III. Office of the Accountant General, Railways.

IV. Office of the Audit Officer, Indian Stores Department.

V. Office of the Accountant General, Central Revenues.

(b) How many of these officers are Hindus and how many are Muslims ?

(c) Is it a fact that in some of these offices not a single Muslim officer has been posted ever since the offices came into existence, and if so, may such offices please be specified ?

(d) What is the number of appointments made in the ministerial establishments in these offices during the last two years ?

(e) How many of the men appointed were Muslims and how many of the Muslims appointed are at present in service ?

(f) Are Government taking any action to ensure an increase of Muslims in these offices by recruiting more Muslims in future ?

The Honourable Sir Basil Blackett : I propose to reply to questions Nos. 1068, 1070, 1072, 1074 and 1075 together.

I would refer the Honourable Member to the Honourable Sir Charles Innes' reply to Maulvi Muhammad Yakub's unstarred question No. 3 on the 27th January 1927. That reply still holds good in the case of the offices referred to in these questions.

Mr. K. Ahmed : In view of the fact that Government have not suitably answered this question, do Government propose now for the benefit

of the country to answer the question in full and give satisfaction to the Members of this Assembly by adhering to the promise given by them ?

The Honourable Sir Basil Blackett : Government always give effect to their promises.

Mr. K. Ahmed : Is it not a fact that Government Members say that things are right when they are not right ?

INCREASE OF MUSLIM OFFICERS OF THE INDIAN AUDIT AND ACCOUNTS SERVICE EMPLOYED ON THE STATE RAILWAYS.

†1070 ***Mr. Abdul Haye :** (a) Will Government please state the total number of officers of the Indian Audit and Accounts Service at present employed on the four State Railways ?

(b) How many of these officers are Hindus and how many are Muslims ?

(c) Are Government taking action to increase the number of Muslims in the Railway Department ?

NUMBER OF MUSLIMS IN THE AUDIT OFFICE, INDIAN STORES DEPARTMENT.

†1072. ***Mr. Abdul Haye :** (a) How many ministerial appointments both temporary and permanent were made from 1st January to 31st August, 1927, in the Audit Office, Indian Stores Department, and how many of these were given to Muslims ?

(b) If no Muslim was appointed, what action do Government propose to take to ensure that Muslims are appointed ?

MUSLIMS IN TEMPORARY AND PERMANENT APPOINTMENTS IN MINISTERIAL ESTABLISHMENT OF THE OFFICE OF THE ACCOUNTANT GENERAL, RAILWAYS.

†1074. ***Mr. Abdul Haye :** (a) Will Government please state how many vacancies both temporary and permanent were filled up in the ministerial establishment of the Office of the Accountant General, Railways, from 1st December, 1926 to 31st August, 1927 ?

(b) Is it a fact that not a single Muslim was appointed to any of these posts ?

(c) Were these posts advertised for ? If not, why ?

(d) Did any Muslim graduate apply for these posts ? If so, why were Muslim graduates not employed ?

(e) Were any non-Muslim clerks appointed by the Accountant General, Railways, in his office in preference to Muslim candidates ? If so, what were the educational qualifications of these non-Muslim clerks ?

APPOINTMENT OF MUSLIMS AS DIVISIONAL ACCOUNTANTS IN THE OFFICE OF THE ACCOUNTANT GENERAL, RAILWAYS.

†1075. ***Mr. Abdul Haye :** (a) Is it a fact that 15 Divisional Accountants in lieu of clerks have recently been appointed by the Accountant General, Railways ?

† For answer to this question, see answer to question No. 1068.

(b) If so, how many of these are Muslims ?

(c) How many Muslims applied for these posts of Divisional Accountants-in-lieu of clerks and what were their educational and professional qualifications and length of service ?

(d) What were the educational and professional qualifications and length of service of the non-Muslim Divisional Accountants appointed by the Accountant General, Railways in the above posts ?

(e) Why were the claims of Muslims ignored by the Accountant General, Railways, in making the above appointments, and did he know that out of a total number of 150 Accountants serving under him, only 3 were Muslims ?

(f) When will the Accountant General, Railway, take necessary steps in pursuance of the Government policy, to recruit Muslims in his Department, which is overwhelmingly manned by non-Muslims ?

MUSLIM GAZETTED OFFICERS EMPLOYED ON THE FOUR STATE RAILWAYS.

1069. *Mr. Abdul Haye : (a) Will Government please state the total number of gazetted officers employed on the four State Railways ?

(b) How many of these officers are Hindus and how many are Muslims ?

Mr. A. A. L. Parsons : (a) and (b). The information may be obtained from the Railway Board's Classified list a copy of which is in the Library.

NUMBER OF MUSLIMS IN THE MINISTERIAL ESTABLISHMENT OF THE RAILWAY CLEARING HOUSE.

1071. *Mr. Abdul Haye : (a) Will Government please state the total number of appointments made in the ministerial establishment in connexion with Railway Clearing House ?

(b) How many of the men appointed were Muslims and how many of the Muslims appointed are now in service ?

Mr. A. A. L. Parsons : (a) The present sanctioned cadre for subordinate establishment for the Clearing Accounts Office is 830. Most of the appointments were filled by the transfer of men from other accounts offices.

(b) The information is not available and Government do not think it desirable to call for it.

NUMBER OF MUSLIM CLERKS APPOINTED IN THE RAILWAY BOARD FROM 1ST JANUARY TO 31ST AUGUST 1927.

1073. *Mr. Abdul Haye : How many clerks both temporary and permanent were appointed from 1st January to 31st August 1927 in the office of the Railway Board and how many of these were Muslims ?

Mr. A. A. L. Parsons : Nine ; out of these 3 were Muslims.

SPEECH OF SIR EDWARD GRIGG IN THE LEGISLATIVE COUNCIL OF KENYA.

1076. ***Mr. B. Das :** (a) Has the attention of the Government been drawn to the speech of His Excellency Sir Edward Grigg in the Kenya Legislature ?

(b) In reference to the definite announcement curtailing the liberties of Indians in Kenya Colony, will Government be pleased to make a statement to the House as to what action they have taken or propose to take in the matter ?

Mr. G. S. Bajpai : (a) and (b). The Honourable Member's attention is invited to the answer given by me on the 6th September 1927 to Mr. Shanmukham Chetty's short notice questions on the same subject. I regret that I am unable to make any statement as the Government of India have not yet received either a text of Sir Edward Grigg's speech or a summary of the recommendations made by the Feetham Commission on Local Government in Kenya.

†1077*—1079*.

CONDITIONS OF RELEASE OF BENGAL STATE PRISONERS AND DETENUS.

1080. ***Mr. S. C. Mitra :** (a) Are Government aware that certain conditions are shown to State prisoners in jail and they are asked if they agree to sign those conditions their cases will be favourably considered but no assurance is given of their release on subscribing to those conditions ?

(b) Will Government please explain why they do not make a list of those State prisoners whom they are willing to release if they are agreeable to the terms proposed ?

(c) Is it the object of showing the terms to all to tempt State prisoners to make incriminating statements implicating other persons ? If not, will Government please state fully their reasons for this system or procedure ?

The Honourable Mr. J. Crerar : (a) If the Honourable Member will read the debate which took place in this House on the 3rd February last, he will see that a declaration by a State prisoner or detenu as to his intentions for the future is an element which would be taken into consideration by Government in dealing with the question of release, though it is not the determining factor. An opportunity is accordingly given to State prisoners and detenues to give an undertaking as to their future conduct, if they so desire, but obviously no assurance of release in consequence of any such undertaking could be given.

(b) It is not the case, as the Honourable Member assumes, that Government are not prepared to release a detenu unless he gives an undertaking.

(c) The Honourable Member will see that in the debate to which I have just referred my predecessor explicitly stated that a declaration

† Not put at the meeting, but the questions and answers thereto will be found at pages 4563—64 of these proceedings.

would not amount to a confession of having taken part in such activities in the past. The answer to the first part of this paragraph of the Honourable Member's question is therefore in the negative. The declaration refers to the future, not to the past. I have explained in my answer to (a) what is the object of this procedure.

Mr. Satyendra Chandra Mitra : Is the Honourable the Home Member aware that the terms are enforceable under clause (c) of section 11 by serving notice on those persons ?

The Honourable Mr. J. Crerar : Will the Honourable Member be good enough to repeat the question ?

Mr. Satyendra Chandra Mitra : The terms which are shown to these persons are enforceable under clause (c) of section 11 of the Bengal Criminal Law Amendment Act, and in fact, on some of these persons these terms were served as notice and they are enforceable.

The Honourable Mr. J. Crerar : If an infringement of the terms takes place, the Government can take consequential action—is that the Honourable Member's question ?

HUNGER STRIKES AMONGST THE BENGAL STATE PRISONERS AND DETENUS.

1081. ***Mr. S. C. Mitra :** Will the Government be pleased to supply a list of hunger-strikes that have taken place amongst the Bengal State prisoners and detenues during the last four years ?

The Honourable Mr. J. Crerar : I regret I am not prepared to supply such a list.

TRANSFER OF BENGAL STATE PRISONERS AND DETENUS TO JAILS OUTSIDE BENGAL.

1082. ***Mr. S. C. Mitra :** (a) Will Government kindly explain the principle and reasons why Bengal State prisoners and detenues are transferred to jails outside their Province ?

(b) Are not Government aware that there is a good deal of difference in the nature and preparation of food in different Provinces and that detenues suffer greatly from the language difficulty and want of facilities for interviews with their relatives ?

The Honourable Mr. J. Crerar : (a) There are difficulties in keeping more than a limited number of State prisoners and detenues in any one jail, and the number of jails in Bengal in which they can be accommodated at all is limited.

(b) Government have realised that transfer to a jail outside Bengal may mean certain differences of diet and fewer opportunities of interviews, but do not consider that any avoidable hardship is involved.

†1083*—1084*.

† Not put at the meeting, but the questions and answers thereto will be found at pages 4564—65 of these proceedings.

EYE-SIGHT TESTS OF GAZETTED OFFICERS AND SUBORDINATE STAFF OF STATE RAILWAYS.

1085. ***Lieutenant-Colonel H. A. J. Gidney** : 1. Will the Honourable Member please inform this House if it is a fact that :

(a) Railway officials who are recruited in England for employment in all superior Railway Departments are accepted as physically fit with defective vision up to a maximum error of 3.5 Diopters, corrected with suitable glasses to 6|6 in one eye and 6|9 in the other ?

(b) this visual test is based on the Board of Trade Rules and accepted by the Medical Board of the India Office ?

2. If the answer to (1) is in the affirmative, will the Honourable Member please state if it is a fact that Medical Officers of all Indian State Railways demand from railway officials on first appointment a visual acuity equal to that of the Royal Navy, i.e., 6|6 in each eye without glasses ? Is it a fact that this is an unheard of visual requirement in any Department of Railways in the Empire ?

3. Will Government be prepared to remedy this anomaly ?

4. Is it a fact that a Committee of Railway Medical Officers recently met and drew up a report correcting this visual anomaly, and that this report was submitted for the approval of the Railway Board ?

5. If so, will the Honourable Member please state if he has examined this report and when orders will be issued on it ?

Mr. A. A. L. Parsons : As my reply is both long and technical, I should like, with your permission, and if the Honourable Member has no objection, to lay it on the table.

1. (a) The rule referred to by the Honourable Member was in existence, but has since been modified. Government have no information as to the standards of visual acuity now adopted for gazetted railway officers recruited in England, but in the case of subordinates such as guards, engine drivers, etc., a candidate is disqualified unless both eyes are emmetropic and acuteness of vision and range of accommodation perfect.

(b) In view of the answer given above, this question does not arise.

2. The statement made by the Honourable Member is not correct. Standards have recently been laid down for gazetted officers appointed on Railways which in no case require 6|6 acuity of vision in each eye without glasses. As regards subordinates the information at Government's disposal shows that only a certain class, viz., foot-plate staff, are required on recruitment to have 6|6 acuity of vision, in each eye without glasses, and that this class, on re-examination while in service, are permitted a lower standard.

3, 4 and 5. Government have received the Report of the Standing Advisory Committee of Medical Officers on the standards of physical fitness—including acuity of vision. Rules regarding gazetted officers have been issued along with the Regulations for recruitment in the Gazette of India of the 9th July 1927, and the Secretary of State has been requested to adopt the standards for candidates to be recruited in England. The Committee's report on the standards for subordinates is under the consideration of the Government.

SPECIAL COURSE IN OPHTHALMIC SURGERY FOR RAILWAY MEDICAL OFFICERS OF STATE RAILWAYS.

1086. ***Lieutenant-Colonel H. A. J. Gidney** : (a) Will the Honourable Member be pleased to state if all Railway Medical Officers recruited both in India and England undergo a special course in ophthalmic surgery, with special reference to their official professional work of which visual tests and opinions form an important part ?

(b) If not, are Government prepared to issue orders that this course of study do form a part of every Railway Medical Officer's training and that none who have not undergone a special ophthalmic training be employed as Medical Officers on State Railways ?

Mr. A. A. L. Parsons : (a) No. But candidates who have undergone a special course in ophthalmic surgery are given special consideration, other qualifications being also taken into account.

(b) Government do not propose to issue such orders.

INDIANS APPOINTED AS KING'S COMMISSIONED OFFICERS, ETC.

1087. ***Mr. Mukhtar Singh** : Will the Government be pleased to state in regard to the following appearing in the Indian Sandhurst Committee Report, page 11, paragraph 9, sub-paragraphs 2 and 3 :

“ of the 44 Indian boys who have passed successfully out of Sandhurst, 42 now remain in the Indian Army. The other two have for different reasons resigned their commission,

of the 83 boys who passed the Sandhurst entrance examination, 35 were residents of the Punjab, 12 belong to Bombay, 9 each to the United Provinces and Bengal, 5 to the North-West Frontier Province, 3 each to Rajputana and Hyderabad, 2 each to Burma and Coorg and one each to Bihar, Assam and the Central India Agency.”

(a) How many of these 44 and 83 boys are Moslems, Hindus including Sikhs and others ?

(b) How many of these 44 boys are from each of the different Provinces of India and how many of these are Maratha Brahmins and Maratha non-Brahmins ?

(c) How many of the Provincial quotas forming these 83 boys, are Moslems, Hindus including Sikhs and others ?

(d) How many of the 12 boys forming the quota of Bombay are Maratha Brahmins and Maratha non-Brahmins and others ?

Mr. G. M. Young : (a) —(d). As much as possible of the information desired by the Honourable Member will be obtained and communicated to him in due course.

STOPPAGE OF THE RECRUITMENT OF HINDUS TO THE MINISTERIAL OR TECHNICAL ESTABLISHMENT OF THE FOREST RESEARCH INSTITUTE AT DEHRA DUN.

1088. ***Mr. Mukhtar Singh** : (a) Will the Government be pleased to state if it is a fact that Mr. C. G. Trevor, acting for the President, Forest Research Institute and College, has issued an order to the following effect ?

With a view to stop the preponderance of Hindus on the staff of the Forest Research Institute and College it is hereby laid down

that until further orders no Hindu will be appointed on the ministerial or technical establishment whether permanent or temporary unless the candidates of the following communities who come forward are to be forced to be unqualified or unsuitable :

Moslems, Anglo-Indians, Christians and other communities.

(b) Was this action of Mr. Trevor in accordance with the orders or policy of Government ?

(c) If not, what action do the Government propose to take in the matter ?

(d) Will the Government be pleased to state if it is the policy of the Government to introduce communalism even in Institutions which are of a highly technical nature ?

Mr. A. B. Dalal : (a) Yes.

(b) The order does not correctly carry out the intentions of Government.

(c) Instructions are being issued to withdraw the order.

(d) If by " communalism " the Honourable Member means the securing of adequate representation of minority communities, the principle will be applied with special caution in the case of services in which high technical qualifications are the most important requirement.

Mr. B. Das : Are Government officials in high positions allowed to foster communal discord between the different sections of the people of India ?

(At this stage Mr. K. Ahmed rose in his place.)

Mr. President : Order, order. Mr. Ram Narayan Singh.

Mr. K. Ahmed : Am I not entitled according to the Rules and Standing Orders of this Assembly to put questions ?

Mr. President : Order, order. Mr. Ram Narayan Singh.

Mr. Ram Narayan Singh : Question No. 1089.

RESOLUTION REGARDING THE BACKWARD TRACTS IN BIHAR AND ORISSA.

1089. ***Mr. Ram Narayan Singh :** With reference to the Government's reply to Mr. Gaya Prasad Singh's question No. 102 on Monday, 22nd August 1927, will the Government be pleased to state whether in submitting to the Secretary of State for India a copy of the resolution on " Backward Tracts " in the province of Bihar and Orissa, they made any remarks thereon and if so, what ?

The Honourable Mr. J. Crerar : The Honourable Member is referred to the reply which I gave to part (a) of his question No. 554 on the 29th August 1927 and the earlier answer referred to therein.

GOVERNMENT POLICY IN REGARD TO THE KHADI MOVEMENT.

1090. ***Mr. Ram Narayan Singh :** Will the Government be pleased to state their policy about and attitude towards the Khadi (hand woven and hand spun cloth) movement in this country ?

The Honourable Sir Bhupendra Nath Mitra : The Honourable Member's question will be fully answered when his Resolution on a somewhat similar subject comes up for discussion to-morrow.

†1091*—1092*.

ABOLITION OF TOLLS ON THE RAILWAY BRIDGE OVER THE RIVER GANDAK.

1093. ***Maulvi Muhammad Shafee :** (a) What principle do the Government recognize for permitting the levy of tolls on bridges constructed and maintained either by Government or Railway Companies for crossing rivers or waterways ?

(b) Are Government aware that the bridge on the river Gandak between Sonapore and Hajipore within the jurisdiction of the Saran and Muzaffarpur Districts in the province of Bihar and Orissa for the Bengal and North Western Railway was constructed some time in 1885 and that a footpath was attached to the bridge for the convenience of foot passengers ?

(c) Are Government aware that the cost of attaching the footpath to the bridge as related by the Railway Company amounts to no more than two lakhs of rupees ?

(d) Are Government aware that the heaviest rate of toll which is one anna per passenger has been realized from those who cross the bridge since the year 1885 ?

(e) Are Government aware that the sum realized as toll up to the last financial year amounted to about 5 lakhs of rupees ?

(f) Are Government aware that there is a very strong feeling in the country against the levy of tolls on that bridge ?

(g) Are Government aware that the Bihar and Orissa Legislative Council has recently passed a Resolution recommending the abolition of the tolls on the said bridge ?

(h) Will the Government be pleased to state what steps the Government are going to take in the matter ?

Mr. A. A. L. Parsons : (a) Railways are entitled to levy tolls on foot-paths of bridges constructed at their expense, but if a Local Government compensates a railway for the loss in net receipts which would follow the abolition of such tolls, the railway administration ceases to charge the tolls.

(b) Yes, the bridge was constructed in 1887.

(c) The cost was Rs. 2,10,000.

(d) Yes, the tolls have been levied at the rate of 1 anna per passenger since 1887.

(e) No. Records do not exist to show the sum.

(f) No.

(g) No.

† Not put at the meeting, but the questions and answers thereto will be found at page 4565 of these proceedings.

(h) There has been correspondence between the Government of India and the Government of Bihar and Orissa on the question of the abolition of these tolls and the Local Government decided last year not at present to press for their abolition. It is for the Local Government to reopen the question and the Government of India propose to take no further action unless this is done.

Mr. Gaya Prasad Singh : Are Government aware that the Bengal and North Western Railway has been more than compensated for the expense which it incurred in making that footpath by the levy of tolls for a long number of years ?

Mr. A. A. L. Parsons : If the figure which the Honourable the questioner mentioned, namely, 5 lakhs, is correct, it seems likely that this footpath has been kept open at a continuous loss to the Bengal and North Western Railway from the beginning.

CANCELLATION OF THE PASSPORT GRANTED TO MR. SAKLATWALA, M.P.

1094. ***Mr. Gaya Prasad Singh :** (a) Has the attention of the Government been drawn to a London telegram published in the *Pioneer*, dated the 5th September 1927 (page 3), in which it is stated that the validity of the passport granted to Mr. Saklatwala, M.P., in December 1926, has been cancelled "at the desire of the Indian authorities", and that he will not be allowed to enter India ?

(b) Is this correct ; and if so, why have the Indian authorities recommended the cancellation of the passport ?

(c) What objection have the Government to lay the correspondence in this connection on the table ?

The Honourable Mr. J. Crerar : (a) Yes.

(b) It is the case that the validity of Mr. Saklatwala's passport for India has been cancelled, mainly on the ground of his conduct in India during his last visit. The Government of India and the Secretary of State were in complete agreement that this action should be taken.

(c) I do not consider that it would be in the public interest.

Mr. Gaya Prasad Singh : What is the conduct of Mr. Saklatwala referred to which justifies the Government of India in recommending the cancellation of the passport ?

The Honourable Mr. J. Crerar : The conduct of Mr. Saklatwala is that which the Government of India and the Secretary of State regarded as likely to be prejudicial to the public interest.

Mr. Gaya Prasad Singh : Will the Honourable Member be more specific on this point ?

The Honourable Mr. J. Crerar : No, Sir.

Mr. A. Rangaswami Iyengar : Have the Government of India considered the desirability of taking other action instead of this improper one of cancelling the passport ?

The Honourable Mr. J. Crerar : That question has occupied the attention of Government.

Mr. A. Rangaswami Iyengar : Did they consider the question of prosecuting him or taking any other action under the ordinary law of the country instead of this administrative action ?

The Honourable Mr. J. Crerar : I have already replied on that point.

Mr. N. M. Joshi : May I ask what made the Government of India think that the presence of Mr. Saklatwala would lead to a disturbance of tranquillity ?

The Honourable Mr. J. Crerar : I have already answered that question.

Mr. B. Das : May I inquire if Mr. Saklatwala's visit to India last year and his public conduct was in any way harmful to the public interest in India ?

The Honourable Mr. J. Crerar : My answer refers to Mr. Saklatwala's last visit to India.

Mr. A. Rangaswami Iyengar : May I know if the Government definitely decided that this was the suitable action to take by way of punishing Mr. Saklatwala's conduct in India ?

The Honourable Mr. J. Crerar : No, Sir. It is not punishment.

Mr. A. Rangaswami Iyengar : What is the object of this action, Sir ?

The Honourable Mr. J. Crerar : Prevention.

Mr. A. Rangaswami Iyengar : May I know if there has been any disturbance of public tranquillity in consequence of Mr. Saklatwala's visit ?

The Honourable Mr. J. Crerar : As I pointed out, the object was to prevent any breach of public tranquillity.

Mr. A. Rangaswami Iyengar : May I know whether Government had any reason, on account of Mr. Saklatwala's action in the past, to justify the action ?

The Honourable Mr. J. Crerar : They had reason to apprehend the possibility of a breach of tranquillity.

REJECTION OF THE APPLICATION OF AN INDIAN STUDENT TO BE ALLOWED TO ASSIST IN THE WATER DEPARTMENT OF THE NEW MILLS COUNCIL.

1095. ***Mr. Gaya Prasad Singh :** (a) Is it a fact that an Indian student in England studying at the Manchester College of Technology made an application to the New Mills Council to be allowed to assist in the Water Department of the Council during his long vacation, but his application was rejected after discussion on the ground that he was an " outsider " ?

(b) Do Government propose to ascertain the facts of this case from the High Commissioner for India, and indicate what steps are proposed to be taken in the matter ?

The Honourable Sir Bhupendra Nath Mitra : (a) and (b). The Government of India have no information but have addressed the High Commissioner in the matter.

Mr. Gaya Prasad Singh : Will the information be communicated to me or to the House ?

The Honourable Sir Bhupendra Nath Mitra : It will be communicated to the Honourable Member.

RESTRICTION OF THE EMPLOYMENT OF GURKHAS TO THE ARMY AND REGULAR MILITARY POLICE BATTALIONS.

1096. ***Mr. Gaya Prasad Singh :** (a) Is it a fact that an order has been issued by Government that no Gurkhas of Nepalese nationality should be given any employment except in the Army, and in regular military police battalions, and then only up to the existing sanctioned strength ?

(b) What is the existing sanctioned strength of the Gurkhas of Nepalese nationality in the Army, and in the regular military police battalions ?

Sir Denys Bray : (a) Yes, Sir, in deference to wishes expressed by the Nepal Government.

(b) *Army* 21,166 (including 2,000 reserve). *Military Police* 3,478.

VALUATION OF GOVERNMENT HOUSE PROPERTIES IN SIMLA.

1097. ***Mr. Gaya Prasad Singh :** Will the Government be pleased to give an approximate valuation of Government house properties in Simla ; and also indicate if additional quarters will be required to be built in New Delhi for office and residential purposes, in connection with the proposed longer stay of the Government in New Delhi ?

The Honourable Sir Bhupendra Nath Mitra : The book value of residential and non-residential buildings of the Central Government in Simla is roughly estimated at Rs. 2,20,00,000, but the actual value is probably slightly higher. The above figure does not include the value of Railway properties in Simla.

A longer stay in Delhi by itself is not likely to involve the construction of additional accommodation for office and residential purposes.

PRESERVATION OF THE MOSQUES OF THE SHARQI KINGS AT JAUNPUR.

1098. ***Maulvi Muhammad Yakub :** Are Government aware that the mosques of the Sharqi kings at Jaunpur, viz., the Jami Masjid, the Atala Masjid, and the Lal Darwaza Masjid, which have been declared protected under the Ancient Monuments Preservation Act, VII of 1904, are in a dilapidated condition requiring repairs, and the Archaeological Department is unable to maintain them for the reason that their *Mutawallis* refuse to enter into an agreement with the Government in respect of their maintenance ? If so, what action do the Government propose to take for the preservation of these mosques ?

Mr. A. B. Dalal : Yes. Government are enquiring into the matter.

EMPLOYMENT BY MEMBERS OF THE INDIAN LEGISLATURE OF RETAINERS FOR THEIR FIRE-ARMS.

1099 ***Maulvi Muhammad Shafee :** (a) Will the Government be pleased to state whether the exemptees under clause (1) (a) of Schedule

I of the Indian Arms Rules, 1924, are allowed to keep retainers for their arms ?

(b) If the answer be in the affirmative, will the Government be pleased to state whether the Members of the Indian Legislature are included in that category and thus permitted to keep retainers ?

(c) Has the attention of the Government been drawn to the fact that the provisions with regard to keeping retainers in the Indian Arms Rules, 1924, have been differently interpreted by several Local Governments and that thus there are different and often contradictory procedures adopted in the several provinces with regard to giving permission for keeping retainers ?

(d) Are Government prepared to take steps to make uniform provisions to be followed in all the provinces in regard to keeping retainers by the Members of the Indian Legislature ?

The Honourable Mr. J. Crerar : (a) The exemption granted to those named in clause 1 (a) of the Schedule is personal, and does not extend to retainers or servants.

(b) Does not arise.

(c) and (d). Government are not aware that a different procedure is followed by different Local Governments, but they will enquire.

†1100*—1103*.

RECRUITMENT FOR THE AUDIT AND ACCOUNTS DEPARTMENT.

1104. ***Mr. Sarabhai Nemchand Haji :** (a) Is it a fact that in pursuance of Resolution No. 1279-F.E. of the Government of India, Finance Department, the Government of India have stopped recruiting non-Indians for their Audit and Accounts Department ?

(b) Is an English qualification insisted upon in the case of appointments in the Audit and Accounts Department ?

The Honourable Sir Basil Blackett : The reply to part (a) of the question is in the affirmative and to part (b) in the negative.

RESOLUTION REGARDING INDIANISATION OF THE HIGHER GRADES OF PORT TRUST SERVICES.

1105. ***Mr. Sarabhai Nemchand Haji :** What action has been taken by Government in connection with the Resolution of the Honourable Sir P. C. Sethna in the Council of State on 26th January 1922, recommending Indianisation of the higher posts in the services of the Port Trusts ?

The Honourable Sir George Rainy : Under the various Port Acts, the Boards of Trustees exercise statutory power to appoint their own officers, except in the case of the highest appointments. In the debate in the Council of State, to which the Honourable Member refers, it was recognised that the most practical step that the Government could take to increase the number of Indians in the higher grades of the Port services, would be the amendment of the Port Acts so as to increase the number

† Not put at the meeting, but the questions and answers thereto will be found at pages 4565—67 of these proceedings.

of Indians on the Boards, in which the power of appointment is vested. The Port Acts of the principal ports were accordingly amended for this purpose, and I am informed that the number of Indians appointed by the Board is now increasing.

APPOINTMENT OF ASSISTANT ACCOUNTANT UNDER THE PORT COMMISSIONERS, CALCUTTA.

1106. ***Mr. Sarabhai Nemchand Haji :** (a) Has the attention of the Government been drawn to an advertisement in the Calcutta papers inviting applications for the post of Assistant Accountant under the Port Commissioners, Calcutta, the post being open to "fully qualified Chartered Accountants European or Indian"?

(b) Is there any reason why the members of the Society of Incorporated Accountants should thus be excluded from applying?

The Honourable Sir George Rainy : (a) Yes.

(b) Government have no information, but have made enquiries in the matter and will communicate the result to the Honourable Member.

Mr. Sarabhai Nemchand Haji : Will the Government take the action necessary in order that this particular post may go to an Indian?

The Honourable Sir George Rainy : I am not aware that it is in the power of the Government of India to take any direct action in the matter.

Mr. B. Das : Will the Honourable Member communicate the result of the inquiry to the Indian Chamber of Commerce about the appointment of accountants in the Port Trust?

The Honourable Sir George Rainy : I am afraid I did not catch the Honourable Member's question.

Mr. K. Ahmed : Is it not in the power of the Government of India to Indianise this Port Trust? Do Government propose to take steps and move the authorities in England, so that what is needful may be done?

The Honourable Sir George Rainy : The Government of India do not propose to undertake legislation to amend the various Ports Acts at present.

Mr. Sarabhai Nemchand Haji : Will they be good enough to communicate this question and their reply to the authorities of the Port Trust?

The Honourable Sir George Rainy : Yes, Sir.

REPRESENTATION FROM THE INDIAN CHAMBER OF COMMERCE IN CONNECTION WITH THE APPOINTMENT OF ASSISTANT ACCOUNTANT UNDER THE PORT COMMISSIONERS, CALCUTTA.

1107. ***Mr. Sarabhai Nemchand Haji :** Have Government of India received any representation from the Indian Chamber of Commerce, Calcutta, in connection with the appointment of an Assistant Accountant to the office of the Port Commissioners of Calcutta? If so, will they be pleased to lay it on the table?

The Honourable Sir George Rainy : The Government of India have received a representation from the Indian Chamber of Commerce on the subject and a copy has been placed in the Library.

TRANSFER OF THE RAILWAY CLEARING HOUSE TO DELHI.

1108. ***Maulvi Muhammad Yakub :** (a) Will the Government be pleased to state if it is a fact that the Government have finally decided to locate the Railway Clearing House at Delhi ?

(b) If the answer to the above be in affirmative, will the Government be pleased to state in which building or buildings it is going to be accommodated and also when it is going to be transferred from Lahore to Delhi ?

(c) Is it a fact that notwithstanding the statement made by Mr. A. A. L. Parsons in the Legislative Assembly on the 25th March last, the Clearing House is not going to be located in any of the old Government buildings but a new building is going to be hired or purchased for the same ?

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

(b) and (c). The staff are to be accommodated in a building which has been purchased for the purpose and in an existing vacant building of the North Western Railway. The transfer of the office from Lahore to Delhi is to take place at the end of this month.

RAILWAYS ON WHICH THE CLEARING ACCOUNTS SYSTEM OF WORKING HAS BEEN ESTABLISHED.

1109. ***Maulvi Muhammad Yakub :** (a) Will the Government be pleased to state in which Railways is the Clearing House system being worked and also in which others its working is likely to be extended in the course of the next ten years ?

(b) Will the Government be pleased to state the total number of stations on the different railways on which the Clearing House system is being worked and also how many of these stations are nearer to Lucknow than Delhi ?

(c) What is the total number of stations on the different railways in India and how many of these stations are nearer to Lucknow than Delhi ?

Mr. A. A. L. Parsons : (a) The four State-managed Railways have been brought under the Clearing Accounts system of working and a portion of the traffic of the Bombay, Baroda and Central India Railway is being working experimentally under this system. I hope that eventually other Company-managed Railways will come in.

(b) and (c). The compilation of the information will involve a great deal of labour which Government do not think it desirable to impose on the authorities concerned.

Maulvi Muhammad Yakub : Is it a fact that more stations dealing with this Clearing Office are nearer to Lucknow than to Delhi, and is it for this reason that the Government do not give the information required ?

Mr. A. A. L. Parsons : No, Sir. Mere proximity is not really the consideration. It is a question which is the more convenient centre of the train services on the Railways as a whole. There is no doubt that from that point of view Delhi is a better station for the four State Railways I have mentioned and for the Bombay, Baroda and Central India Railway than Lucknow.

Maulvi Muhammad Yakub : For how long did this Clearing Office remain in Lucknow ?

Mr. A. A. L. Parsons : It was never in Lucknow.

ESTABLISHMENT OF THE RAILWAY CLEARING HOUSE AT LAHORE, ETC.

1110. ***Maulvi Muhammad Yakub :** (a) How many men (excluding menial staff) are at present employed in the Lahore Clearing House ?

(b) Is it proposed to increase the number of such employees when the Clearing House is transferred to Delhi ? If so, how many ?

(c) How many of these employees have been recruited from the North Western Railway and how many from the East Indian Railway ?

(d) Will the Government be pleased to state if any extra allowance will be given to the employees on their transfer from Calcutta and Lahore to Delhi ? If so, what will be the total amount of such allowance per month ?

Mr. A. A. L. Parsons : (a) The present sanctioned cadre is 830 men.

(b) An increase may become necessary if the Bombay, Baroda and Central India Railway decide to come in permanently into the Clearing House system of working.

(c) The information required will be obtained and supplied to the Honourable Member.

(d) An allowance of 10 per cent. of pay, subject to a minimum of Rs. 10 per mensem has been sanctioned for employees who hold permanent posts in other offices and who elect the new scales of pay sanctioned for the subordinate establishment of the Clearing Accounts Office. This allowance is to be absorbed in future increments falling due to the employees concerned. It is not possible to frame a reliable estimate of the total sum of such allowance as it is not known how many employees will elect the new scales of pay ; but in any case, the amount involved will be small.

AMOUNT OF ALLOWANCE GRANTED TO THE MINISTERIAL STAFF OF THE LATE OUDH AND ROHILKHAND RAILWAY TRANSFERRED FROM LUCKNOW TO CALCUTTA.

1111. ***Mr. Rafi Ahmad Kidwai :** (a) Was any extra allowance given to the Oudh and Rohilkhand Railway employees on their transfer from Lucknow to Calcutta ?

(b) If so, what is the total amount of this extra allowance per month given to the Oudh and Rohilkhand Railway employees ?

(c) What is the total number of the Oudh and Rohilkhand Railway employees transferred from Lucknow to Calcutta from time to time since

the amalgamation of the Oudh and Rohilkhand Railway and East Indian Railway ?

(d) Have Government taken into consideration the suggestion of locating the Clearing House at Lucknow with a view to saving a large amount of this allowance by retransferring some of the old Oudh and Rohilkhand Railway employees from Calcutta to Lucknow ?

Mr. A. A. L. Parsons : (a) An extra allowance of 10 per cent. of pay subject to a minimum of Rs. 4 per mensem was granted to the ministerial staff of the late Oudh and Rohilkhand Railway who were transferred from Lucknow to Calcutta.

(b) Figures showing the total amount of this allowance are not available. It would vary from time to time, as men drawing it were transferred from Calcutta.

(c) Government have no information.

(d) The suggestion was considered, but as I have explained in replies to other questions, it has finally been decided to locate the Clearing House at Delhi.

APPROXIMATE EXPENDITURE REQUIRED FOR THE LOCATION OF THE CLEARING HOUSE AT DELHI AND LUCKNOW, RESPECTIVELY.

1112. ***Mr. Rafi Ahmad Kidwai :** Will the Government lay on the table a comparative statement showing the approximate recurring and non-recurring expenditure which would be needed for the location of the Clearing House at Delhi and Lucknow, respectively ?

Mr. A. A. L. Parsons : I am afraid it is impossible to make such a comparison.

EMPLOYMENT OF THE STAFF OF THE LATE OUDH AND ROHILKHAND RAILWAY AS CREWMEN.

1113. ***Mr. Rafi Ahmad Kidwai :** Will the Government be pleased to state how many of the Oudh and Rohilkhand Railway employees transferred to Calcutta have been retransferred to the United Provinces and how many of them have been transferred to the newly created crew system ?

Mr. A. A. L. Parsons : Government have no information, but it is being obtained and will be supplied to the Honourable Member.

OFFICES LOCATED IN THE OLD OUDH AND ROHILKHAND RAILWAY BUILDINGS IN LUCKNOW.

1114. ***Mr. Rafi Ahmad Kidwai :** Will the Government be pleased to state what offices are at present located in the old Oudh and Rohilkhand Railway office buildings in Lucknow and what portion of these buildings remains unused ?

Mr. A. A. L. Parsons : The Headquarters buildings of the late Oudh and Rohilkhand Railway at Lucknow are at present occupied by the Divisional office, the Railway Police office, the Assistant Signal Engineer's office and the offices of the Executive Engineer, Construction, while certain departments of the Provincial Government are housed in

the upper floor of the East Block. The press building and the paper godown are at present unoccupied.

DEMOLITION OF THE OFFICE BUILDINGS OF THE LATE OUDH AND ROHILKHAND RAILWAY IN LUCKNOW.

1115. ***Mr. Rafi Ahmad Kidwai :** (a) Is it a fact that the whole or part of the Oudh and Rohilkhand Railway office buildings at Lucknow is going to be demolished because the Railway Department does not require them ? What is the cost of the portion proposed to be demolished ?

(b) If so, cannot these buildings be utilised for accommodating the Clearing House ? If not, why ?

Mr. A. A. L. Parsons : One bungalow is being, or will shortly be, demolished because it has been condemned as dangerous. It could not be used for housing the Clearing House office. The original cost of this bungalow is not known to Government.

SALE OF MATERIAL OF THE OLD RAILWAY STATION AT LUCKNOW.

1116. ***Mr. Rafi Ahmad Kidwai :** (a) Is it a fact that tenders were invited for the sale of material of the old railway station (East Indian Railway) at Lucknow and that the tenders received being considered too low, it was decided to call for fresh tenders ?

(b) If so, were the fresh tenders invited ?

(c) If not, how was the material disposed of ?

(d) Will the Government be pleased to state for what amount the whole material was sold and what was the difference between the amount so received and the amount offered in highest tender ?

(e) Will the Government be pleased to state the name of the purchaser of the old material of this station and whether this purchaser had also submitted tenders for the purchase of this material when the tenders were originally invited ?

(f) If so, what was the amount he had offered in his first tender ?

Mr. A. A. L. Parsons : The required information is being obtained and a communication will be sent to the Honourable Member in due course.

EXTENSION OF THE LEE CONCESSIONS TO RAILWAY OFFICERS NOT ENTITLED TO THEM.

1117. ***Mr. Rafi Ahmad Kidwai :** (a) Has the Railway Board received any applications from the railway officers not entitled to Lee concessions praying for the extension of these concessions to their class of officers ?

(b) If so, will the Government be pleased to state the number of signatories belonging to different railways as well as the reasons advanced in the application for the extension of such concessions to them ?

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

(b) The applications have been received both from individual officers and from various associations. It would, I am afraid, take more time and trouble than the information would be worth, to attempt to calculate the

number of officers affected and to summarise the various reasons advanced in support of their requests.

OFFICERS IN THE SUPERIOR SERVICES IN THE COMMERCIAL AND TRANSPORTATION DEPARTMENTS OF STATE RAILWAYS.

1118. ***Mr. Rafi Ahmad Kidwai :** (a) What is the total number of Indian officers of the Superior Services in the (i) Commercial and (ii) Transport Departments of the different State Railways ?

(b) What is the proportion of Indian officers to the non-Indian officers of the Superior Services in (i) the Commercial and (ii) Transport Departments of the different State Railways ?

(c) What steps have the Government taken or propose to take to bring the number of the Indian officers to the proportion recommended by the Lee Commission ?

Mr. A. A. L. Parsons : (a) and (b). The information is available in the Railway Board's Classified List, of which a copy is in the Library.

(c) The attention of the Honourable Member is invited to Railway Board's Resolution No. 2058-E., which was published in the Gazette of India, dated 17th July 1927.

CANCELLATION OF THE PASSPORT OF MR. SAKLATWALA FOR INDIA.

1119. ***Mr. Rafi Ahmad Kidwai :** (a) Has the attention of the Government been drawn to a Reuter's telegram published in *Civil and Military Gazette* of Lahore of the 5th September reporting cancellation of Mr. Saklatwala's passport to India ?

(b) If so, is it a fact that the passport has been cancelled at the instance of the Government of India ?

(c) If the answer to part (b) be in affirmative, will the Government be pleased to state the reasons for taking this step ?

The Honourable Mr. J. Crerar : I would refer the Honourable Member to the answer I have given to Mr. Gaya Prasad Singh's question No. 1094.

†1120*.

NUMBER OF BIHARIS ADMITTED INTO THE ARMY AFTER THE GREAT WAR.

1121. ***Mr. Siddheswar Sinha :** Will the Government be pleased to state the number of Biharis admitted into the Army after the Great War year by year ?

Mr. G. M. Young : The Honourable Member's attention is invited to the statement laid on the table in reply to starred question No. 25, dated the 27th January 1927. Since that statement was compiled, that is to say, during the period from the 1st October 1926 to the 30th June 1927, one combatant and three non-combatants have been recruited from Bihar and Orissa.

† Not put at the meeting, but the question and answer thereto will be found at page 4567 of these proceedings.

BIHARIS IN THE ARMY IN INDIA RESERVE OF OFFICERS.

1122 ***Mr. Siddheswar Sinha** : (a) Will the Government be pleased to state the number of (i) Europeans and Anglo-Indians, (ii) Biharis, (iii) Indians other than Biharis, in the Army in India Reserve of Officers as it is composed at present, category by category ?

(b) Will the Government be pleased to state the number of Bihari applicants for these, category by category, and the reasons for the non-acceptance of the application if any ?

(c) Will the Government be pleased to state the number of Biharis made permanent in the Army in India Reserve of Officers ?

Mr. G. M. Young : (a) I will furnish the Honourable Member with a statement giving the required information.

(b) 16 applicants from Bihar and Orissa have been rejected ; one because he was ineligible under the rules, another because he was medically unfit and the rest because they were considered unsuitable.

Government have no information as to the categories for which these gentlemen applied.

(c) Three.

GRANT OF MARRIAGE AND HOUSE ALLOWANCES TO OFFICERS OF THE INDIAN MEDICAL SERVICE.

1123. ***Lieut.-Colonel H. A. J. Gidney** : (a) Will Government please state whether it is a fact that marriage allowance and house allowance are given to officers in the Indian Army as also in the R. A. M. C. ?

(b) Are such allowances given to officers in the I. M. S. both temporary and permanent ? If not, why not ?

Mr. G. M. Young : (a) Yes.

(b) No. The reason, as far as concerns permanent officers, is that the rates of pay of permanent officers of the Indian Medical Service are consolidated rates, while those of other Indian Army officers and of officers of the Royal Army Medical Corps serving in India are made up of basic pay and allowances on the same system as rates of pay in the United Kingdom.

Temporary officers of the Indian Medical Service are engaged under a contract which provides for consolidated rates of pay in their case also.

Lieut.-Colonel H. A. J. Gidney : Will the Honourable Member kindly tell me, in so far as the consolidated pay is concerned, how much of that consolidated pay goes towards house and marriage allowances ?

Mr. G. M. Young : If my Honourable friend will put that question down on the paper I shall be very glad to answer it.

NUMBER AND TONNAGE OF STEAMERS AND SAILING VESSELS REGISTERED IN INDIA.

1124. ***Mr. Sarabhai Nemchand Haji** : Will Government be pleased to state separately the number of the steamers and sailing vessels, together with their gross registered tonnage, registered at various Indian ports ?

The Honourable Sir George Rainy : The only information available is that contained in Table No. 11 (Shipping) of Volume II of the "Annual Statement of the Sea-borne Trade of British India with the British Empire and Foreign Countries", to which I would invite the attention of the Honourable Member.

Mr. Sarabhai Nemchand Haji : In view of the fact that their information is inadequate, will the Government of India kindly see their way to get more information on the subject from the various ports ?

The Honourable Sir George Rainy : I am prepared to consider that, Sir.

CONVENING OF A SUB-CONFERENCE TO CONSIDER QUESTIONS AFFECTING MERCHANT SHIPPING LEGISLATION IN THE EMPIRE.

1125. ***Mr. Sarabhai Nemchand Haji :** (a) Will Government be pleased to state the date, when a Sub-Conference, as recommended by the Imperial Conference of 1926, is to be called to consider all questions affecting Merchant Shipping legislation in the Empire ?

(b) Are Government aware that it was decided at the Imperial Conference that due representation should be given to Indian shipping interests at that Sub-Conference ?

(c) If the answer to (b) be in the affirmative, will Government please state if it is their intention to act up to that suggestion in selecting the Indian representatives to the proposed Sub-Conference ?

The Honourable Sir George Rainy : (a) So far as the Government are aware, no date has yet been decided on.

(b) The Inter-Imperial Relations Committee of the Imperial Conference, 1926, recommended that India, in view of the importance of her shipping interests, should be given full representation on the proposed Sub-Conference, on an equal footing with Great Britain and the Dominions.

(c) The selection of the Indian representations will be considered when the Sub-Conference has been decided on.

Mr. Sarabhai Nemchand Haji : When the selection is made, will the Government be good enough to see to it that India is represented at this Conference by a national Indian and not by a non-Indian ?

The Honourable Sir George Rainy : Government will certainly take into account that question, Sir, and the known wishes of a large number of Members of this House.

RESOLUTION REGARDING THE PROHIBITION OF LIQUOR.

1126. ***Khan Bahadur Makhdum Syed Rajan Bakhsh Shah :** (a) Have the Government taken any steps to give effect to the Resolution passed by this Assembly regarding the prohibition of liquor ?

(b) If not, will the Government please state reasons for not doing so ?

(c) Do the Government intend to give effect to the Resolution forthwith ?

The Honourable Sir Basil Blackett : This question (No. 1126) has already been answered†.

Mr. K. Ahmed : Are the Government aware that it is derogatory to the principles of the Standing Rules and Orders of this Assembly as also to the interests of the Legislative Department to put in the same question twice (*vide* Question No. 1062)—this question having been asked half an hour ago and answered. Is it not the rule that unless six months have elapsed no question can be repeated in this House ?

The Honourable Sir Basil Blackett : I would suggest that it is also undesirable to put a supplementary question twice. (Laughter.)

REPRESENTATION OF MUSLIMS IN THE INDIAN CIVIL SERVICE.

1127. ***Khan Bahadur Makhdum Syed Rajan Bakhsh Shah :** (a) Is it a fact that the Muslim population is about $\frac{1}{4}$ th of the total population of India, and that only 10 Muslims out of 109 Indian recruits for the I. C. S. from 1922 to 1927 have been selected ?

(b) Is it a fact that out of 109 posts for the I. C. S., 81 have gone to the Hindus, 7 to the Indian Christians, 2 to the Sikhs, 9 to the Burmese and 10 to the Muslims from 1922 to 1927, and if so, is this not a violation of the solemn promise given by the Government that no undue predominance to any community will be given in the services ?

(c) Are Government prepared to take steps to give due and proportionate representation to the Muslims by increasing their number in the said service henceforth and to make up the deficiency ?

The Honourable Mr. J. Crerar : (a) Yes.

(b) The figures quoted by the Honourable Member are those which I gave him on the 29th August last. There has been no violation of any promise. The latest pronouncements of Government on this subject is that of the 2nd March, 1925. Speaking in another place my predecessor pointed out that Government had accepted the principle that steps should be taken to secure that the services are not unduly overweighted with the representatives of any one community or province, and in order to give effect to this principle he announced the procedure of reserving, if necessary, one-third of the direct Indian recruitment to the Indian Civil Service for the redress of inequalities. This procedure has been strictly adhered to ever since.

(c) It was made clear by Sir Alexander Muddiman in the statement I have already mentioned that it was not possible for Government to give proportionate representation to any particular minority community.

MISS MAYO'S BOOK "MOTHER INDIA."

1128. ***Mr. M. S. Aney :** (a) Has the attention of the Government been drawn to the following special message first published in *The Hindustan*, a Gujrati daily of Bombay and since published in all the prominent Indian newspapers :

"Many of the British M. Ps. have been provided with a free copy of Miss Katherine Mayo's book "Mother India."

† For answer to this question, see answer to question No. 1062 at page 4521 of these proceedings.

(b) Will the Government be pleased to state whether free copies of the same book have been supplied to any officials and the Anglo-Indian publicists in India also ?

(c) Will the Government be pleased to say whether the Publicity Department of the Government of India has been supplied with a copy of the book or not ?

The Honourable Mr. J. Crerar : (a) Government have seen the report, and have ascertained from the Secretary of State that no copies of the book have been distributed by the India Office or at public expense.

(b) Not so far as Government are aware.

(c) No.

Mr. A. Rangaswami Iyengar : May I know if Government are aware that Miss Mayo is connected with the British Library of Literature in New York ?

The Honourable Mr. J. Crerar : Will the Honourable Member kindly repeat the question ?

Mr. A. Rangaswami Iyengar : May I know if Government can tell us what connection Miss Mayo has with the British Library of Literature in New York ?

The Honourable Mr. J. Crerar : I am afraid I have no information on the point. If the Honourable Member will put down the question, I shall endeavour to answer it.

The Honourable Sir Basil Blackett : I will answer the question. The answer is that she has none.

Mr. B. Das : Do I take it that Miss Mayo was not at all helped by any of the Provincial Governments or the Government of India in the matter of collection of materials for her book, or that she was not at all helped by the Secretary of State by the supply of any materials ?

The Honourable Mr. J. Crerar : Miss Mayo received no more assistance from any officials of Government than would be accorded to any other private person.

Lala Lajpat Rai : The question is whether she *was* given any assistance. The question I wish to ask is, did the Publicity Department of the Government of India give any assistance to Miss Mayo in connection with the materials for her book ?

The Honourable Mr. J. Crerar : I am not aware that the Government of India gave any assistance of any sort to Miss Mayo, but if she did get any assistance, it was no more than would ordinarily be extended to any other member of the public.

Mr. A. Rangaswami Iyengar : May I ask if the Government of India's Publicity Department supplied Miss Mayo with any photographs that are published in her New York edition ?

The Honourable Mr. J. Crerar : I have no information on the point, but shall inquire.

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

Mr. K. Ahmed : In view of the fact that the Honourable Member has admitted that no more than ordinary courtesy was shown to Miss Mayo and no more materials were supplied than would ordinarily be supplied to a member of the public, do Government propose to supply us with the precise extent of the help accorded ?

The Honourable Mr. J. Crerar : I did not say that any materials were supplied to Miss Mayo. If ordinary courtesy was extended to her, I think there would be no reasonable objection on that ground.

Mr. A. Rangaswami Iyengar : May I know exactly what assistance was given to her, whether by way of courtesy or by way of departmental accommodation ?

The Honourable Mr. J. Crerar : Miss Mayo spent some months in the country. I am afraid I cannot give all the details the Honourable Member requires.

Lala Lajpat Rai : Are Government aware that Miss Mayo was a guest of a Superintendent of Police in Lahore and got information from the Head of the Publicity Department of the Government of India ?

The Honourable Mr. J. Crerar : No, Sir.

Mr. K. C. Neogy : Has the Honourable Member read the book himself, and has the Honourable Member read both the editions, American and English ?

The Honourable Mr. J. Crerar : I have only read one edition.

Mr. K. C. Neogy : Is it a fact that there is some difference between the two editions, and that things uncomplimentary to Muhammadans were left out in the English edition ?

The Honourable Mr. J. Crerar : So far as I am aware, there is no difference in the letter press.

Mr. M. S. Aney : Is it a fact that Miss Mayo was furnished by some officials with materials before they were actually published, and that the materials were checked by some officials before they were actually published ?

The Honourable Mr. J. Crerar : No, Sir.

Mr. K. C. Neogy : Has the Publicity Department compared the two editions ?

Mr. President : I am prepared to let Mr. Coatman answer the question.

Mr. K. C. Neogy : We would like to hear Mr. Coatman.

Mr. J. Coatman : I have read both the editions, Sir, but I can not say that I have compared them as one would compare two different texts ; and I am not conscious of any material difference between the two editions.

Mr. K. C. Neogy : Has the Honourable Member been supplied with complimentary copies of both the editions ?

Mr. J. Coatman : No, Sir.

Lala Lajpat Rai : Is the Honourable Member aware that a statement has been made in the Press that a C. I. D. Inspector asked an Indian gentleman in Lahore to see Miss Mayo ?

The Honourable Mr. J. Crerar : The statement was made in the Press, but my information is that it is not correct.

Mr. B. Das : Will the Honourable Member verify it ?

The Honourable Mr. J. Crerar : I have already made an inquiry on the subject.

Mr. M. B. Jayakar : Having regard to their present experience, will the Government consider the advisability of being more careful in future about extending such courtesies to American tourists ?

The Honourable Mr. J. Crerar : I cannot agree that the Government has been in any respect careless in the matter.

Lala Lajpat Rai : Are Government aware that Mahatma Gandhi and Miss Bose of the Victoria Girls School in Lahore have entirely repudiated the statements Miss Mayo put into their mouths in her book ?

Munshi Iswar Saran : Will the Honourable Member kindly state the nature of the courtesy they extended to Miss Mayo ?

The Honourable Mr. J. Crerar : I have already answered that question.

Munshi Iswar Saran : As I am at a distance, I could not hear it fully.

The Honourable Mr. J. Crerar : I said Miss Mayo spent some months in India and I am not in a position to give the complete details asked for.

Munshi Iswar Saran : I do not want details ; I want to know the broad features of the courtesy.

The Honourable Mr. J. Crerar : I have already answered the question.

PERIOD FOR WHICH A POSTMASTER GENERAL RETAINS CHARGE OF A POSTAL CIRCLE.

1129. ***Mr. M. S. Aney :** Will the Government be pleased to state what is the average period for which a Postmaster General is retained in charge of any Postal Circle in India ?

Mr. H. A. Sams : No definite period is prescribed.

APPEALS FROM THE ORDERS OF MR. BOOTH, POSTMASTER GENERAL, PUNJAB AND NORTH-WEST FRONTIER PROVINCE.

1130. ***Mr. M. S. Aney :** Will the Government be pleased to state—

- (a) the number of appeals received by the Director General of Posts and Telegraphs from the orders passed by Mr. Booth from the time he assumed charge of his office in the Punjab to the end of June 1927, and
- (b) the number of appeals allowed by the Director General or the Government of India ?

The Honourable Sir Bhupendra Nath Mitra : The information is being collected and will be furnished to the Honourable Member in due course.

RETENTION OF MR. BOOTH AS POSTMASTER GENERAL, PUNJAB AND NORTH-WEST FRONTIER PROVINCE.

1131. ***Mr. M. S. Aney** : Will the Government be pleased to say whether there are any special reasons for keeping Mr. Booth in charge of his office of Postmaster General in the Punjab for an unduly long period ?

The Honourable Sir Bhupendra Nath Mitra : There are no special reasons. The posting of officers to particular appointments is a matter entirely within the discretion of Government.

Mr. M. S. Aney : Is the Honourable Member able to say how long Mr. Booth has been in the Punjab ?

The Honourable Sir Bhupendra Nath Mitra : Will the Honourable Member kindly repeat his question ?

Mr. M. S. Aney : Will the Honourable Member be able to state how long Mr. Booth has been in the Punjab ?

The Honourable Sir Bhupendra Nath Mitra : Mr. Booth has probably been in the Punjab for five years or more, I cannot say precisely.

Mr. M. S. Aney : Is that the ordinary period for which Postmasters General are retained in a province ?

The Honourable Sir Bhupendra Nath Mitra : There is no fixed tenure to the appointment of Postmaster General in a particular circle.

Mr. M. S. Aney : Can it be said that at least five years or something more than that is the ordinary period for which these persons occupy this post ?

The Honourable Sir Bhupendra Nath Mitra : I cannot give any definite answer to that question because I have not tried to examine the periods spent by Postmasters General in particular circles in the past.

NUMBER AND NATIONALITY OF PILOTS IN THE BENGAL PILOT SERVICE.

1132. ***Mr. Sarabhai Nemchand Haji** : Will the Government be pleased to state the number of candidates admitted into the Bengal Pilot Service year by year from the year 1910 up to March 1927, giving separately the figures of those who were recruited in India and those who were recruited in England as well as of those who were Indians and those who were non-Indians ?

NUMBER AND NATIONALITY OF PILOTS IN THE BENGAL PILOT SERVICE.

1133. ***Mr. Sarabhai Nemchand Haji** : Will the Government be pleased to state the present number of pilots in the Bengal Pilot Service giving separate figures of those who are Indians and those who are non-Indians and those who are recruited in India and those who are recruited in England ?

The Honourable Sir George Rainy : With your permission, Sir, I will reply to questions Nos. 1132 and 1133 together.

The information asked for is being obtained from the Government of Bengal and will be supplied to the Honourable Member on receipt.

ANNUAL ADMINISTRATION REPORTS OF THE ORDNANCE AND CLOTHING FACTORIES.

1134. *Mr. N. M. Joshi : (a) Is it a fact that the annual administration reports of the Ordnance and Clothing Factories, under the control of the Army Department are considered to be confidential documents by the Government of India ?

(b) Will Government be pleased to explain why these reports are treated as confidential ?

(c) Will they be pleased to state whether they will treat these documents as public hereafter ?

(d) If these documents contain any information which must be treated as confidential, are Government prepared to issue annual reports of the administration of these factories omitting such information as must be treated as confidential ?

Mr. G. M. Young : (a) Yes.

(b) Because they contain information about military equipment and preparations.

(c) I am afraid that would be impossible.

(d) The administration reports of these military establishments necessarily consist of information from which readiness for war can be gauged.

Mr. N. M. Joshi : May I ask whether these reports are printed or not ?

Mr. G. M. Young : They are, Sir.

Mr. N. M. Joshi : May I ask whether it is very difficult for any people to secure these reports ?

Mr. G. M. Young : I hope so, Sir.

INDIAN ORDNANCE FACTORIES LISTS OF ESTABLISHMENTS.

1135. *Mr. N. M. Joshi : (a) Is it a fact that the Indian Ordnance Factories lists containing the names of the persons engaged in these factories are treated as confidential documents by Governments ?

(b) Will Government be pleased to explain why they are treated as confidential ?

(c) Will Government be pleased to state whether they propose to treat these documents as public ?

Mr. G. M. Young : (a) The answer is in the negative.

(b) and (c). Therefore do not arise.

Mr. N. M. Joshi : I hope, Sir, the Honourable Member will supply me with a copy. When the Honourable Member wrote to me a few days ago he said that the report was confidential.

Mr. G. M. Young : No, Sir, when I wrote to the Honourable Member I drew a distinction between the documents referred to in this question

and the documents referred to in the previous question. I shall be happy to supply him with copies.

ESTABLISHMENTS OF ORDNANCE AND CLOTHING FACTORIES.

1136. ***Mr. N. M. Joshi :** Will Government be pleased to give a statement giving the following information regarding the Ordnance and Clothing Factories :

- (a) Names of the factories,
- (b) Number of permanent establishment in each,
- (c) Number of temporary employees in each,
- (d) Number of what are called extra temporary employees on monthly salaries,
- (e) Number of extra temporary employees on daily wages,
- (f) The privileges regarding pension, provident and gratuity allowances to each of these classes of employees,
- (g) privileges allowed to each of these classes of employees regarding casual, privilege and sick leave ?

TEMPORARY EMPLOYEES IN ORDNANCE AND CLOTHING FACTORIES.

1137. ***Mr. N. M. Joshi :** Will Government be pleased to give a statement showing for each of the Ordnance and Clothing Factories under the Army Department, the number of temporary employees and the number of extra temporary employees, who have served more than 20 years, more than 10 years and more than 5 years ?

Mr. G. M. Young : With your permission, Sir, I propose to answer this question and No. 1137 together.

I will furnish the Honourable Member separately with statements giving the information which he desires.

ESTABLISHMENT OF A PROVIDENT FUND FOR, AND GRANT OF GRATUITIES TO, TEMPORARY AND EXTRA TEMPORARY STAFF EMPLOYED IN THE ORDNANCE AND CLOTHING FACTORIES.

1138. ***Mr. N. M. Joshi :** (a) Will Government be pleased to state whether they propose to provide (i) provident fund, and (ii) gratuity to the temporary and extra temporary establishments employed in the Ordnance and Clothing Factories under the Army Department ?

(b) If so, will Government be pleased to state when such provision will be made and whether all the workers will be benefited by it ?

Mr. G. M. Young : The question of establishing a provident fund, to include a contribution by Government, is under consideration.

POSITION OF THE CLERICAL ESTABLISHMENT OF THE ORDNANCE AND CLOTHING FACTORIES.

1139. ***Mr. N. M. Joshi :** (a) Will Government be pleased to state whether they had made any inquiries either through a special officer named

Coburn and a Committee presided over by General Kenyon regarding the position of the clerical establishment employed in the Ordnance and Clothing Factories controlled by the Army Department ?

(b) Will Government be pleased to state whether the reports on the inquiries have been received and whether they propose to publish these reports ? If not, why ?

(c) Is it a fact that the Government of India had recommended to the Secretary of State the adoption of the proposals of the Kenyon Committee and that the Secretary of State had sanctioned the proposals in March 1924 ; if so, will Government be pleased to state what effect they had given to the recommendations of the Kenyon Committee as approved by the Government of India and sanctioned by the Secretary of State ?

(d) If so far no action has been taken, will they be pleased to state whether they will do so at an early date, and if not, why not ?

Mr. G. M. Young : (a) No inquiry about the position of the clerical establishments in Army Factories was made either by Mr. Coburn or by the Kenyon Committee. The latter investigated the condition of Ordnance Factories after the war.

(b) Government do not propose to publish the report of the Kenyon Committee, mainly because it contemplates the establishment of Factories of a size and type which would be far more expensive than the present needs of the army could justify.

(c) Such recommendations of the Kenyon Committee as apply to the existing Factories have been adopted and given effect to with the sanction of the Secretary of State.

(d) Does not arise.

THROWING OPEN OF CERTAIN GAZETTED APPOINTMENTS TO THE CLERICAL ESTABLISHMENT OF ORDNANCE AND CLOTHING FACTORIES.

1140. ***Mr. N. M. Joshi :** (a) Will Government be pleased to state whether they had received in 1924 a memorial from the clerical establishment of the Ordnance and Clothing Factories under the control of the Army Department ?

(b) Is it a fact that in the Ordnance and Clothing Factories controlled by the Army Department there are no posts of gazetted rank generally open to the members of the clerical establishment ?

(c) Is it a fact that the members of the clerical establishments in the Ordnance and Clothing Factory Department had asked in their memorial that certain posts of gazetted rank be thrown open to them ?

(d) Will Government be pleased to state whether they propose to accede to this request and, if not, why not ?

Mr. G. M. Young : (a) Yes.

(b) All posts in the Factories are open to qualified men, but none are open to unqualified men.

(c) Yes.

(d) No. The attention of the Honourable Member is invited to the reply given on the 18th February 1924 to questions Nos. 351 and 353, and on the 2nd September 1925, to question No. 510.

CREATION OF POSTS OF PERSONAL ASSISTANTS TO THE CHIEF OFFICERS OF ORDNANCE FACTORIES.

1141. *Mr. N. M. Joshi : (a) Will Government be pleased to state if the Kenyon Committee recommended the creation of a post of Personal Assistant to the Chief Officer of each of the Ordnance Factories ?

(b) Has this recommendation been given effect to ?

(c) If not, will Government be pleased to state when they mean to do so ?

(d) If the reply to (b) is in the affirmative, will they be pleased to state how many of these posts are held by men who have risen from the clerical position ? Was not this recommended by the Kenyon Committee ?

Mr. G. M. Young : (a) Yes.

(b) No.

(c) Not until the army is so increased as to justify the appointment.

(d) Does not arise. But I may mention that the Kenyon Committee specifically recommended the appointment of men with qualifications not to be found in the clerical establishments.

APPOINTMENT OF CHIEF CLERKS IN ORDNANCE FACTORIES.

1142. *Mr. N. M. Joshi : (a) Will Government be pleased to state if the Kenyon Committee recommended the appointment of a Chief Clerk in each of the Ordnance Factories ?

(b) Are Government aware that the recommendation of the appointment of a Chief Clerk was meant for centralising the administrative work in the Ordnance Factories ?

(c) If so, will they be pleased to state whether the recommendation has been acted upon ? If not, why not ?

Mr. G. M. Young : (a) Yes.

(b) No. The Committee stated that they were unable to make any detailed recommendations, but they desired to attract a higher class of men who would work initially as Production Staff.

(c) The Honourable Member is referred to the answers given to parts (c) and (d) to question No. 1139.

REVISED SCALE OF PAY FOR SOME CLASSES OF THE SUBORDINATE ESTABLISHMENT IN ORDNANCE FACTORIES.

1143. *Mr. N. M. Joshi : (a) Will Government be pleased to state if sanction was received for a revised scale of pay in 1920 for some classes of the subordinate establishment in Ordnance Factories ?

(b) If so, will they be pleased to state if the revised scale is found satisfactory ?

(c) If the reply to (b) is in the affirmative, will Government be pleased to state whether the increase granted to clerks is commensurate with the increase in the pay of other ranks ?

(d) Will they be pleased to state if they propose to revise the scale in the near future ?

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

(c) There is no uniform standard of comparison. I understand that the average increase in clerical establishment was approximately the same as the average increase all round.

(d) The Honourable Member is referred to my answer to part (d) of question No. 1140.

PENSION AND PROVIDENT FUND FOR SECTION CLERKS IN ORDNANCE FACTORIES.

1144. ***Mr. N. M. Joshi :** (a) Will Government be pleased to state if the section clerks in the Ordnance Factories are entitled to pension and provident fund ?

(b) Are Government aware that they are classed as permanent ?

(c) If the reply to (a) is in the negative, will they be pleased to state, why they are not entitled to pension and provident fund as in other services ?

Mr. G. M. Young : (a) No. But if promoted to higher grade, they count their service as permanent section clerks for pension.

(b) No. A minimum nucleus sufficient to keep the Factories in existence if there is no work are classed as permanent. The remainder are on the extra temporary establishment and are taken on as required by the state of work.

(c) Clerks of various other departments in similar positions are not so entitled, but Ordnance Factory clerks get the special concession referred to in the answer to part (a) of this question.

PROVISION OF QUARTERS FOR CLERKS OF ORDNANCE AND CLOTHING FACTORIES.

1145. ***Mr. N. M. Joshi :** (a) Will Government be pleased to state if most of the permanent establishment of the Ordnance and Clothing Factories is provided with quarters by Government ?

(b) If so, are Government aware that the clerks are not provided with quarters by Government ?

(c) If so will Government be pleased to state why such distinction is made ?

(d) Will Government be pleased to state if they are thinking of providing quarters or paying separate allowances, in view of the fact that the Ordnance and Clothing factories are generally situated at a long distance from cities ?

Mr. G. M. Young : (a) There is a shortage of quarters for all staff, and quarters are being built as funds permit.

(b) Some clerks are provided with quarters.

(c) Does not arise.

(d) Quarters are being built as practicable. Government takes into account the travelling facilities existent within a reasonable distance of the factories.

WORKING HOURS OF CLERKS IN ORDNANCE FACTORIES.

1146. *Mr. N. M. Joshi : (a) Will Government be pleased to state what is the number of working hours for clerks in Ordnance factories ?

(b) Have they at any time ruled that the maximum number of hours should be six ?

(c) If so, will they be pleased to state whether it is not a fact that a certain number of clerks have to work from 7-30 a.m. to 4-15 p.m. ? If so, why ?

(d) Do Government propose to inquire into the matter ?

Mr. G. M. Young : (a) The ordinary production working hours of the factory.

(b) The answer is in the negative, because a factory is not a secretariat office.

(c) Yes. These are the ordinary factory working hours.

(d) Does not arise.

GRANT OF OVERTIME TO ALL THE CLERICAL ESTABLISHMENT IN ORDNANCE FACTORIES.

1147. *Mr. N. M. Joshi : (a) Will Government be pleased to state if overtime work is paid extra in Ordnance Factories ?

(b) If so, will they be pleased to state why it is allowed only to clerks in a particular branch ?

(c) Will they be pleased to state if they are prepared to extend it to all the clerical establishment in the Ordnance Factories ?

Mr. G. M. Young : (a), (b) and (c). Overtime work is paid for as laid down in the Indian Factories Act, with certain extra concessions. It is restricted to men actually employed on systematic overtime, ordered on account of a rush of production and Government do not propose to extend it beyond this restriction. The limit above which overtime pay is admissible in Ordnance Factories is only 44½ hours a week.

COUNTING OF TEMPORARY SERVICE TOWARDS PENSION BY TEMPORARY EMPLOYEES OF THE PUBLIC WORKS DEPARTMENT WHO ARE SUBSEQUENTLY MADE PERMANENT.

1148. *Mr. N. M. Joshi : (a) Will Government be pleased to state whether in the P. W. Department a large number of people are employed only in a temporary capacity, sometimes for as long a period as 20 years continuously ?

(b) Is it a fact that when the temporary men are made permanent, the period of temporary service is not counted either for pension or for provident fund ?

(c) Are Government aware that this practice causes a great loss to the employees of the Department ?

(d) Are Government aware that the practice gives rise to much discontent among the employed ?

(e) Are Government prepared to consider the question of modifying the practice by giving some benefit of long temporary service to the employees of the Department at the time of retirement ?

The Honourable Sir Bhupendra Nath Mitra : So far as the temporary staff employed under Provincial Governments is concerned the subject matter of the questions is not primarily the concern of the Governor-General in Council. As regards the temporary staff paid from the central revenues the replies are as follows :

(a) The temporary staff employed is by no means large.

(b) Yes, but exceptions are made in deserving cases.

(c), (d) and (e). The replies are in the negative.

REPORT OF COLONEL NEEDHAM, I.M.S., ON THE REORGANISATION OF MEDICAL ARRANGEMENTS ON THE NORTH-WESTERN RAILWAY.

1149. ***Lieutenant-Colonel H. A. J. Gidney :** (a) Will the Honourable Member please state whether the Report submitted to the Government of India on the Railway Medical Service by Colonel Needham, I. M. S., has been approved and whether it has been submitted for the approval of the Secretary of State for India ?

(b) If the answer to (a) is in the affirmative, will Government please state :

(a) when the service will commence to function, and

(b) if the Government intend to place the Report before the Legislative Assembly for its opinion before it commences to operate ?

Mr. A. A. L. Parsons : Colonel Needham submitted a report not on the Railway Medical Service but on the reorganisation of medical arrangements on the North-Western Railway. His recommendations have been accepted in the main and proposals to give effect to them will be placed before the Standing Finance Committee for Railways. Colonel Needham also gave certain advice in regard to the Railway Medical Service generally, but no decisions have yet been arrived at on this advice.

UNDESIRABLE ADVERTISEMENTS IN THE BENGAL NAGPUR RAILWAY TIME TABLE.

1150. ***Pandit Nilakantha Das :** Referring to Bengal Nagpur Railway Time Table No. 110 from 1st April 1927 onwards and numbers before and after :

(a) Has the attention of the Railway Board been attracted to the undesirable advertisements specially on the first and fourth cover pages of the Time Table ?

(b) Have they noticed the advertisement of the Topsy John Haig with a whisky glass and the almost naked girl with Imperial

Special Cigarette in hand attracting the attention of the passengers and the public by their gay colours and appearance ?

(c) Are they prepared to take steps to put a stop to such advertisements ?

Mr. A. A. L. Parsons : (a) and (b). They have seen the advertisements.

(c) They do not consider any action necessary.

Pandit Nilakantha Das : I hope they have got a copy of the advertisement and they will show it for the inspection of the House.

Mr. A. A. L. Parsons : If Members of the House like to see the advertisement, they can for 2 or 4 annas purchase a copy of the time table.

Pandit Nilakantha Das : I have got a copy. Is this not the book (showing the advertisement) ? This is John Haig clad in bright colours with a bottle of whisky and this is the gay girl with Imperial Special cigarettes in her hand. Will they like.....

Mr. K. C. Neogy : Did the Publicity Department draw the attention of Miss Mayo to this advertisement ?

Pandit Nilakantha Das : May I know if this is the indication of the way in which our railway companies are making money ?

Mr. A. A. L. Parsons : I doubt myself if this advertisement has added to the sales of the time table.

Mr. B. Das : Will the Honourable Member consult the puritanic element of this House in future advertisements on railway time tables ?

EXPENDITURE INCURRED BY THE SELF-GOVERNING DOMINIONS ON NAVAL ESTABLISHMENT.

1151. ***Mr. M. B. Jayakar :** (a) Will Government be pleased to state the expenditure incurred by each of the self-governing Dominions under the Empire such as Canada, Australia and the Union of South Africa on naval establishment ?

(b) Will Government be pleased to state the strength of the Navy of each Dominion and whether it is officered by the colonials or by British naval officers ?

(c) What facilities for naval education are provided by the Colonies to their subjects ? What expenditure is incurred by each ? How many naval cadets are trained each year, at what cost and in what institutions ?

(d) What control is exercised over this Colonial Navy by the Army Council of Great Britain or by the British Government ?

Mr. G. M. Young : The Government of India have no official information on these subjects, but I will endeavour to find out what works of reference are likely to contain such information, and communicate the result to my Honourable friend.

ADMISSION OF INDIANS FOR TRAINING IN ROYAL NAVAL ESTABLISHMENTS AND COLONIAL TRAINING ESTABLISHMENTS.

1152. ***Mr. M. B. Jayakar :** Are Indians freely admitted to naval and colonial centres such as Bristol, Plymouth, Devonport, etc., in England ?

Mr. G. M. Young : At present Indians are not admitted for training in Royal Naval Establishments. The Government of India have no information in regard to Colonial Training Establishments. On the inauguration of the Royal Indian Navy, Indians, who pass the necessary entrance examination, will be trained for that service for a period of about three years in Naval Training Establishments in England.

NUMBER OF INDIAN AND EUROPEAN OFFICERS IN THE ROYAL INDIAN MARINE.

1153. *Mr. M. R. Jayakar : (a) Will Government be pleased to state how many Indian officers and how many European officers are employed under the Marine Department, in all ranks such as general supervision dock-yard marine, marine stores and coal ?

(b) What is the approximate expenditure incurred for the last 5 years on the Marine Service ?

Mr. G. M. Young : (a) The total number of commissioned and gazetted officers serving in the Royal Indian Marine is at present 121 including 30 in civil employment ; all these are Europeans.

(b) The net expenditure on the Royal Indian Marine incurred during each of the last five years is about 107 lakhs, 72 lakhs, 63 lakhs, 52½ lakhs and 49 lakhs, respectively.

Mr. A. Rangaswami Iyengar : Have the Government ever considered the question of seeing that some Indians are included among these officers ?

Mr. G. M. Young : Yes, Sir.

Mr. A. Rangaswami Iyengar : What is the result, Sir ?

Mr. G. M. Young : The result is the scheme of the Royal Indian Navy, by which 33-1|3 per cent. of the vacancies will be reserved for Indians.

Mr. Sarabhai Nemchand Haji : In view of the fact that all the officers of the Royal Indian Marine to-day are Europeans, will the Government consider the advisability of taking in future as apprentices only Indian cadets at 3 per year, so that in a short time we might have a decent amount of Indianisation ?

Mr. G. M. Young : Sir, I am afraid I do not understand the question. There is no such thing as apprentices in the Navy.

Mr. Sarabhai Nemchand Haji : May I repeat the question ? In view of the fact that all the officers of the Royal Indian Marine to-day are Europeans and further in view of the fact that it is the intention of the Government to transform the Royal Indian Marine into the Royal Indian Navy, will the Government consider the advisability of recruiting only Indians as cadets in future or providing training for them, so that we might have Indianisation at a rapid pace, simultaneously maintaining the British character because the European officers have no Indian colleagues to-day ?

Mr. G. M. Young : Sir, I really think that that question is long enough for me to ask to see it on paper.

Mr. M. R. Jayakar : Are there any political reasons for keeping this branch of the public service entirely in the hands of Europeans ?

Mr. G. M. Young : The Department is not being kept entirely in the hands of Europeans. There was never any actual bar to the appointment of Indians, but so far as I know none have ever applied.

Mr. M. B. Jayakar : Is there any particular reason for not having Indians in this Department ?

Mr. G. M. Young : I have explained that there is no such reason. A third of the vacancies are being reserved for Indians in future.

Mr. A. Rangaswami Iyengar : Have Government found out why Indians never apply ?

Pandit Hirday Nath Kunzru : Will the Honourable Member be good enough to tell us what the qualifications are ?

Mr. G. M. Young : I could not state all the qualifications in the compass of an answer to a supplementary question, but if my Honourable friend will give me notice, I can supply him with the information.

Mr. Gaya Prasad Singh : May I ask what facilities have been offered to Indians for entering into this branch of the public service ?

Mr. G. M. Young : Does my Honourable friend refer to the new Navy or the Royal Indian Marine ?

Mr. Gaya Prasad Singh : The Royal Indian Marine.

Mr. M. B. Jayakar : Do Government ever advertise for any of these places ?

Mr. G. M. Young : No, Sir. I do not think Government have ever advertised for Indians for the Royal Indian Marine.

Lala Lajpat Rai : Have the Government shown any desire to find out why Indians have not applied for the Royal Indian Marine ?

Mr. G. M. Young : I do not know, Sir.

Sir Hari Singh Gour : Will the Government be pleased to take steps to see that some Indians get appointed to the Royal Indian Marine ?

Mr. G. M. Young : As I have already explained several times Government have taken steps in this direction.

Mr. M. B. Jayakar : My Honourable friend just now spoke of qualifications. Is the presence of a large amount of pigment in the skin a disqualification ?

CESSATION OF THE ANNUAL CONTRIBUTION TO THE BRITISH GOVERNMENT ON THE STARTING OF THE INDIAN NAVY.

1154. ***Mr. M. B. Jayakar :** Will Government state if in the event of an Indian Navy being started the annual contribution of 10 lakhs to the British Government will cease to be paid ?

Mr. G. M. Young : The answer is in the negative. The Government of India agree with the opinion expressed by the Departmental Committee on the Re-organization of the Royal Indian Marine, that it would be premature to discuss this question until, at the earliest, the new Indian Navy is in a position to perform an appreciable portion of those services which are rendered to India by His Majesty's Navy, and in respect of which the contribution is paid.

ENQUIRY INTO THE LOCOMOTIVE INDUSTRY.

1155. *Mr. B. Das : (a) Referring to the answer given by Sir Charles Innes to question No. 406, dated 18th September 1924, will Government be pleased to state whether any official was deputed to the United Kingdom ?

(b) Has he submitted a report to Government ?

(c) Did Government place this report before the Standing Finance Committee ? If not, why not ?

(d) Was this report asked for by the Peninsular Locomotive Co., Ltd. ?

(e) Was this report asked for by the Tariff Board ?

(f) Will Government be pleased to place that report on the table ?

Mr. A. A. L. Parsons : (a) An officer on leave was deputed to prepare a report for the consideration of the Railway Board.

(b) Yes.

(c) No concrete proposals, which could be placed before the Standing Finance Committee, were found in the report.

(d) Yes.

(e) Yes.

(f) No. It is a purely departmental document and I may add that the Railway Board did not accept the conclusions arrived at in it as accurate.

CONSTRUCTION OF RAILWAY WAGONS AND UNDERFRAMES.

1156. *Mr. B. Das : Will Government be pleased to state what orders have been placed with each of the following firms for construction and delivery during 1927-28 indicating the value as well as quantity :

Messrs. Jessop and Company, Limited ;

Messrs. Burn and Company, Limited ; and

Messrs. The Indian Standard Wagon Company, Limited ?

Mr. A. A. L. Parsons : It is presumed that the Honourable Member is referring to construction of railway wagons and underframes, the figures for which are as follows :

	No.	Approximate amount of contracts.
Jessop and Coy.	393	30 lakhs.
Burn and Coy.	510	39½ lakhs.
Indian Standard Wagon Company	1,268	34 lakhs.

Mr. M. S. Aney : Will the Honourable Member kindly say what was the date fixed in the agreement for the delivery of these wagons by each of these companies ?

Mr. A. A. L. Parsons : The Honourable Member, I am afraid, must put down the question. There are about 20 or 30 contracts for the construction of these wagons, etc., and he will hardly expect me to remember all the dates.

Mr. M. S. Aney : Will the Honourable Member supply this information some time later ?

Mr. A. A. L. Parsons : I must ask the Honourable Member to put down a question.

MANUFACTURE OF LOCOMOTIVES IN THE BOMBAY, BARODA AND CENTRAL INDIA RAILWAY WORKSHOP AT AJMER.

1157. ***Mr. B. Das :** (a) Will Government be pleased to state the cost of each of the seventeen locomotives for the metre gauge, which were shown as having been built at Ajmer in the Bombay, Baroda and Central India Railway workshop, in the statement given in answer to starred question No. 669 ?

(b) For how many years has Ajmer been manufacturing locomotives ?

(c) Is the work of manufacturing locomotives proceeding at Ajmer still ?

(d) If so, what was the objection to locomotive manufacture being started in India ?

Mr. A. A. L. Parsons : The information is being obtained and will be furnished to the Honourable Member on receipt.

PURCHASE OF LOCOMOTIVES IN THE YEARS 1920-21 TO 1927-28.

1158. ***Mr. B. Das :** Will Government be pleased to give a statement corresponding to the statement given in reply to starred question No. 669 for locomotives obtained during the years 1920-21, 1921-22, 1922-23, 1923-24, 1924-25, 1926-27 and 1927-28, and state how many locomotives are on order for the current year on renewals account ?

Mr. A. A. L. Parsons : The information is being obtained and will be furnished to the Honourable Member on receipt.

TIMELY WARNINGS GIVEN BY THE METEOROLOGICAL DEPARTMENT REGARDING THE HEAVY RAINFALL IN GUJARAT AND ORISSA IN JULY LAST.

1159. ***Mr. B. Das :** Will Government be pleased to state if the Meteorological Department did foreshadow the heavy rainfall in Gujarat and Orissa and if timely warnings were given in each case before the occurrence of floods in July last ?

The Honourable Sir Bhupendra Nath Mitra : Timely warnings were given by the Meteorological Department in both cases and these warnings were much appreciated by the local officials.

Mr. B. Das : May I inquire, Sir, if these warnings were given only to Government officials or were they also supplied to the public ?

The Honourable Sir Bhupendra Nath Mitra : They were furnished by the Meteorological Department to Government officials. It was the duty of the latter to publish them if they considered that such publication was of any use.

Mr. K. C. Neogy : Have the Government information as to whether in these cases the warnings were communicated to the people at large by the officials concerned ?

The Honourable Sir Bhupendra Nath Mitra : I have no information on that point.

Mr. K. C. Neogy : Does the Honourable Member's department consider itself concerned about this matter—as to whether the warnings reach the people at large at all ? Or is it only a matter for the local officials to decide ?

The Honourable Sir Bhupendra Nath Mitra : So far as the Meteorological Department is concerned, the communications have to be addressed to the local officials. It is the function of the latter to publish the information, if they consider that such publication is likely to be of any use.

Mr. B. Das : Is it not a fact that in England the Meteorological Department not only gives such warnings to the people and the Government but that their officials also visit the countryside where floods and heavy rains occur ?

The Honourable Sir Bhupendra Nath Mitra : I have no information on that point.

Mr. K. Ahmed : In view of the fact that the Honourable Member's Department (the Meteorological Department) has failed to serve the purpose for which it is maintained and therefore it is a burden on the public revenue, does the Honourable Member propose to exercise his ability much more than he is doing, so that the very object for which this Department is maintained may not be frustrated ?

DELAY IN THE RECEIPT BY MEMBERS OF THE CENTRAL LEGISLATURE OF THE SKEEN COMMITTEE'S REPORT FROM THE CENTRAL PUBLICATION BRANCH IN CALCUTTA.

1160. ***Mr. H. G. Cocke :** (a) Are Government aware that Members of the Central Legislature are unable to obtain copies of the Skeen Report from the Central Publication Branch of the Government of India in Calcutta except after considerable delay ?

(b) Who is in charge of the Publication Branch ? What are his qualifications ? How many assistants has he ?

(c) Is the Honourable Member-in-charge prepared to consider the desirability of making enquiries into the management or mismanagement of this office ?

(d) Are Government once more prepared to consider the desirability of opening a branch of the Central Publication Branch at Delhi and Simla during the Sessions of the Legislature ?

The Honourable Sir Bhupendra Nath Mitra : (a) No. Government are informed that only two indents were received directly from individual Members of the Central Legislature and that these were complied with on the dates of receipt. If the Honourable Member will give any specific instance of delay, the matter will be investigated.

(b) Mr. J. H. Golder the permanent incumbent of the post is on leave and Mr. B. U. N. Mazumdar, Assistant Manager, who has had experience of the work of the Branch from its inception, is at present in charge. As regards Mr. Golder's qualifications the attention of the

Honourable Member is invited to the reply given by me on 15th February 1927 to question No. 415 by Diwan Chaman Lall. The ministerial staff of the Central Publication Branch consists of one Assistant Manager, eight assistants and fifty-five clerks.

(c) This has already been done. Government increased substantially the strength of the Branch in October last and other steps have been taken to improve its efficiency.

(d) The question is under the consideration of Government.

Mr. M. Ruthnaswamy : Is it a fact that quite a number of Honourable Members of the Legislative Assembly are not put on the free list of the Central Publication Branch because I received a reply from the Director of the Central Publication Branch that my name was not on the free list of the Branch ?

The Honourable Sir Bhupendra Nath Mitra : I have no information on that point. If the Honourable Member will kindly put down the question on paper, the Secretary of the Legislative Department will answer it.

Mr. A. Rangaswami Iyengar : Is the Honourable Member aware that the state of the accounts books in the Central Publication Branch is chaotic ?

The Honourable Sir Bhupendra Nath Mitra : I have no information on that point.

Mr. A. Rangaswami Iyengar : Will the Honourable Member make inquiries ? I think the auditor of the accounts has drawn the attention of the Honourable Member to it.

Mr. H. G. Cocke : Is the Honourable Member aware that orders that were placed with the said Book Depôt of Calcutta through Messrs. Thacker, Spink and Co., were not executed at all in one case and in another case they took three to four weeks to be executed ?

The Honourable Sir Bhupendra Nath Mitra : I am not aware of that, Sir. As I have already stated, if the Honourable Member will kindly bring to the notice of my department these specific cases instead of making general statements, I shall be quite glad to help him in securing a settlement of these matters.

APPLICATION FROM MAULVI MUHAMMAD SHAFEE, M.L.A., TO KEEP A RETAINER FOR HIS GUN.

1161. ***Mr. Gaya Prasad Singh :** (a) Is it a fact that Maulvi Muhammed Shafee, M.L.A., applied to the District Magistrate, Muzaffarpur, for being allowed to keep a retainer for his gun in January last and that the said District Magistrate referred the matter to the Local Government concerned ?

(b) Will the Government be pleased to state the decision arrived at by the Local Government of Bihar and Orissa and the reasons for the same ?

(c) Is it a fact that in the Patna District some College Professors and others of the same status have been allowed to keep retainers for their guns without the least objection on the part of the Bihar and Orissa Government ?

(d) Do Government propose to consider the question of issuing a notification which may make explicit provision that the Members of the Indian Legislature are entitled to keep retainers for their arms ?

The Honourable Mr. J. Crerar : (a), (b) and (c). The Government of India have no information on the subject.

(d) Government do not propose to extend the exemption to cover retainers, but they will consider whether the present rules cause any avoidable inconvenience.

Mr. Gaya Prasad Singh : Are Government aware that the District Magistrate, Muzaffarpur, subsequently informed Maulvi Muhammad Shafee that he was not entitled to have any retainer's licence ?

The Honourable Mr. J. Crerar : I am not in possession of that information, but, as I said in reply to the Honourable Member himself, Government propose to make inquiries in the matter.

QUESTIONS NOT PUT AT THE MEETING, WITH ANSWERS TO THE SAME.

TRANSFERS AND PROMOTIONS OF ASSISTANTS AND CLERKS BETWEEN THE ATTACHED OFFICES AND THE GOVERNMENT OF INDIA SECRETARIAT.

1077. ***Sir Hari Singh Gour :** (a) Is it a fact that assistants and clerks holding permanent appointments in the Attached Offices are employed on the selection of the Public Service Commission and that their qualifications are the same as those employed in the Imperial Secretariat ?

(b) If so, are there inter-transfers and promotion of employees between the two classes of offices ?

(c) If not, why not ?

The Honourable Mr. J. Crerar : (a) The assistants and clerks in question are recruited on the results of an examination held by the Public Service Commission. The qualifications required are, and since 1922 have been, the same as those of assistants and clerks employed in the Imperial Secretariat.

(b) Transfers and promotions between the Attached Offices and the Secretariat are permitted.

(c) Does not arise.

SCALES OF PAY IN THE ATTACHED OFFICES.

1078. ***Sir Hari Singh Gour :** Is it a fact that the scale of pay in the Attached Offices is lower than that of the Imperial Secretariat, though the employees are required to possess identical qualifications and are selected by the same authority, viz., the Public Service Commission ?

The Honourable Mr. J. Crerar : Yes.

PROMOTION OF QUALIFIED ASSISTANTS AND CLERKS IN THE GOVERNMENT OF INDIA SECRETARIAT AND ATTACHED OFFICES WHO HAVE NOT PASSED THE REQUISITE EXAMINATION.

1079. ***Sir Hari Singh Gour :** (a) Is it a fact that before the institution of examinations for recruitment to the Secretariat or Attached

Offices a number of assistants and clerks were employed and their names are borne on the permanent lists, but in regard to promotion their claims are overlooked on the ground that they have not passed the requisite examination ?

(b) Is it a fact that some of these permanent employees are not now eligible for passing the examination on account of age or University qualifications ?

(c) Is it a fact that departmental rules absolutely prohibit the promotion of such clerks from the lower to the upper division, even though they may be otherwise efficient and fully experienced and capable of discharging the duties of assistants ?

(d) Do the Government propose to see that these old servants are not prejudiced by the mere failure to pass the examination if their qualifications otherwise are considered sufficient for promotion ?

(e) Is it a fact that the Public Service Commission do not treat such unpassed permanent hands on the same footing as passed ones for purposes of promotion and that the Heads of Departments under the present rules treat them likewise, the result being that they are being superseded by new entrants ?

The Honourable Mr. J. Crerar : (a) The reply to the first part is in the affirmative. All persons employed in departments at the time of the institution of examinations by the late Staff Selection Board were given an opportunity of qualifying themselves by examination, and promotion to a higher division ordinarily depended on success at the examination. In certain cases for very special reasons exemption from appearance at the examination has been granted.

(b) The facts are probably as stated.

(c) It is a general rule that clerks are not promoted from the lower to the upper division without passing the qualifying examination. As I have stated in answer to (a) above in certain cases for very special reasons exemption from appearance at the examination has been granted.

(d) I am not at present in a position to make any statement in the matter, but the point will be considered.

(e) Yes.

DISCHARGE OF LABOURERS FROM THE WORKSHOP OF THE SOUTH INDIAN RAILWAY AT TRICHINOPOLY.

1083. ***Mr. M. S. Sesha Iyengar :** (a) Will the Government be pleased to state if it is a fact that nearly 400 labourers were sent out from the Engineering Workshop of the South Indian Railway at Trichinopoly on the 16th and 17th August this year ?

(b) If so, what are the reasons ?

Mr. A. A. L. Parsons : (a) and (b). 293 temporary hands who applied for work on the dates were turned away as there was no work for them.

EXEMPTION OF POSTAL EMPLOYEES WITH 20 YEARS' SERVICE FROM THE EXAMINATION FOR PROMOTION TO SELECTION GRADE APPOINTMENTS.

1084. ***Mr. M. S. Sessa Iyengar** : Will the Government be pleased to state if they propose to exempt officials, with 20 years' service and over from the examination, newly devised for promotion to selection grade appointments, under Director-General's (of Posts and Telegraphs) G. O. No. 5, dated 19th July 1927 ?

The Honourable Sir Bhupendra Nath Mitra : No, Sir.

EXCLUSION OF EUROPEANS FROM THE NON-MUHAMMADAN ELECTORATES FOR THE COUNCIL OF STATE IN BENGAL.

1091. ***Colonel J. D. Crawford** : (a) Are Government aware that Europeans in Bengal having the necessary qualifications are excluded from non-Muhammadan electorates for the Council of State whereas they are included in all other provinces ?

(b) Will Government please state the reasons, if any, for this differentiation ?

(c) Will Government consider the desirability of amending the electoral rules to remove this racial discrimination ?

The Honourable Mr. J. Crerar : Government are aware of the facts brought to notice and they will be taken into consideration when the electoral rules are next revised.

TERMS OF EMPLOYMENT OF MR. MACKAY IN THE ARCHÆOLOGICAL DEPARTMENT.

1092. ***Kumar Ganganand Sinha** : With reference to the reply given to starred question No. 762, on Thursday, the 1st September, will Government be pleased to state :

(a) Whether Mr. Mackay has been engaged on a short term contract ?

(b) If so, what are the terms of the contract ?

(c) Will Government be pleased to state whether Mr. Mackay will take precedence in the seniority list according to his pay ? If so, why ?

(d) If Mr. Mackay is engaged on a permanent footing, will Government be pleased to state how the seniority rights of those engaged before him will be safeguarded ?

Mr. A. R. Dalal : (a) Mr. Mackay has been engaged for a period of two years in the first instance.

(b) A copy of the Agreement with him is placed in the library.

(c) No.

(d) Does not arise.

DUTY ON STEEL BARS OF $\frac{1}{2}$ " THICKNESS.

1100. ***Mr. Jamnadas M. Mehta** : (a) Will Government be pleased to state whether steel bars $\frac{1}{2}$ " thick are rolled by the Tata Iron and Steel Company, Limited, at their Jamshedpur works ?

(b) If not, are they liable to the protective duty of Rs. 37 per ton when imported from non-British sources ?

(c) What was the rate of duty on these bars after the Steel Industry Protection Act of 1924 ?

(d) What is the duty on them according to the Act of 1927 ?

(e) If the duty of 1927 is higher than that in 1924 will Government state the reason for the higher duty ?

(f) Have Government received any representation from the iron merchants against the increase ?

(g) If so, have Government referred the matter to the Tariff Board for opinion, and if so, with what result ? If not, are Government prepared to do so now ? If not, why not ?

The Honourable Sir George Rainy : (a) As far as the Government of India are aware steel bars $\frac{3}{4}$ th inch thick are not rolled by the Tata Iron and Steel Company.

(b) Non-British bars of this thickness are liable to the protective duty of Rs. 37 per ton provided they are not under one inch wide.

(c) If of common merchant quality or designed for the reinforcing of concrete steel bars of all sizes were liable to duty at Rs. 40 per ton ; if of other qualities at 10 per cent. *ad valorem*.

(d) The current rates of duty on steel bars will be found in Nos. 62 and 152 of the Statutory Tariff Schedule as amended by the Steel Industry (Protection) Act, 1927.

(e) As my replies to parts (b) and (c) show, the protective duty on steel bars of $\frac{3}{4}$ th inch thickness, where leviable, is less in 1927 than it was in 1924.

(f) The Government of India have received a representation from certain iron merchants on this subject.

(g) The Government of India have not referred the matter to the Tariff Board, nor do they propose to do so. I would invite the Honourable Member's attention to paragraph 112 of their last Steel Report, in which they say that one of the principles by which they were guided in making their recommendations was that the scheme of protection should include those forms of iron or steel which, though not manufactured in India, might be used in substitution for protected classes of steel unless the duty was sufficiently high to make the substitution unremunerative.

RECRUITMENT OF CHEAPER CLERICAL STAFF IN THE POSTAL DEPARTMENT.

1101. ***Mr. B. P. Naidu :** Will the Government please state whether the cheaper clerical staff they intend to employ in Post Office work, would be recruited from efficient postmen only ? If so, do they propose to issue strict and explicit instructions in the matter ?

The Honourable Sir Bhupendra Nath Mitra : The matter is still under consideration and suitable orders on the subject will be issued as soon as a decision is reached.

POSTAL ACCOUNTANT'S EXAMINATION.

1102. ***Mr. B. P. Naidu** : Is it a fact that the Postal Accountants' examination, though a public one, has not been thrown open during the last two years to all servants of the Department, but only to the nominees of the Divisional Superintendents ? Why ? Are the Government prepared to change this rule ?

The Honourable Sir Bhupendra Nath Mitra : The examination is open to all servants of the department with not less than 3 years' service. Permission to appear is given as a matter of course, unless the Superintendent or first class Postmaster has any objection, in which case a reference to the Head of the Circle is necessary. Government have no information that this procedure is not followed and is not prepared to cancel the rule.

EXAMINATION FOR INSPECTORS OF POST OFFICES.

1103. ***Mr. B. P. Naidu** : Is it a fact that the Departmental Examination held for the selection of officials for the posts of Inspectors and Postmasters is not thrown open to all officials without any restriction ? Are the Government prepared to remedy this grievance ?

The Honourable Sir Bhupendra Nath Mitra : No examination is held for the selection of postmasters. The examination for Inspectors is not open to all officials without restriction. Government do not admit that there is a grievance.

EVENING TURN CLASSES IN THE COMMERCE DEPARTMENT.

1120. ***Mr. Rafi Ahmad Kidwai** : (a) Is it a fact that in the Commerce Department of the Government of India an "evening turn class" is maintained and that consequently the assistants and clerks have to wait in office till very late in the evening and cannot leave office till all the officers of the Department have left ?

(b) Is it also a fact that in no other Department of the Government of India is such a turn class maintained ? If so, will Government please state why it is not possible to do without a "turn class" in that Department ?

The Honourable Sir George Rainy : (a) The Commerce Department Manual of Office Procedure requires that one responsible clerk should remain in charge of each branch until all the officers have left office. If, however, any officer sits very late, the men on turn may ask him after 6-30 P.M., if they are likely to be required and may leave office with his permission. The practical effect of this rule is that a clerk may be required, at times of pressure, as when the Legislature is sitting, to remain until 6-30 P.M. on not more than one evening in the week.

(b) It is understood that other Departments have no regular rule on the subject, but that in practice clerks do remain in office to attend to requisitions from officers who are working late. The Honourable Member will doubtless realise that an officer who is detained in office to dispose of urgent work might be in considerable difficulty if the office were altogether closed, and papers to which he wished to refer were inaccessible.

SHORT NOTICE QUESTION AND ANSWER.

RIOTS AT NAGPUR.

Mr. Abdul Qadir Siddiqi : Will the Government be pleased to state :

- (a) Is it a fact that in the recent Nagpur riots hundreds of Mussal-mans had to run away from their houses to save their lives leaving their belongings behind and are lying in places of security ?
- (b) What is the number of such refugees ?
- (c) What arrangements if any have been made to supply them with food and clothing ?
- (d) What action if any have the Government taken to settle the refugees in their houses and safeguard their life and property ?
- (e) Has the investigation been started and will the Government state who is actually conducting the investigation ?

The Honourable Mr. J. Crerar : (a) and (b). The total number of houses evacuated by Muhammadans during the recent riots at Nagpur was approximately 640. Some of these persons took refuge in the Gond Raja's fort and in the Muhammadan quarters while some left Nagpur.

(c) A shop was opened in the Gond Raja's fort to sell food to refugees. In the northern part of the town no such shop was necessary, but the Tahsildar of Nagpur was deputed to enquire in Mominpura and arrange for the supply of food to persons who had difficulty in obtaining it. Very little assistance was found necessary.

(d) Refugees are steadily returning of their own accord. Military and police pickets were posted and confidence was restored. Police pickets are still posted at places where they are considered necessary.

(e) Investigation is being undertaken under the direction of the Deputy Inspector General of Police into cases in which useful results are anticipated.

Mr. K. Ahmed : Are Government aware that people were not allowed to go out of their houses and that on account of this difficulty they could not purchase their provisions and they were thus compelled to starve in their houses ?

12 NOON.

Nawab Sir Sahibzada Abdul Qaiyum : Will the Government please state if any Muslims were assaulted or injured while under the protection of the police ?

The Honourable Mr. J. Crerar : I am afraid that I cannot add to the information contained in my reply and in the communiqué which has been issued by the Local Government and which contains full details.

Raja Ghazanfar Ali Khan : Is the Government aware that Mr. Natiq, who was a Member of the Assembly during the last Session, was confined to his house for 48 hours and that the police could not rescue him till then ?

The Honourable Mr. J. Crerar : I have no information on that point.

Raja Ghazanfar Ali Khan : Will the Government please make enquiries ?

Nawab Sir Sahibzada Abdul Qaiyum : Is there any truth in the statements published that just before the riots, the Government were warned of the impending riots and that there was an idea in the minds of the non-Muslim population in Nagpur that they would not be fired on even if the riots took place ?

The Honourable Mr. J. Crerar : I am not aware that there was any reason to apprehend a disturbance of this character which arose on what appeared to be an entirely insignificant incident.

Nawab Sir Sahibzada Abdul Qaiyum : Were any preparations made by the Hindus and, if so, whether they had come to the knowledge of the Government ? What steps did the Government take when these matters were brought to their notice ?

The Honourable Mr. J. Crerar : Perhaps the Honourable Member did not hear the reply I gave. I said that Government had no original reason to apprehend so serious a disturbance which arose out of what was apparently an insignificant incident.

Nawab Sir Sahibzada Abdul Qaiyum : Do I understand, Sir, that the Government were not approached by the Muslims and warned of the impending riots or of the possibility of serious riots breaking out ?

The Honourable Mr. J. Crerar : I must point out that while I was prepared to give all such general information as is in my power, the matter is really one which is primarily the concern of the Local Government. I have no information on the particular point raised by my Honourable friend.

Mr. B. Das : Will the Honourable Member say whether he is satisfied that a peaceful atmosphere has been restored ?

The Honourable Mr. J. Crerar : Yes ; I am satisfied that the report of the Local Government in that matter is correct.

Mr. K. Ahmed : What steps did the Government take with regard to the inability of the Mussalmans to have egress out of or ingress into their houses ? Are the Government aware that on account of this difficulty many of the Mussalmans had to starve in their houses for want of food ? What steps did the Government take in this matter ?

The Honourable Mr. J. Crerar : The answer to the Honourable Member's question will, I think, be found in the original answer I have given.

Mr. K. Ahmed : Are the Government aware that detailed accounts of the riots at Nagpur have appeared in the newspapers ? The newspaper cuttings must have been submitted to the Department of the Honourable Member. What steps has he taken in the matter ? (Laughter.)

UNSTARRED QUESTIONS AND ANSWERS.

CONSTITUENCIES OF THE LEGISLATIVE ASSEMBLY, ETC.

129. **Mr. Satyendra Chandra Mitra :** Will the Honourable the Home Member be pleased to lay on the table a statement showing :

- (i) the names of constituencies of the Legislative Assembly ;

- (iii) the number of voters on the Electoral Roll of each constituency ;
- (iv) the number of votes polled at the last election in each constituency ;
- (v) the number of candidates at the last election in each constituency ;
- (vi) the election expenses incurred by the successful candidate ; and
- (vii) the average amount spent as election expenses in each constituency at the last election ?

The Honourable Mr. J. C. Crerar : (i) to (iv). The Honourable Member is referred to the report on the results of the 1926 elections a copy of which is in the Library.

(v) In pursuance of rule 19 (b) of the Electoral Rules records are prepared and maintained in the Legislative Department showing the names, constituencies and election expenses of all candidates at every election. The records are open to public inspection and any Member may see them at any time during office hours.

(vi) I must leave the Honourable Member with the assistance of these records to work out the average referred to in this part of the question.

VACANT MILITARY BUILDINGS AT SATARA.

130. **Mr. Fazal Ibrahim Rahimtulla :** (a) Is it a fact that the military buildings at Satara are lying vacant ?

(b) What was the cost to Government in removing the Small Arms School from Satara in the Deccan and accommodating it at Pachmarhi, Central Provinces, in the year 1925-26 and 1926-27 ?

(c) Is it likely in any near future date for the military buildings lying vacant at Satara being utilized for any military purpose ?

Mr. G. M. Young : (a) Yes.

(b) The amount so far spent in providing accommodation at Pachmarhi as a result of the amalgamation of the two schools is about 2½ lakhs. I have not the figures of the actual cost of the move from Satara to Pachmarhi, but the measure as a whole results in a saving of about 1 lakh a year.

(c) A proposal for utilizing the buildings is under consideration.

PAY OF GRADUATES AND UNDER GRADUATES IN THE POST OFFICE.

131. **Mr. Amar Nath Dutt :** (a) Will the Government be pleased to state if it is a fact that graduates and under graduates recruited in the Post Office after the introduction of the time-scale of pay were entitled to the 5th and the 3rd stages of the scale of pay respectively ?

(b) Are they still entitled to the same benefit after the introduction of the recent revision of pay ? If so, what starting pay is granted to those who entered the service after the 1st March 1927 ?

Mr. H. A. Sama : (a) and (b). Graduates and undergraduates recruited for clerical service in the Post Office after the introduction of the time-scales of pay are entitled to draw as initial pay that of the 5th and 3rd stages, respectively, of the time-scales in force at the time of their recruitment. This rule is still in force.

PAY OF GRADUATES AND UNDER GRADUATES IN THE POST OFFICE.

132. Mr. Amar Nath Dutt : Is it a fact that graduates and undergraduates with two years' service at their credit are drawing less pay than those recruited after the 1st March 1927 ? If so, will the Government be pleased to state why these officials should be deprived of even the minimum pay fixed for them ?

The Honourable Sir Bhupendra Nath Mitra : The Honourable Member is referred to the answer given to unstarred question No. 100 asked by Mr. V. V. Jogiah in the Assembly on the 6th September 1927.

PAY OF GRADUATES AND UNDER GRADUATES IN THE POST OFFICE.

133. Mr. Amar Nath Dutt : Is it a fact that graduates and undergraduates with three and four years' service at their credit are drawing equal pay with the new entrants ? If so, will the Government be pleased to state whether their long experience in the departmental rules and work will be taken into consideration in fixing their pay ?

The Honourable Sir Bhupendra Nath Mitra : The matter is under the consideration of the Government of India. The Honourable Member is referred in this connection to the reply given to unstarred question No. 100 asked by Mr. V. V. Jogiah in the Assembly on the 6th September 1927.

RESOLUTION NO. 90 PASSED AT THE 7TH SESSION OF THE ALL INDIA POSTAL AND R. M. S. CONFERENCE HELD AT NAGPUR.

134. Mr. Amar Nath Dutt : Has the attention of the Government been drawn to Resolution No. 90 passed at the 7th session of the All India Postal and R. M. S. Conference held at Nagpur on the 11th, 12th, 13th June 1927 ? If so, will the Government be pleased to state whether they propose to take any action as suggested in the Resolution ?

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

APPOINTMENT TO THE FIRST DIVISION OF THE GOVERNMENT OF INDIA SECRETARIAT OF CANDIDATES SUCCESSFUL AT THE 1920 AND 1922 EXAMINATIONS.

135. Mr. Amar Nath Dutt : (a) Is it a fact that a number of departmental candidates as well as outsiders who passed the prescribed test of the late Staff Selection Board in 1920 and 1922 for appointments to the first division in the Government of India Secretariat still remain unprovided for with appointments in that division ?

(b) Is it also a fact that while these men remain unprovided, others who qualified for the first division appointments at later examinations have been appointed in that division ? If so, will Government please state the reasons for doing so ?

(c) Are Government aware that this has caused great discontent amongst the men of category (a) above ? How many of such men are awaiting confirmation in the first division and how many of such outsiders have since accepted lower division appointments for paucity of vacancies in the first division ?

(d) Are Government considering the question of absorbing these men by inter-departmental transfer or by any other suitable method ? If not, why not ?

(e) Do Government propose to hold further examinations for recruitment to the first division pending the absorption of these ? If so, why ?

(f) What is the generally accepted principle for determining relative seniority for confirmation in the first division other things being equal ? Is the length of service as well as War service taken into account in determining relative seniority ? If not, why not ?

(g) Is the principle of determining relative seniority uniform in all Departments of the Government of India ? If not, why not ?

The Honourable Mr. J. Crerar : (a) to (d). I would refer the Honourable Member to the replies given on 1st March last to Mr. Gaya Prasad Singh's questions Nos. 678 and 679. As then explained the detailed information asked for in regard to departmental candidates is not readily available. Such candidates can ordinarily look to promotion only in their own departments, though there is nothing to prohibit inter-departmental transfers, provided the Department in which a man is employed permits him to seek an appointment in another Department. Vacancies are very often of short duration and it is not always possible for a Department to spare the services of a man for short term vacancies. As regards outside candidates, of those who passed for the upper division of the Secretariat in 1920 and for the upper division of Attached Offices in 1922 and whose names are at present on the list of waiting candidates maintained by the Public Service Commission, only one man remains to be provided for in the upper division of the Secretariat and 4 men in the upper division of Attached Offices. In addition there are 8 men who are temporarily employed in the grades for which they passed. Of those outside candidates who passed the upper division test in 1920, 12 candidates have accepted permanent lower division vacancies. The names of these men have been removed from the Commission's list. Certain candidates, who qualified for the upper division at the examination held by the Public Service Commission in November 1926, have been nominated for temporary vacancies of short duration, for which it was not possible to consider candidates who passed in 1920 and 1922 owing to their unwillingness to accept such vacancies.

(e) There is no proposal at present to hold a further examination for recruitment to the first division.

(f) and (g). I am not sure that I quite understand the Honourable Member's question. Confirmation in the first division must depend on whether a man has passed the necessary examination or not, and on such factors as merit and capacity, position on the establishment list, age, and length of service, including war service, if any. Much must necessarily rest in matters of this sort on the discretion of the Department concerned, and absolute uniformity cannot be expected.

REMOVAL OF THE ARSENAL AND FORT ON THE SLOPES OF THE SHWEDAGON PAGODA AT RANGOON.

136. **U. Khin Maung** : Will the Government be pleased to state on what date the removal of the arsenal and fort on the slopes of the Shwedagon Pagoda at Rangoon will be effected ?

Mr. G. M. Young : I am inquiring from the local military authorities and will let the Honourable Member know as soon as possible.

As I stated in my answer to question No. 1128 on the 23rd March 1927, it is hoped to make the move before the end of 1927.

GRIEVANCES OF EMPLOYEES OF THE GOVERNMENT OF INDIA PRESSES.

137. **Mr. N. M. Joshi** : (a) Will Government be pleased to state if they have received a copy of the proceedings and resolutions of the All-India Press Employees Conference, which was held in Calcutta in August 13th and 14th, 1927 ?

(b) Will the Government be pleased to state what action, if any, Government intend to take on these resolutions ?

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

(b) None. It is open to any employee in a Government of India Press to put forward a memorial in respect of any grievance and, as a matter of fact, memorials are constantly received and considered. It is also open to press employees to secure recognition for any trade union which conforms to the rules governing trade unions of Government servants, and to bring grievances to the notice of the proper authority by means of such trade unions. The Government of India are not prepared to accord consideration to grievances put forward by press workers through other channels.

MEMORIAL FROM THE EMPLOYEES OF THE GOVERNMENT OF INDIA PRESS, CALCUTTA.

138. **Mr. N. M. Joshi** : (a) Is it a fact that the employees in the Government of India Press, Calcutta, submitted in December 1926 a memorial to the Honourable Sir B. N. Mitra, Member in charge of the Department of Industries and Labour ?

(b) If the reply to (a) is in the affirmative, will Government be pleased to state what steps, if any, have been taken regarding this memorial ?

(c) If nothing has been done as yet, will Government kindly state when they mean to do so ?

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

(b) and (c). The memorial has necessitated a detailed examination of the various points raised and is receiving the careful consideration of Government. As the memorialists were informed at the time, it is unlikely that any action can be taken before the commencement of the financial year 1928-29.

PURCHASE AND SALE OF MACHINES BY THE GOVERNMENT OF INDIA PRESSES IN CALCUTTA, DELHI AND SIMLA.

139. **Mr. N. M. Joshi :** (a) Will Government be pleased to lay on the table a statement of the number of machines bought by the Government of India Presses at Calcutta, Delhi and Simla from 1909 to 1926, year by year ?

(b) Will Government be pleased to state the amount, if any, realised as discount on the purchase of each machine ?

(c) Will Government be pleased to lay on the table a statement showing for the years from 1909 to 1926, year by year :

(i) the number of machines and presses sold by the Government of India Presses at Calcutta, Delhi and Simla ; and

(ii) the amount for which each was sold, together with the original price for which each was bought, as well as the date of purchase and sale of each ?

The Honourable Sir Bhupendra Nath Mitra : The collection of particulars of the purchase and sale of every machine in each of three presses for each of eighteen years would involve a very large amount of labour, even if the necessary records are available and the Government do not feel justified in undertaking this enquiry. Particulars for the last two or three years could probably be furnished without an undue amount of labour and difficulty, and if these will serve the Honourable Member's purpose I shall endeavour to have them supplied to him.

SALE OF WASTE PAPER BY THE GOVERNMENT OF INDIA PRESSES IN CALCUTTA, DELHI AND SIMLA.

140. **Mr. N. M. Joshi :** (a) Will Government be pleased to state whether the Government of India Presses at Calcutta, Delhi and Simla call for tenders with regard to the sale of old papers ?

(b) If the answer to (a) is in the negative, will Government be pleased to state the reason for not doing so ?

(c) Will Government be pleased to lay on the table a statement showing, year by year, from 1915 to 1926, the amount realised from the sale of waste paper ?

The Honourable Sir Bhupendra Nath Mitra : Information is being collected and will be supplied to the Honourable Member when available.

MESSAGE FROM THE COUNCIL OF STATE.

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

" I am directed to inform you that the Council of State has at their meeting held on 17th September 1927 agreed without any amendments to the following Bills passed by the Legislative Assembly on the 7th and 8th September 1927 :

A Bill further to amend the Indian Tariff Act, 1894, in order to protect the manufacture of cotton yarn in British India ;

A Bill further to amend the Indian Tariff Act, 1894."

THE CRIMINAL LAW AMENDMENT BILL.—*contd.*

Mr. President : The House will now resume further consideration of the Bill to amend the Indian Penal Code and the Code of Criminal Procedure, 1898, for a certain purpose, as reported by the Select Committee, clause by clause.

The clause which the House was discussing on the last occasion was clause 3.

The question is :

"That clause 3 do stand part of the Bill."

to which Pandit Thakur Das Bhargava has moved the following amendment ;

"Delete sub-clause (ii) of clause 3 and re-number sub-clauses (iii) and (iv) as (ii) and (iii) respectively."

Pandit Thakur Das Bhargava (Ambala Division : Non-Muhammadan) : Sir, the other day I moved the amendment standing in my name. Now, I propose to submit some of the grounds on which I submit that this amendment should be supported. In the first place, I maintain that it is quite wrong in principle to deprive a subject of the liberty of prosecuting a person who transgresses the law. The vindication of the law and the punishment of the offender is not the sole concern of the State. It is clearly to the greater advantage of the individual or the class concerned that an offender who has been guilty of an offence against an individual or any class should not be allowed to persist in his activities and thus continue to injure either the individual or the class. It is therefore that the general law of the country lays down that any person is entitled to initiate a prosecution in respect of offences except such as have been exempted by certain sections of the Code of Criminal Procedure. I need not quote any authorities for such a patent proposition like this. If any authorities were needed, I would quote 13 Bombay, page 600 and 43 Calcutta, page 1043. All the authorities are agreed that the right of initiating proceedings is a very valuable right and I should say that it is really one of bulwarks of individual freedom and liberty. If any person brings a complaint, the court cannot refuse to entertain that complaint and the court is incompetent to enquire into the motives which actuate that person or the objects with which that person brings that complaint. This being the general law of the land, there is a very heavy onus on the Government to prove that in this particular case an exception is justified. This right of initiation of prosecution is a very great safeguard and is in the nature of a safety valve to all human instincts of retaliation and revenge. At the same time, it constitutes a very serious restraint on the wrong doer because he fears that any individual in the land can bring him to book. In fact, Sir, the right to petition the King, the right to bring a complaint, these are the very essence of liberty of action and of freedom of any individual. I would therefore submit that unless very strong reasons can be advanced by the Government for a reservation of this nature, the House should not be a party to a deviation in that respect.

Mr. K. Ahmed (Rajshahi Division : Muhammadan Rural) : What is the object of the Government then in introducing this Bill ?

Pandit Thakur Das Bhargava : Sir, you will be pleased to see that there are certain sections of the Code of Criminal Procedure which are at present on the Statute-book and which constitute the only exceptions to this rule. These sections are sections 195 to 199. The perusal of those sections will establish, Sir, that the law has made an exception to the general rule in respect of several kinds of offences but there is one clear principle which is, I submit, of universal application. It underlies all those sections, and passes as it were like a string through them. Now sections 198 and 199 deal with defamation and offences against marriage, breach of contract : all offences of a private character ; and section 199 deals with sections 498 and 497 in the Penal Code. Now, Sir, I would submit that public policy requires that in private matters like these nobody need poke his nose into. Moreover, this principle will appear even from those sections, that the persons injured have got a perfect right of action, even to this extent that the Government cannot deprive the person injured of his right and the Government itself have no right to initiate a prosecution in respect of those matters. Apart from those two sections, section 195 is also one of the exceptions ; but you will be pleased to see that section 195 deals with three kinds of offences. Those dealt with in 195 (a) constitute in substance contempt of the authority of a public servant and it is public servants who by the fiction of the law are thought to be injured by those offences. Public servants so injured are given the right of initiating proceedings. Similarly, in section 195 (b) particular courts are by fiction of the law regarded as the injured party, and the courts concerned are given the right to initiate prosecutions. Similarly, again, in section 195 (c), the courts in respect of whom such offences are committed, are given the right of initiation of proceedings. In section 196 you will be pleased to see that the offences are against the State and it includes certain offences which are peculiar to the State. Chapter VI and Chapter IX-A and section 505 are such offences. Section 294-A is also mentioned and in that case an exception is made in respect of an offence against public morals. An exception is also made in the case of section 153-A, for the reason that it is an offence against public tranquillity and public tranquillity is the special concern of the State. In section 196 also that particular exception which I have already indicated is found to be of universal application. That is, the State, taken as a legal person, is the person who in contemplation of law is injured by the offences enumerated in that section. Section 197 deals with public servants of a special dignity. As regards these persons also, the law regards that in certain cases sanction can be given as it is the Government who employs them which is injured by the action of those persons. So in all these sections the principle is that the person injured has got the right to initiate proceedings.

Sir Hari Singh Gour (Central Provinces Hindi Divisions : Non-Muhammadan) : Who is injured ? A class.

Pandit Thakur Das Bhargava : In this particular case either a class or a member of a class is injured. To take an example, supposing an offence is committed against the Hindu community, it may be that the whole community is injured or only particular persons belonging to that class. So that either individual members of the class or the class as a whole can be regarded as victims. In this case my humble submission is that logically speaking there is absolutely no reason why this power

should be reserved to the State and not be enjoyed by individuals or the public. A perusal of section 295A in the present Bill will establish that this is an offence relating to religion; this new offence is not an offence relating to public tranquillity. Such considerations as that there is clamour, that there is a particular agitation for something, that a person is politically important, that it will be in the public interests other than those based upon justice—all such considerations are not germane to the subject. When this particular offence has been classed under the heading “Offences relating to Religion”, my humble submission is that this particular section has been given a sacrosanct place in that Chapter; and I would submit again, as I submitted on the last occasion, that offences under sections 295 and 296 are not less heinous in their character than an offence under section 295A. But in the offences coming under Chapter XV there is no reservation on behalf of Government with regard to the initiation of proceedings; and I for one do not know what reason there is for meting out special treatment to this section. So far as this section is concerned, this section has in many ways been treated more favourably than the other sections in the Penal Code under that Chapter. Offences under this section are triable by the Sessions Judge, whereas offences under section 295, which deals with such things as the breaking of idols and defiling other objects held sacred by certain sections of the community, are triable by a second class magistrate. Anyhow, Sir, so far as the individuals of a class are concerned, it is clear that so far as these two sections are concerned, my humble submission is that if sections 295 and 296 are not more important and heinous than 295A, still they are equally important and heinous, and therefore no distinction should have been made, and when there is no reservation in the Government for proceeding under those sections, there is absolutely no reason why there should be any reservation in regard to this section. Further, Sir, it will be very difficult for the Government to decide in many cases whether a particular insult is one in which the Government should interfere. The Government are taking a very heavy responsibility on themselves and in fact it will appear that the Government will be taking the place of the injured party in the real sense, and will assume to themselves the powers which should be given to the head of those religions or the associations of those religions or the members of those religions. In fact, Sir, it appears to me that this kind of reservation is a serious interference with the religious liberties of the members of the particular communities concerned. This Government of India being quite irreligious in their nature—I mean secular—must realise that in many cases their action would give rise to resentment and heartburning. And, Sir, if there is a private prosecution the Government need not bear the expense as otherwise they shall have to. In the *Rangila Rasul* case, where several counsel appeared, the Government had to pay Rs. 1,500 a day to one counsel alone. Those persons who feel aggrieved will be able to bring the best evidence before the court and in case the evidence is not put forward by the Government then the people will have a very genuine cause of grievance. So that my humble submission is that on principle and logic there is no reason why this Government should arrogate to itself the powers which in all ordinary cases belong to the public.

Mr. K. Ahmed : It is just the other way round. The logic is on, this side.

Pandit Thakur Das Bhargava : The other argument which I will submit before you is that the Government as such should never be allowed to interfere in these matters. It is not merely a question whether the power should be reserved to an individual or a class of individuals or the Government. The question in reality is whether this particular Government should be allowed to have a monopoly of initiation of proceedings in regard to offences of this nature.

Mr. K. Ahmed : You want to abuse a section of the people.

Pandit Thakur Das Bhargava : If the Honourable Member wants to have a reply from me, let him kindly speak up and in a manner which is intelligible to me. I do not generally understand his interruptions, and I can reply to those interruptions only if they are intelligible. Sir, the question is whether this Government whose past conduct we have been seeing is one which should be granted the power of monopoly in this connection. We know that the effect of the act of a fanatic is of a two-fold nature ; firstly, it attacks a particular religion and wounds the susceptibilities of that religion, and secondly, as my Honourable friend, Mr. Jayakar pointed out the other day, to an extent it disturbs the public peace also and to that extent, in so far as that act alienates the sympathy between the different classes, it produces a sense of insecurity and at the same time it produces an element of discord and jealousy. My humble submission is that this Government is doing the same thing by its conduct. Government divides all the jobs in this country in such a fashion, it gives the loaves and fishes of office in such a fashion, that it divides all the classes into watertight compartments, so much so that it recognises the birth principle also in crystallising the classes in this country. The Government has divided the people into martial and non-martial races, into agriculturist and non-agriculturist classes and in many other ways. The most potent weapon of this Government is *divide et impera*, exactly the thing which is sought to be brought about by the fanatic. When this is so, may I ask whether this Government can be entrusted with a power like this which will affect 300 millions of His Majesty's subjects ?

Mr. K. Ahmed : How can you be trusted by the Government and by the other section of the people ?

Pandit Thakur Das Bhargava : Unfortunately, it is not in the power of the other section of the House to stop me from speaking, and I base my right to speak not on the indulgence of my Honourable friend who has just interrupted me, but on my right itself I do want to make such submissions before you on the basis of my privilege to speak from my place in this House. I want to place before you practical illustrations of the fact which I have submitted. On the last occasion, Sir Abdul Qaiyum was pleased to call into question the activities of the Arya Samaj, and he told the House that since the advent of that body, whom he was pleased to call a new sect, the relations between the two communities have grown more and more bitter. I do not want to enter into a discussion, but though I have not the fortune of being an Arya Samajist, I want to repudiate that charge and to submit that this allegation is grossly baseless and most unjustified.

Mr. K. Ahmed : Who has charged you with that ?

Nawab Sir Sahibzada Abdul Qaiyum (North West Frontier Province : Nominated Non-Official) : On a point of personal explanation, Sir, I never said that the Arya Samaj was a new sect. I said that I was not sure whether it was a new religion or the revival of an old religion, but that the movement had newly sprung up.

Pandit Thakur Das Bhargava : I am not concerned here whether the Arya Samaj is a new sect or not. I may inform the Honourable Member that the Arya Samaj claims to represent the most ancient culture perhaps in the world.

Nawab Sir Sahibzada Abdul Qaiyum : That may be so.

Pandit Thakur Das Bhargava : No doubt, this is not a matter.....

Mr. K. Ahmed : I rise to a point of order. Is my Honourable friend speaking on the amendment ?

Mr. President : The Honourable Member is not in order in referring to the Arya Samaj and its ancient culture on this amendment.

Pandit Thakur Das Bhargava : Before we can decide whether a power of this nature should be entrusted to Government, I want to submit before you how the present position has arisen and under what circumstances this Bill has come before you. Unless and until we understand how matters stand to-day and how the Government has been conducting itself in the past, we cannot come to a conclusion whether this power ought to be entrusted to Government. My submission is that the past conduct of Government is the only criterion by which we can judge whether this power should be given to Government or not. In the present discussion the *Rangila Rasul* case has figured prominently, but if you consider the history of that case and how Government treated those who first came into the field and aroused bitter feelings between the two communities, you will certainly appreciate the argument of mine that Government should not be entrusted with any such power. Now, previous to the publication of *Rangila Rasul*, a book was written known as "*Unisci saddi ka Maharishi*" and it is admitted, and quite correctly, and I thank my Honourable friend, Mr. Abdul Haye for saying that it is a very objectionable book.....

Mr. President : I cannot allow the Honourable Member to go into the origin and history of the *Rangila Rasul* case and the subsequent ramifications thereof. The Honourable Member has taken nearly 20 minutes over this amendment, and I would like him now to conclude his observations.

Pandit Thakur Das Bhargava : It is far from me to enter into the history of the *Rangila Rasul* case.....

Nawab Sir Sahibzada Abdul Qaiyum : You intentionally use the words "*Rangila Rasul* case" instead of the words "*Rajpal* case".

Mr. President : Order, order. The Honourable Member must conclude his observations.

Pandit Thakur Das Bhargava : I was only submitting that the Government in initiation of proceedings so far have not been quite impartial. That is my first point, and with your permission I would like to illustrate it by one or two examples. If you think those examples are not in point,

[Pandit Thakur Das Bhargava.]

then I would proceed to my second point. If the House thinks that the past conduct of Government has been such that it can place full reliance in it in a matter like this, then I would proceed to my other point. I therefore request you either to allow me to go on or to give me a ruling on the point.

(The Honourable Member resumed his seat.)

Mr. President : Sir Abdul Qiayum.

Nawab Sir Sahibzada Abdul Qiayum : Sir, I want.....

(At this stage Pandit Thakur Das Bhargava rose in his place.)

Mr. President : If the Honourable Member (Pandit Thakur Das Bhargava) wishes to proceed, he could not do so by resuming his seat. The Chair will allow him to continue so long as he is relevant.

Pandit Thakur Das Bhargava : Then, Sir, I will come to the instances. On the day on which Swami Shradhanand was murdered, on that very day another gentleman was murdered and a book was written.....

Mr. President : Order, order. The Honourable Member is not relevant.

Pandit Thakur Das Bhargava : So far as the other instance is concerned, it relates to the *Risala Vartman* case which was also a reply to the other publications appearing in other papers. My complaint is that up to this time the authors of those books, in reply to which these later publications were written, are still free and the Government has not touched them. The reply which the Government gives is that, inasmuch as there was no sufficient agitation in the country and there was no clamour, those persons were not prosecuted. If that is the way in which this Government is going to start prosecutions against offenders of religion, we should not give this power to Government with a view to strengthen its hands so that it can dole out mercies in the way in which it chooses to do. These are the two examples I wish to give, but since I have taken more time than I should have taken I hesitate to give other examples. Still I submit before you that these two examples are not the only two examples. I could give scores of other examples. I could quote many instances in which Christians and Muhammadans have been vilifying and flouting the most cherished beliefs of the Hindus and the Government have stood by and not raised their little finger. Now, Sir, the question arises what would happen to the other small communities living in this country. This is not a measure for Hindus and Muhammadans alone. The smaller communities will not be able to exercise that influence with the Government which the more influential communities can. Unless the only consideration which the Government should have in the initiation of proceedings is justice and justice alone, I fear these smaller communities will never be protected.

Now, I come to the third point. It has been said that if this power is not given to the Government there will be a flood of prosecutions and there will be frivolous accusations. May I point out that the existing provisions in the Act are quite sufficient and that they provide sufficient safeguards. Sections 182, 211 and 250 are quite ample and there is no occasion for finding out more protection. Barring that, the Select Committee

has been pleased to devise a very good protection for offenders of this class. As you know, this offence is triable by a Sessions Judge. All proceedings in the Court of Session have to pass through the commitment stage. All cases in which there is no reasonable chance of conviction will be arrested in the scene of the commitment stage and the only cases that will go up to the Court of Session will be those in which there will be a reasonable probability of conviction. Further, there is even now a section in the Criminal Procedure Code, section 196A, which says that the Government are authorised to make a preliminary inquiry or investigation made by a police inspector. Instead of a police inspector's report we have an ordinary court of law armed with powers of commitment, and therefore I submit that the safeguards provided in this Bill are clearly more protective in their nature than those contemplated in section 196A. There is one point which I want to bring to your notice specially. If prosecutions are initiated by the sanction of Government, there is an unconscious bias in the mind of every judge that since the thing comes from the Government, there is a *prima facie* case. There are greater chances of conviction than in others. I am not suggesting that the judges consciously do it, but I submit that every person will be affected in that way. Every person will think that it has been done with due care and caution.....

Mr. President : Order, order. The Honourable Member seems determined to disregard the hint given to him by the Chair that he should conclude his observations.

Pandit Thakur Das Bhargava : Then this is all I have to submit. I move my amendment.

Nawab Sir Sahibzada Abdul Qaiyum : I do not want to make a long speech. I only want to touch a few points raised by the last speaker. In the first place I am very sorry to hear in this debate that the Rajpal case is still referred to as the *Rangila Rasul* case. I thought we had got rid of that word "Rangila" by the decision of the High Court.

Mr. President : All references to the *Rangila Rasul* case are out of order.

Nawab Sir Sahibzada Abdul Qaiyum : Inasmuch as it injures the feelings of Mussalmans I thought the Honourable Members would refer to the case as the Rajpal case instead of the *Rangila Rasul* case. That is all I want to say on this point.

Then, Sir, the speaker said that Government were trying to create divisions among the various communities in India. The Government find all these divisions existing in the country and are simply trying to keep the balance and safeguard the interests of the minority. My Honourable friend was trying to prove a grievance against the Government on the part of his community. May I point out to him that in the North-West Frontier Province there is a small community of 5 per cent. whose rights are as vigilantly safeguarded and protected by Government as the rights of the Muslim minority in certain parts of India. (*Lala Lajpat Rai : "Question ?"*) You have only to go there and see. (*Lala Lajpat Rai : "I know it"*.)

Mr. M. K. Acharya (South Arcot *cum* Chingleput : Non-Muhamadan Rural) : May I ask, Sir, if this is in order ?

Nawab Sir Sahibzada Abdul Qayyum : Then, Sir, if the right of prosecution were allowed to be exercised by individuals, I fear that what we are trying to avoid will be more definitely encouraged. Instead of fighting over their grievances in the open streets in the form of riots, the masses will be carrying on a warfare in the law courts. (*Lala Lajpat Rai* : "Will it not be better ?") The result will be the same. If this right is allowed to individuals, the better organised sections of the communities, instead of fighting matters in an open way, will be simply carrying on a warfare in the courts. I know there are individuals among the Hindu community, who can spare a good deal of money for such litigation. As a matter of fact I am told that there are individuals, who are already spending a good deal in this way—thousands and thousands of rupees in the form of allowances and passage moneys, and in the form of presents to men, who are carrying on a regular campaign for them in what they call a constitutional way. If this is allowed to proceed, then rich men can easily save their skins and injury to their persons, by raising funds to enable people to institute cases and carry on a warfare in the law courts. I wish I could put this point a little more clearly, but I do not think I can do it more effectively. I thought the new offence which was going to be added to the Penal Code, was a more serious offence and that it was being enacted for the sake of avoiding trouble and disorder in the country. It is certainly for Government to take action in cases in which there is the possibility of a general disturbance of the peace because of insults to religions or the religious feelings of a class of persons—it is not a question of insult to the personal feeling of an individual, for which he is, I am sure, always entitled to seek redress. It is really a matter of the insult to the whole community or class of persons, as it is worded in the section, that has to be defended ; and in such cases it is only the Government which ought to take action. I do not see why individuals should be burdened with the expenses of bringing law suits when this can more conveniently be taken up by Government. This is not the concern of individuals, it is a class or communal affair, and as the Government has guaranteed the protection of the religious beliefs of the public and the liberty to perform their religious practices, it is also the duty of Government to defend those beliefs and practices whenever the same are violated and the freedom of thought and action in matters religious is interfered with by anybody in this country.

In short, Sir, this measure is practically the creation or outcome of the misplaced sympathy of certain members of the last speaker's community in the Rajpal case.

The Honourable Mr. J. Crerar (Home Member) : Sir, I rise to oppose the amendment. When I first asked that this Bill be referred to Select Committee I made it quite clear to the House, and I think the House at that time accepted the view, that this provision which requires the authority of the Government for the institution of a prosecution was, next after the clause creating the offence, the most essential part of the Bill. That point of view was carefully examined by the Select Committee, as will be fully apparent from their Report. In the Select Committee this matter was regarded as a matter of the greatest importance and the conclusion arrived at is embodied in the Report.

Now, Sir, I will examine in the first place some of the grounds which have been alleged by the Honourable gentleman opposite in moving his amendment. He suggested in the first instance that this provision was a serious interference with liberty, and secondly, that it was a serious infringement of a general rule of law. Now, as regards the first question, serious interference with liberty, I point out that the offence which this Bill would create has not yet been created—that in point of fact no right to prosecute in respect of such an offence is in existence and consequently this provision requiring the authority of Government cannot conceivably be represented as making any inroads upon the liberty of the subject. Secondly, the general rule of law which the Honourable Member referred to really is this, that where a particular individual is injured by a criminal offence he should have his own remedy. In this case the offence is not an offence which is directed against or is suffered in particular by any one individual. The offence is of a totally different nature; and when the Honourable Member instances the sections of Chapter XV in the Code, he will, I think, if he examines them a little bit more carefully, find that there in nearly every case they are offences committed either against a specific individual or against a specific and ascertainable group of individuals. I contend therefore that on the two points of principle on which he moves his amendment his grounds are erroneous.

But, Sir, the really important matter is the practical consideration. My insistence on the necessity of this provision was not merely a desire to add to the executive powers of Government. Any one who considers carefully the object of this Bill and the circumstances in which it has been brought to the judgment of the House will realize at once that to pass the Bill and to put it into operation without this particular provision would be tantamount to taking a barrel of gun-powder and exposing it in an open space where sparks from a smouldering fire are still flying round. That, Sir, is a proposition which Government would never submit to this Legislature, and it is one, I hope, which this Legislature would never consent to agree to.

(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 : Order, order. The question is :

“Delete sub-clause (ii) of clause 3 and re-number sub-clauses (iii) and (iv) as (ii) and (iii), respectively.”

The Assembly divided :

AYES—18.

Aney, Mr. M. S.
Bhargava, Pandit Thakur Das.
Das, Mr. B.
Dutt, Mr. Amar Nath.
Gulab Singh, Sardar.
Kartar Singh, Sardar.
Mitra, Mr. Satyendra Chandra.
Moonje, Dr. B. S.
Mukhtar Singh, Mr.

Neogy, Mr. K. C.
Prakasam, Mr. T.
Sarda, Rai Sahib Harbilas.
Singh, Mr. Gaya Prasad.
Singh, Mr. Narayan Prasad.
Singh, Mr. Ram Narayan.
Sinha, Kumar Ganganand.
Sinha, Mr. R. P.
Sinha, Mr. Siddheswar.

NOES—70.

Abdul Haye, Mr.	Haigh, Mr. P. B.
Abdul Matin Chaudhury, Maulvi.	Irving, Mr. Miles.
Abdul Qaiyum, Nawab Sir Sahibzada.	Ismail Khan, Mr.
Abdullah Haji Kasim, Khan Bahadur Haji	Iswar Saran, Munshi.
Ahmad, Khan Bahadur Nasir-ud-din.	Iyengar, Mr. A. Rangaswami.
Ahmed, Mr. K.	Jayakar, Mr. M. R.
Alexander, Mr. William.	Jinnah, Mr. M. A.
Anwar-ul-Azim, Mr.	Joshi, Mr. N. M.
Ashrafuddin Ahmad, Khan Bahadur	Jowahir Singh, Sardar Bahadur Sardar.
Nawabzada Sayid.	Kabul Singh Bahadur, Captain.
Ayengar, Mr. V. K. Aravamudha.	Keane, Mr. M.
Ayyangar, 'Rao Bahadur Narasimha	Khin Maung, U.
Gopalaswami.	Kidwai, Mr. Rafi Ahmad.
Badi-uz-Zaman, Maulvi.	Kirk, Mr. R. T. F.
Bajpai, Mr. G. S.	Kunzru, Pandit Hirday Nath.
Blackett, The Honourable Sir Basil.	Mitra, The Honourable Sir Bhupendra
Bray, Sir Denys.	Nath.
Chalmers, Mr. T. A.	Mukherjee, Mr. S. C.
Chunder, Mr. Nirmal Chunder.	Murtuza Saheb Bahadur, Maulvi Sayyid.
Coatman, Mr. J.	Parsons, Mr. A. A. L.
Cocke, Mr. H. G.	Rainy, The Honourable Sir George.
Cosgrave, Mr. W. A.	Rajan Bakhsh Shah, Khan Bahadur
Courtenay, Mr. R. H.	Makhdum Syed.
Crawford, Colonel J. D.	Rao, Mr. G. Sarvotham.
Crerar, The Honourable Mr. J.	Roy, Mr. K. C.
Crofton, Mr. R. M.	Sams, Mr. H. A.
Dakhan, Mr. W. M. P. Ghulam Kadir	Shafee, Maulvi Mohammad.
Khan.	Shah Nawaz, Mian Mohammad.
Dalal, Mr. A. B.	Shervani, Mr. T. A. K.
Dalal, Sardar Sir Bomanji.	Siddiqi, Mr. Abdul Qadir.
Donovan, Mr. J. T.	Singh, Rai Bahadur S. N.
Dunnett, Mr. J. M.	Suhrawardy, Dr. A.
Farookhi, Mr. Abdul Latif Saheb.	Tonkinson, Mr. H.
Ghazanfar Ali Khan, Raja.	Wright, Mr. W. T. M.
Ghuznavi, Mr. A. H.	Yakub, Maulvi Muhammad.
Gidney, Lieut.-Colonel H. A. J.	Yamin Khan, Mr. Muhammad.
Gour, Sir Hari Singh.	Young, Mr. G. M.
	Zulfikar Ali Khan, Nawab Sir.

The motion was negatived.

Mr. Abdul Haye (East Punjab : Muhammadan) : Sir, I rise to move the following amendment that stands in my name :

“ That in column 5 of the entry in clause 3 (iii) of the Bill, for the word ‘ bailable ’ the words ‘ not bailable ’ be substituted.

I believe, Sir, the House is aware that when this Bill was originally introduced in this Assembly by my Honourable friend, the Home Member, it provided that the offence should be non-bailable. Since then the Select Committee has by a narrow majority made it bailable, and hence my amendment. While moving this amendment I have in view only those specific cases for which we are providing by means of this legislation. We are here

providing for cases where some unscrupulous persons, about whom I have no hesitation in saying that they are the enemies of society, take it into their heads to make scurrilous attacks against religion or against the founders of religions. When we bear in mind such cases I believe there can be no two opinions as regards the necessity of this amendment. Sir, I hope that for such persons there can be no sympathy in the minds of the Honourable Members ; and, Sir, we must also bear in mind what may quite naturally follow such scurrilous attacks. Once we have such attacks, or once we have such abusive publications, these publications and these attacks, I venture to submit, may lead to breaches of the peace, to riots, murders, arson, and what is still worse to chaos and even to civil war. We should bear in mind what happened in this country, what happened in the province from which I have the honour to come, what happened in the North West Frontier, over the publication of that vile pamphlet with a still more vile title which was written by Rajpal. Sir, when we bear that in mind, I for one feel surprised at the tone of the speech of my Honourable friend, Mr. Amar Nath Dutt. He seems to suggest that that agitation was a got up one or that it was a spurious one.

1 P.M.

I need only refer him to the speeches that my Honourable friend Sir Denys Bray made on this subject in this House as also in another place. Sir, those Honourable Members who do not see eye to eye with me have evidently in view the cases of those persons who *bonâ fide* and honestly want to criticise religious tenets and religious leaders. To them my answer is that they need have no misgivings on their account. (An Honourable Member : " Why ? ") Such writings and such criticisms do not come within the purview of this law. Why should you as legislators assume that they will be prosecuted? Sir, do they not have sufficient immunity against prosecution in the provision to which we have just agreed, namely, that no prosecutions shall be launched except with the authority of a Local Government ? I would step further.....

Lala Lajpat Rai (Jullundur Division : Non-Muhammadan) : Why do you assume that Local Governments are always infallible ?

Mr. Abdul Haye : I make no such assumption but why should you suspect the Local Governments ?

Mr. M. S. Aney (Berar Representative) : We have reasons not to feel confidence. Is it not a fact that the majority of State prosecutions have served to shake and undermine the confidence of the Indian people in British Justice more than any thing else.

Mr. Abdul Haye : Sir, I would go a step further and meet my friends on their own ground. Even assuming that the Local Governments go wrong, even assuming that the honest critic of religion or a religious leader would be hauled up in a criminal court, my submission is that there is ample provision in the existing law, i.e., in section 497 of the Criminal Procedure Code, to release that man on bail at once and there will be no difficulty in doing so. Those Honourable Members who practise the profession of law know perfectly well that the provisions of that section have been sufficiently enlarged and they are being freely used at present by the criminal courts.

Pandit Thakur Das Bhargava : A new circular has been issued.

Mr. Abdul Haye : To what effect ?

Pandit Thekur Das Bhargava : That bail should not be taken in ordinary non-bailable cases.

Mr. Abdul Haye : My submission further is that I cannot dream of a case which would be exclusively triable by a Court of Session and yet it would be bailable. It would be a departure from the existing arrangement of the Criminal Procedure Code. And the last word, Sir, that I have to urge before the House is that we are to-day by means of this legislation making scurrilous attacks on religion and religious founders a distinct and specific offence. And now, after the recent decision of the Division Bench of the Lahore High Court there are no two opinions on this point that such scurrilous attacks would also come within the purview of section 153A, let it be remembered that an offence under section 153A is non-bailable. So, if you make this present offence bailable, the position would be this, that an offence which would come merely under section 153A would be non-bailable, whereas another offence which would be an offence under the new law as well as under 153A would be bailable.

Sir, I move my amendment.

Mr. Amar Nath Dutt (Burdwan Division : Non-Muhammadan Rural) : Sir, I rise to oppose this amendment, and in fact when I was listening to the speech of my Honourable friend Mr. Abdul Haye I thought that I was in a magistrate's court listening to the argument of a prosecuting counsel not to allow bail to the prisoner before him. One other aspect of the controversy that has arisen in this House seems to me that a certain section of the community thinks that these prosecutions are safe in the hands of the Government. and in spite of their political creed being not to co-operate with the Government, they went to the same lobby with the Government, thinking that these matters are not safe in the hands of their own countrymen, but safe in the hands of an alien bureaucracy. I was pained to see many Honourable friends going to the same lobby as the Government in this matter. N. Sir, I am very sorry that my friend Mr. Abdul Haye has taken exception to my speech. I do not know wherein I said anything which might be construed to have been anything to cause pain in the minds of my friend. If I have uttered any such thing, although after a careful perusal of my speech when it was sent to me, I did not find anything of the type, still I express my regret, if any words of mine unconsciously have caused him pain. (Hear, hear.)

Mr. Abdul Haye : The tone of your speeches and the mischievous amendments proposed by you have caused a great deal of pain in the minds of Mussalmans.

Mr. Amar Nath Dutt : I am very sorry. I honestly believed that I was advancing the cause. But I have found worse things than this in this House about the two communities. In fact, I will not be justified in saying what I feel about religions as they are practised in this world. For myself I may tell this House that my opinion is that these religions are at the root of all the mischief in this world. (Hear, hear.) The sooner religion vanishes from this world the better. Whatever may be my individual opinion, I beg to submit that the more we want to strengthen the hands of the Government in these matters, the more we give the foreign bureaucracy more powers in their hands to create a servile class amongst us. In fact, arguments in this House have proceeded on the line as if a certain section is the favourite of the foreign bureaucracy, while the other

is not, (*An Honourable Member* : "Question ?") (*An Honourable Member* : "Child wife.") Those friends who now have so much faith in the bureaucracy, and go to the Government lobby, should remember that others may also imitate the same trick and they may also join hands with the bureaucracy, and where will they be then ? They may be in the minority, and I warn them against such a contingency in the future. In this view of the case, Sir, I think the offence should not be made non-bailable, but it should be made bailable.

The Honourable Mr. J. Crerar : Sir, I rise to support this amendment (Applause), and the reasons which prompt me to do so I shall place very briefly before the House. In the first instance, we have to consider what the law in the matter is. Broadly speaking, my own opinion is that an offence of this character, in view of its gravity, in view of the serious public consequences that might flow from it, is an offence which *per se* ought to be a non-bailable offence.

Mr. K. C. Neogy (Dacca Division : Non-Muhammadian Rural) : What about section 295 ? Read that section and compare.

The Honourable Mr. J. Crerar : That is a somewhat different matter, because the offence there is a purely local offence committed against a particular individual.

Mr. K. C. Neogy : Not at all, any class of persons.

The Honourable Mr. J. Crerar : A local offence committed by a person at a particular spot. (*Mr. K. C. Neogy* : "Where do you get that ?") Apart from that, Sir, the House must, I think, be disposed to give a certain amount of credit to the discretion of the courts. The law in the matter is perfectly clear, perfectly simple and full of safeguards. This offence is not an offence for which the police can arrest without a warrant. Proceedings therefore can only be instituted when a warrant is issued by a duly authorised court. That court has complete discretion under the Criminal Procedure Code whether the warrant it issues shall be a warrant with bail or without bail. Now, the suggestion has been made that the kind of persons likely to commit offences under this Bill are persons whose sense of responsibility will be such that they would not attempt to evade the process of the court but would come and justify their conduct in the court. These are circumstances of which the court can take cognizance and it can exercise its discretion and issue a bailable warrant. But, as a matter of fact, I think it will be generally recognised that the kind of person most likely to commit an offence under this Bill will be some obscure and scurrilous scribbler writing from some obscure den or pot-house in a bazaar, whose appearance in the court could by no means be relied upon. As soon as the law is set in motion against him, he will set himself in motion. Those are the considerations which, I think, so far as the safeguards and the necessary security and also the practical requirements of the case are concerned, are such as to render this amendment a desirable amendment of the Bill.

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

Mr. M. R. Jayakar (Bombay City : Non-Muhammadian Urban) : Sir, I rise to oppose this amendment.

[Mr. M. R. Jayakar.]

This question was considered very carefully and in a very dispassionate manner by the Select Committee and the balance of opinion was that, having regard to the special circumstances of this Bill, this offence should be made bailable. I am very sorry, Sir, that a non-official Member should have moved this amendment. My reasons for opposing this amendment are briefly as follows. Many of us, Sir, are supporting this Bill as a necessary measure, as a necessary evil, and we are anxious that we should not make this Bill more drastic than the necessities of the case require. It is on that principle that Honourable Members will find some of the amendments tabled, for instance, an amendment that this Act should be in operation for three years only. The point of view of some of us on this side of the House is that it will be a part of wisdom not to make this Bill more drastic than is necessary. Now, what are the facts? This Bill contemplates a crime which *ex hypothesi* will be committed by some one who writes or speaks words attacking a religion. In the majority of cases the offender will be connected with some newspaper, some press or some organisation and therefore he will not be a solitary individual who will run away pending his trial. He will have a location and an organization; he will have a basis which he cannot obliterate by his personal absconding. That is one principle to be borne in mind. The second principle by which questions of bail are generally determined is whether by being at large he is likely to tamper with the evidence. I want Honourable Members, who are not lawyers, especially to remember the two principles by which questions of bail are generally determined. The first principle is: Is the offender likely to abscond? About this point, I have already stated my views. He will not abscond, because his press, his newspaper or his organisation are all there; they cannot be wiped out. Therefore, there is very little chance of his running away pending his trial. The second principle is: Is he likely to tamper with the evidence? I submit he is not, because it is purely a question of construing his speeches as reported or interpreting his writings as written. It is not a question in which oral evidence is very material or witnesses are likely to be tampered with. The main question which this Bill involves for the court to find out whether the words of the infringing article or speech constitute an attack on religion. The next question is whether there is the necessary *intention* of insulting the religion. The third question is whether that intention is *deliberate* and the fourth question, which is a very complex question, is whether it is a *malicious* intention. These are all questions in which oral evidence is of very little value. On the contrary, these are such complex questions that it is desirable in the interests of justice and fair play that the man should be at liberty to instruct his counsel and his vakil and prepare his defence, because these are all complex questions of intention in which his personal explanation and criticism outside the prison house is material for his defence. I do not want Honourable Members merely to vote on this question on party lines, but I want them to apply their mind as to whether it is really necessary in the interests of justice that we should put the offender in prison from the very start so that his counsel, solicitor, or vakil would lose the benefit of a personal explanation or efforts in preparing the case. The offence here is unlike waging war or rebellion. The offender here has made a speech of which there is a report somewhere or has written an article of which there is

some record. His press is there and his organisation is there ; and he is not likely to run away. A fanatic is not likely to abscond. He is often a courageous man. Therefore, I submit there is not much risk in allowing the man out on bail. Remember, Sir, the offence in this Bill is a very difficult one to try and determine. What the court has to try is a series of important and complex psychological questions. I do not envy the position of the judge who will have to determine these questions. He has three conundrums set to him to answer. What is the intention ? This in itself is a very difficult question and lawyers know how difficult it is to prove intention apart from the words conveying it. The difficulty increases when proof is further needed that the intention is deliberate and malicious. Having regard to the complexity of these questions, I think that it is desirable that the man should be outside the prison house to prepare his trial rendered unusually difficult by this complexity. The Honourable Member Mr. Abdul Haye said that the Bill relates to unscrupulous offenders. But let him note that the Bill is not confined to unscrupulous offenders, but, as many Honourable Members have shown, the chances are that the even honest-minded men may come under it. Therefore we must not judge of this question merely by considering as if in all cases this Bill will be set in motion against unscrupulous offenders. Further, Mr. Abdul Haye said that even if the offence is made non-bailable, the judge has authority to give bail. My experience, Sir, is this that it is very difficult to obtain bail in non-bailable cases except from the highest tribunal. I am not speaking with any disrespect of the lower judiciary, but I am stating the truth when I say that they are generally overcautious in such questions, being perhaps afraid of superior courts. Generally they do not give bail. Is it desirable that the man should be put to the expense in all cases of going to the High Court ? Even the High Court often goes upon the opinion of the lower court and does not give bail.

I submit that having regard to all these considerations, the balance of convenience requires that the man should be allowed to remain outside prison. There is a danger the other way. The Honourable the Home Member remarked that serious public consequences are likely to follow from such an offence. Assuming, for the sake of argument, that it is so, how is the seriousness increased by allowing the offender to remain at large after the offence was committed ? What is the reason for locking the man in the prison immediately the article is indicted ? What difficulties are likely to arise if he is at large ? As said above, there are only two possible difficulties that may arise. Is he likely to run away or is he likely to tamper with the evidence ? These contingencies are not very possible in this case. Besides, in such cases, oral evidence is not very material. The only oral evidence which may at times be material is that of his listeners, as to what impression was created on their mind by the speech or writing. But that evidence will be given only in very rare cases where the words are not clear. Where the words are not clear, I submit there is not likely to be a conviction and it is no use locking the man in jail before his fault is proved. I submit, therefore, that the balance of convenience which weighed with the Select Committee is that this should not be made a non-bailable offence.

(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 in column 5 of the entry in clause 3 (iii) of the Bill, for the word ‘ bailable ’ the words ‘ not bailable ’ be substituted ”.

The Assembly divided.

AYES—54.

Abdul Haye, Mr.	Dunnett, Mr. J. M.
Abdul Matin Chaudhury, Maulvi.	Farookhi, Mr. Abdul Latif Saheb.
Abdul Qaiyum, Nawab Sir Sahibzada.	Ghazanfar Ali Khan, Raja.
Abdullah Haji Kasim, Khan Bahadur Haji.	Gidney, Lieut.-Colonel H. A. J.
Ahmad, Khan Bahadur Nasir-ud-din.	Haigh, Mr. P. B.
Ahmed, Mr. K.	Irving, Mr. Miles.
Alexander, Mr. William.	Ismail Khan, Mr.
Anwar-ul-Azim, Mr.	Jowahir Singh, Sardar Bahadur Sardar.
Ashrafuddin Ahmad, Khan Bahadur Nawabzada Sayid.	Kabul Singh Bahadur, Captain.
Ayyangar, Mr. V. K. Aravamudha.	Keane, Mr. M.
Ayyangar, Rao Bahadur Narasimha Gopalaswami.	Kidwai, Mr. Rafi Ahmad.
Badi-uz-Zaman, Maulvi.	Kirk, Mr. R. T. F.
Bajpai, Mr. G. S.	Mitra, The Honourable Sir Bhupendra Nath.
Blackett, The Honourable Sir Basil.	Mukherjee, Mr. S. C.
Bray, Sir Denys.	Murtuza Saheb Bahadur, Maulvi Sayyid.
Chalmers, Mr. T. A.	Parsons, Mr. A. A. L.
Coatman, Mr. J.	Rainy, The Honourable Sir George.
Coeke, Mr. H. G.	Rajan Bakhsh Shah, Khan Bahadur Makhdum Syed.
Cosgrave, Mr. W. A.	Sams, Mr. H. A.
Courtenay, Mr. R. H.	Shafee, Maulvi Mohammad.
Crawford, Colonel J. D.	Shah Nawaz, Mian Mohammad.
Crerar, The Honourable Mr. J.	Siddiqi, Mr. Abdul Qadir.
Crofton, Mr. R. M.	Singh, Rai Bahadur S. N.
Dakhan, Mr. W. M. P. Ghulam Kadir Khan.	Tenkinson, Mr. H.
Dalal, Mr. A. R.	Wright, Mr. W. T. M.
Dalal, Sardar Sir Bomanji.	Young, Mr. G. M.
Donevan, Mr. J. T.	Zulfqar Ali Khan, Nawab Sir.

NOES—40.

Acharya, Mr. M. K.
 Aney, Mr. M. S.
 Ayyangar, Mr. K. V. Rangaswami.
 Bhargava, Pandit Thakur Das.
 Chunder, Mr. Nirmal Chunder.
 Das, Mr. B.
 Das, Pandit Nilakantha.
 Dutt, Mr. Amar Nath.
 Dutta, Mr. Srish Chandra.
 Ghuznavi, Mr. A. H.
 Gour, Sir Hari Singh.
 Iswar Saran, Munshi.
 Iyengar, Mr. A. Rangaswami.
 Iyengar, Mr. S. Srinivasa.
 Jayakar, Mr. M. R.
 Joshi, Mr. N. M.
 Kartar Singh, Sardar.
 Khin Maung, U.
 Kunzru, Pandit Hirday Nath.
 Lajpat Rai, Lala.

Malaviya, Pandit Madan Mohan.
 Mitra, Mr. Satyendra Chandra.
 Moonje, Dr. B. S.
 Mukhtar Singh, Mr.
 Naidu, Mr. B. P.
 Neogy, Mr. K. C.
 Prakasam, Mr. T.
 Rang Behari Lal, Lala.
 Rao, Mr. G. Sarvotham.
 Roy, Mr. K. C.
 Ruthnaswamy, Mr. M.
 Sardar, Rai Sahib Harbilas.
 Singh, Mr. Gaya Prasad.
 Singh, Mr. Narayan Prasad.
 Singh, Mr. Ram Narayan.
 Sinha, Kumar Ganganaud.
 Sinha, Mr. R. P.
 Sinha, Mr. Siddheswar.
 Suhrawardy, Dr. A.
 Yamin Khan, Mr. Muhammad.

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 question is :

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

The motion was adopted.

Mr. President : The question is :

“ That clause 1 do stand part of the Bill.”

Mr. K. C. Neogy : Sir, I beg to move :

“ That clause 1 be re-numbered as sub-clause 1 (1) and the following new sub-clause be added :

“(2) It shall remain in force up to the 31st day of December, 1930.”

I feel, Sir, that not many words are needed from me in support of this amendment. It is admitted on all hands that the situation that has necessitated the enactment of this special legislation did not exist a few years back, and we all hope, we are optimistic enough to hope, that in course of time the necessity for putting into operation legislation like the present one will be gone. Sir, it is principally with this view that I gave notice of my amendment. I understand that on a recent occasion it has been admitted by some leading Muhammadan

[Mr. K. C. Neogy.]

gentlemen that there is some connection between the present communal unrest and the Reforms, particularly the forthcoming revision of the Constitution. I find, Sir, that speaking in the House of Lords in July 1926, the Secretary of State himself admitted that there was some such connection. This is what Lord Birkenhead stated :

“ It would in my judgment be untrue, for the reasons that I have given, to deny all connection between the Reforms and the present state of tension between Hindu and Moslem.”

I therefore very much hope that when the necessary Parliamentary enquiry has been held and the revision of the constitution made, calm will be restored in the political atmosphere of this country and we shall have seen the end of these communal troubles.

Sir, the reason why I fixed the 31st December 1930, as the last date up to which it should remain in force is that it is expected that the report of the next Parliamentary enquiry will have been considered by that time, and whatever necessary legislation may be undertaken in Parliament to give effect to it will also have been passed.

Sir, having said this much, I cannot altogether keep from this House another reason which prompted me to give notice of this amendment. On the last occasion I made it quite clear that by reason of the prosecution under this new section being made dependent on the sanction of the Local Government, apprehensions are entertained in very many quarters, particularly in the province from which I come, as to whether this new law will be administered in an impartial manner. The speeches that have been made this morning by Members from some other provinces also go to substantiate that fear. On the last occasion I referred to the evidence which a District Magistrate in Bengal gave in connection with a communal case as showing that what the Government take into consideration in coming to a decision in regard to such matters is the numerical strength of the people to whom any offence may be given. Since then I have received the full text of the evidence of that District Magistrate and I want to place two sentences from his evidence before the House. This is what he states :

“ The Muhammadan feeling is more important, as they are more numerous, less educated, less cultured and less self-restrained. If the Muhammadan got out of hand the result would be horrid ”.

That is to say, when you consider the advisability of proceeding in a particular direction, say, under the proposed new legislation which we are considering, if you were to take all those factors into consideration, factors which have been mentioned by a very responsible officer in Bengal very recently, then certainly there is ample justification for entertaining apprehensions about the manner in which the law may be administered.

Sir, let us consider what would happen if people belonging to the Hindu community were to insult the religion of the Christians. The Christians in every province are in a minority. Let us assume that the Christians are possessed of all the Christian virtues and that particularly they follow that precept which requires them, if they are smitten on one cheek, to turn the other for similar treatment. The Hindus are of course more numerous ; supposing moreover that they were less educated, less cultured and less self restrained than the Christians, I ask

the Honourable the Home Member to say whether that would be a consideration in coming to a conclusion as to whether this particular section should be put into operation against the Hindus or not. Yet, that is exactly the position which was taken up by the District Magistrate of Barisal.

Now, Sir, on the last occasion as also in connection with the amendment of section 99A in 1926, I made a complaint that the Government of Bengal had not made sufficient use of the powers which the existing law gave them for the purpose of putting down or rather preventing those communal outbreaks. I particularly mentioned the fact that on the occasion of the last Calcutta riots a large number of inflammatory pamphlets were in circulation which were held to be the primary cause of those riots. Sir, I hold in my hand a copy of the Indian Law Reports, Calcutta series, dated January 1927, in which there appears a judgment of the Calcutta High Court, and with your permission I will read out just a few sentences to show that the charge which I brought against the Government of Bengal is fully substantiated. This judgment was delivered by Mr. Justice Rankin and another Judge. Mr. Justice Rankin now being the Chief Justice of that High Court. The title of the case is *P. K. Chakravarti v. Emperor*. It is reported on page 59 of the Calcutta series of the Indian Law Reports for last January, Volume 54. Sir, this is what the present Chief Justice states in this particular case :

“ In this case the appellant Mr. P. K. Chakravarti has been ordered to enter into his own recognisance in the sum of Rs. 500 to be of good behaviour under section 158 of the Criminal Procedure Code. The order has been made in respect of an article in the issue for the 27th April of this year of a newspaper called the *Forward* which is a newspaper printed in English and circulated in Calcutta.”

“ The circumstances at the time of the publication are shortly these. An outbreak of rioting having occurred some little time before in parts of this city, it was after some time brought to notice that one of the causes of this outbreak, or, at least of its continuance, was the fact that certain people were circulating inflammatory leaflets in the vernacular in the streets—leaflets calculated to incite members of different communities to violence against one another. The particular pamphlet, which is animadverted on in the article in question, was a pamphlet in Urdu printed on yellow paper and circulating apparently for the benefit of the Mahomedans. What the appellant has done as editor in this. He has printed the pamphlet in an English translation. He has also given a transliteration in English letters of the original Urdu; and what he says is that this pamphlet was being circulated and that it is not difficult to trace the source from which it emanated. Then he adds ‘ Let us wait and see what steps the guardians of ‘ law and order ’ take in the matter ’.”

For having committed this offence the editor of the *Forward* was hauled up on a charge under section 153A, the Government of Bengal did not care to find out the author of the original Urdu pamphlet which was circulated in the streets of Calcutta; and for merely drawing pointed attention to that pamphlet in the columns of the *Forward*, this editor was tried under section 153A. It was lucky, of course, that he got off in the Calcutta High Court, but that shows the manner in which section 153A has been in operation in Bengal for some time. I do not want to dilate on this point any further, but as I said, one of the reasons why I gave notice of this amendment was that I wanted to see whether the action of the Local Governments to whom we are entrusting the administration of this new clause will justify the confidence which this Legislature is called upon to repose in them.

Sir, I move the amendment.

The Honourable Mr. J. Crerar : Sir, I rise to oppose the amendment.

[Mr. J. Crerar.]

I observe the arguments by which my Honourable and learned friend supported his amendment are really designed to deal with the question of the sanction of Local Governments. I wish to point out that that point has already been decided by this House and it is not a question with which the House is at present concerned. Whatever the *obiter dicta* of the District Magistrate of Barisal may have been, divorced as they are from their context, I submit they would have nothing whatever to do with the question now before the House. Nor has the question raised by the Honourable Member as to the extent to which members of particular communities might conceivably come within the danger of this Bill—neither has that point any relevance to the duration of the Act if and when the Bill is passed.

Mr. K. C. Neogy : We want Government to be placed on probation.

The Honourable Mr. J. Crerar : The essential point is this. The suggestion that this Bill was designed merely in order to conclude a current controversy is incorrect. The Bill was designed to establish beyond any question of doubt a legal principle. That principle is in my opinion a sound one. It has already been twice affirmed by this House, and if it is a sound principle, it is one of permanent value and validity. I say, Sir, that the House has already pronounced twice on that question of principle. I venture to say that we ought in this particular matter to have not only the courage of our opinion but consistency in our decisions.

Mr. President : The question to put is :

“ That clause 1 be re-numbered as sub-clause 1 (1) and the following new sub-clause be added :

‘ (2) It shall remain in force up to the 31st day of December, 1930.’ ”

The Assembly divided :

AYES—32.

Acharya, Mr. M. K.
Aney, Mr. M. S.
Bhargava, Pandit Thakur Das.
Chunder, Mr. Nirmal Chunder.
Das, Mr. B.
Das, Pandit Nilakantha.
Dutt, Mr. Amar Nath.
Dutta, Mr. Srish Chandra.
Gulab Singh, Sardar.
Iswar Saran, Munshi.
Iyengar, Mr. A. Rangaswami.
Iyengar, Mr. S. Srinivasa.
Joshi, Mr. N. M.
Kartar Singh, Sardar.
Kunzru, Pandit Hirday Nath.
Lajpat Rai, Lala.

Mitra, Mr. Satyendra Chandra.
Moonje, Dr. B. S.
Mukhtar Singh, Mr.
Naidu, Mr. B. P.
Neogy, Mr. K. C.
Prakasam, Mr. T.
Rang Behari Lal, Lala.
Rao, Mr. G. Sarvotham.
Roy, Mr. K. C.
Sarda, Rai Sahib Harbilas.
Singh, Mr. Gaya Prasad.
Singh, Mr. Narayan Prasad.
Singh, Mr. Ram Narayan.
Sinha, Kumar Gangasand.
Sinha, Mr. B. P.
Sinha, Mr. Siddheswar.

NOES—49.

Abdul Haye, Mr.
 Abdul Matin Chaudhury, Maulvi.
 Abdul Qaiyum, Nawab Sir Sahibzada.
 Abdul Haji Kasim, Khan Bahadur Haji.
 Ahmad, Khan Bahadur Nasir-ud-din.
 Ahmed, Mr. K.
 Alexander, Mr. William.
 Anwar-ul-Azim, Mr.
 Ashrafuddin Ahmad, Khan Bahadur
 Nawabzada Sayid.
 Ayangar, Mr. V. K. Aravamudha.
 Ayyangar, Rao Bahadur Narasimha
 Gopalaswami.
 Badi-uz-Zaman, Maulvi.
 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. R. H.
 Crawford, Colonel J. D.
 Czerar, The Honourable Mr. J.
 Dalal, Mr. A. R.
 Dalal, Sardar Sir Bomanji.
 Donovan, Mr. J. T.
 Dunnett, Mr. J. M.

Farookhi, Mr. Abdul Latif Saheb.
 Haigh, Mr. P. B.
 Irving, Mr. Miles.
 Jowahir Singh, Sardar Bahadur Sardar.
 Kabul Singh Bahadur, Captain.
 Keane, Mr. M.
 Khin Maung, U.
 Kirk, Mr. R. T. F.
 Mitra, The Honourable Sir Bhupendra
 Nath.
 Muhammad Nawaz Khan, Lieut. Sardar.
 Murtuza Saheb Bahadur, Maulvi Sayyid.
 Parsons, Mr. A. A. L.
 Rainy, The Honourable Sir George.
 Rajan Baksh Shah, Khan Bahadur
 Makhdum Syed.
 Rathnaswamy, Mr. M.
 Sams, Mr. H. A.
 Shah Nawaz, Mian Mohammad.
 Siddiqi, Mr. Abdul Qadir.
 Singh, Rai Bahadur S. N.
 Sukrawardy, Dr. A.
 Tonkinson, Mr. H.
 Wright, Mr. W. T. M.
 Yakub, Maulvi Muhammad.
 Yamin Khan, Mr. Muhammad.

The motion was negatived.

Mr. President : The question is :

“ That clause 1 do stand part of the Bill ”

The motion was adopted.

Clause 1 was added to the Bill :

The Title and Preamble were added to the Bill.

The Honourable Mr. J. Crerar : Sir, I move that the Bill, as amended, be passed.

As the House has already considered the principle of the Bill at length and has twice affirmed its view on the subject, and as the details of the Bill have been considered at length, I do not propose to say anything more in commendation of the motion which I now make.

Mr. President : The question is :

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

Colonel J. D. Crawford (Bengal : European) : Mr. President, I feel that this is an issue upon which we Europeans should be very largely influenced by the views of our Hindu and Mussalman friends. We belong to a religion so small in numbers that it is as regards the protagonists in this miserable communal strife—where men hate one another for the love of God—a mere bystander. Yet we cannot escape the reactions arising from so much bitterness.

The opinion of my group is that this Bill, which is supported—as it seems—by most of the members of both communities and which we welcome as an instalment, is hardly likely to prove adequate to the task. The scurrilous organs which foster communal hatred in this country are already well-prepared to evade the provisions of this Bill. We are concentrating our attention on the individuals ostensibly responsible who are made liable to fine or imprisonment or both. Now that may have the effect of making editors of reputable papers very cautious in the articles and news they publish ; we know that it is the opinion of a number of Members of this House who are Journalists and therefore competent to judge that it may impose a heavy burden on editors who make an error of judgment or whose news-editors make an error of judgment. I hope that may not be the case, and I think the wording of the measure, since amendment by the Select Committee “ *Deliberately and Maliciously* ” will have made that danger remote.

But what I am uncertain about is whether the individuals whom this measure is designed to catch—those who with deliberate and malicious intent outrage religious feelings will be caught in the meshes of our net. Those malicious individuals may not be the ostensible editors or proprietors of the paper : they may not ostensibly control its policy.

As a matter of fact it is by no means an uncommon event that the nominal editor of a paper is not the true editor and still more often he does not control the policy of the paper. A dummy editor may be paid to run the risk of imprisonment and it may be agreed that his fines are to be paid by the real controlling power. Some Honourable Members may say that such cases are not common : perhaps they are not, but it is precisely against those exceptional individuals, those few propagators of communal hatred, that this Bill is directed. I know that the average newspaper in India is not edited by a nonentity whose function it is to be ready to go to jail—but then I am glad to think that it is not the average newspaper, pamphlet or book that we are legislating against.

My remedy for this problem is that this Bill should have been or another should be directed against the press itself. The guilty party may be difficult to find ; your editorship may be, as I have suggested, nominal ; responsibility for the offence may be divided, but your press is

always there. It is my belief that if we provided that the penalty for printing inflammatory propaganda should be the confiscation of the press used, you would make the suppression of this kind of offence simpler and more effective. *By a legal fiction and action may be brought for damage against a ship herself for the offence which she is held to have committed : I would treat a press in the same way.* I agree that the owner of the press may not in every case be the original conspirator, but you cannot attempt to find, even if it were right to punish, the individual in whose mind the idea first occurred of committing the offence. You will be wise to confine yourself to dealing with the overt act.

I make this suggestion because I feel that the Government of India
 3 P.M. is not taking sufficiently active measures to suppress the forces of discord. His Excellency the Viceroy made a very fine and a very moving appeal, and I believe that the leaders to whom he then addressed himself are prepared to do their best to bring about that atmosphere of conciliation and compromise which is essential. It is they alone who can—if anyone can—make the right atmosphere for peace. But they are entitled to ask of Government that it shall maintain order and suppress disorder while they are striving to establish the spirit of peace. Suppression is obviously not enough in itself but it is a first essential and is the particular task of Government.

So far from there being at the moment any improvement in the communal situation, it appears to an outsider to be getting worse. Since the Viceroy's recent speech we have had serious riots in Nagpur and Bareilly and Sholapur, in this mornings telegrams I read that the authorities had to take special measures at Ahmedabad and Karachi. Until now the trouble has been in the main confined to the towns, but with so much inflammable material lying about it might at any moment spread to the villages. I confess to an anxiety lest at any moment a general outbreak may occur involving a whole province, and should that province be anywhere near the Frontier the consequences might be extremely grave.

I hope that this suggestion will appeal to the responsible leaders in this House. I read that the unity board in Cawnpore proposes to take upon itself the duty of censoring the local papers. Although I can hardly approve on principle to the usurpation of one of the functions of Government by an unauthorised body, however responsible and high-minded, I welcome it as a genuine effort on the part of communal leaders to remove one of the causes and sources of unrest, and I feel that this action on the part of the Cawnpore Board implies a rebuke to the Government of India for not having adopted sterner and severer methods to maintain, or rather I might say, to re-establish that peace in India which is so earnestly desired by all men of good will.

*Maulvi Badi-uz-Zaman (Bhagalpur Division : Muhammadan) : Sir, I thank you for this opportunity. I have listened to the speeches delivered by the Honourable Members of this House but I have not found any cogent reason against the passing of this Bill. Some Honourable Hindu Members do not want the Bill because it is the result of a demand on the part of Muhammadans. (An Honourable Member : "That is not so.") That was apparent from the speech delivered by my Honourable friend Mr. Amar Nath Dutt, and some others characterised it as a Muslim Bill. But my submission is that this Bill is not a Muslim Bill. It seeks to protect

* Speech not corrected by the Honourable Member.

[Maulvi Badi-uz-Zaman.]

the honour not only of Islam but of all other religions also, and it is therefore a protection for all communities and not for the Muhammadans only. Therefore, I think that this argument has no foundation; I am rather inclined to think that it is a wholly sentimental argument inspired by communal bias.

Then, Sir, some Honourable Hindu Members of the House, who support the decision of the Lahore High Court as delivered by Justice Dalip Singh, are of opinion that the existing law is inadequate to deal with cases of the nature with reference to which this Bill is being passed. I do not understand this mentality. If the existing law is inadequate then it is all the more necessary that another law ought to be passed to deal with such cases. Sir, I share the view of some Honourable Members who are of opinion that the existing law would be quite adequate but for the curious judgment of the Lahore High Court in the case of Rajpal delivered by Justice Dalip Singh.

Then, Sir, it has been said that the proposed measure tends to affect the liberty of the Press. I do not understand how it affects the liberty of the Press. The scope of the Bill has been sufficiently narrowed down in the Select Committee and it now gives fair and adequate protection to fair criticism. There must be some limit to the liberty we can allow. If the liberty of the Press results in dishonest and mischievous activities, if the Press does anything wrong, if it dishonestly or maliciously attacks any religion or the founders or saints thereof, there is no reason why the press should not be punished. Sir, if vilification of the Prophet and other sacred personages means fair criticism I would not tolerate it to that extent. But I submit that that is not fair criticism but a vicious and abominable crime which must be stopped at once.

Sir, the object of this legislation is to deter dishonest and malicious attacks on religion and religious beliefs which may lead to serious consequences. Therefore, in view of the serious situation which has been created in the country I think it is the duty of the House to pass the Bill without further delay. With these remarks, Sir, I support the motion of the Honourable the Home Member that the Bill be passed. (Applause.)

Khan Bahadur Makhdum Syed Rajan Bakhsh Shah (South-West Punjab : Muhammadan) : Delivered a speech in Urdu, a translation of which will be published as an Appendix to the proceedings of the 20th September 1927.

Mr. Gaya Prasad Singh (Muzaffarpur *cum* Champaran : Non-Muhammadan) : Sir, I do not want to give a silent vote on this Bill. At the outset, I must make my position perfectly clear, by stating that as a true Hindu I am opposed to any scurrilous speech or writing being indulged in by the followers of one faith against the founder or holy personage of any other faith or religion. It pains me, Sir, to see that a man professing the same religion which I hold so dear to myself, should have so far lapsed from his sense of culture as to revile the founder of Islam. In this connection, I have no hesitation in endorsing whole heartedly the Resolution which was passed by the Working Committee of the Hindu Mahasabha at Benares in August last. The Resolution was as follows :

“ The Working Committee of the Hindu Mahasabha strongly condemns the attacks made by followers of one religion on Avatars, prophets, founders and objects of worship or reverence of another religion, and calls upon leaders of public opinion of all

communities and well-wishers of the country to use their influence to discourage such attacks and prevent their circulation to the full extent of their power. The Committee wishes to draw the attention of all concerned to the fact that a person who attacks either a religion or any outstanding personality connected with the religion sets an evil example and provokes counter-attacks upon his own religion or religious heads."

Sir, I should also like to refer to the statement which was made by Rajpal when he came to know that the feelings of our Muhammadan friends had been greatly outraged by his pamphlet. This is what he said :

"If any words of mine can soothe the feelings of my Moslem brethren, I assure them that I respect their sentiments no less than I do mine. I have no idea of bringing out another edition of the *Rangila Kasul*, even though the law does not stand in the way of my doing so. In fact I stopped selling it as soon as I was told that some Moslems felt offended at its publication. This was done before any action was taken or even contemplated by Government."

Sir, it will be conceded that this was the only honourable course left to the author of the pamphlet to undo his mischief, and it ought to have been accepted by our Moslem friends. But a spirit of vindictiveness was abroad ; and an agitation was set afoot whose virulence did not spare even the Bench of the Punjab High Court. (An Honourable Member : "No, no"). Mr. Justice Dahip Singh came in for a good deal of adverse and undeserved criticism for having done what he conceived to be his duty according to the light of his judicial conscience.

Sir, the Bill as it was originally introduced by Government was a very unacceptable measure, and I am surprised to see that some of the non-official leaders in this House should have given their unstinted support to it even in that form. But I gladly recognize that the Bill as it has emerged out of the Select Committee is shorn of much of its objectionable features. There are, however, still one or two points in it which I am unable to accept. The Bill creates a new offence, and acts as a menace to the liberty of thought and expression. Its net is cast too wide, and it may also include within its scope many innocent men, such as the printer or publisher of a pamphlet. Sir, I will refer to one quotation from the *Statesman* of Calcutta, which in its issue dated 9th September speaks as follows :

"No measure more out of harmony with the Viceroy's speech, none more difficult to justify in the light of modern thought, could well be placed on the Statute-book. The plain fact is that the Government has lost its head in face of a riotous agitation, and has been followed in that course by a hasty Assembly, which in this matter is plainly misrepresenting any Indian opinion that finds voice in the most influential organs of the native owned Press. It would be a tragedy without measure if at the beginnings of popular government in India, the Legislatures, under the encouragement of the Government, were to use their powers to suppress liberty of thought, speech and writing, and were to crowd the Penal Code with new offences conceived in the spirit of the Spanish Inquisition."

Sir, these are not my words. I regret that the amendment to make it a temporary measure, to remain in force for a limited time, say three years, has failed. The present phase of communal trouble which gives rise to such writings or speeches may be, after all, a passing phase. It may be followed, as we all hope and trust, by an era of peace and good will. (Applause). I am opposed, Sir, to the permanent retention of this measure on the Statute-book. I also do not agree with the provision that the offence should be made non-bailable, and the right to initiate proceed-

[Mr. Gaya Prasad Singh.]

ings should rest exclusively with the Government ; for in the words of my Honourable friend Mr. Kelkar in his minute of dissent :

“ some sections of society who are less clamorous and turbulent are likely to be denied the use of the remedy under this Bill, and their virtue may be penalized, though they would be equally entitled to judicial relief with any other section of the society.”

I am afraid, Sir, that this power is likely to be abused ; and in actual practice, it is neither the Hindus nor the Muhammadans that are likely to benefit, but the Christian missionaries who vilify both the Hindu and the Muhammadan religions and their holy personages in unmeasured terms with impunity (cries of “ No, no ”).

With these few words, I beg to oppose the passage of this Bill.

Maulvi Abdul Matin Chaudhury (Assam : Muhammadan) : I rise, Sir, not to discuss the merits or the demerits of this Bill, but to condemn the manner in which certain amendments have been moved in this House. One particular Member in trying to make an exhibition of his sense of humour or the want of it, did not spare even what he referred to as “ the Prophet of the Muhammadans.” This fling at the Prophet, this attempt at buffoonery at his expense, reveals a mentality which is, to say the least, most deplorable. It betrays a taste which is more reminiscent of slums and gutters than of decent society.

Mr. President : Order, order. We are dealing with the Bill, not with the particular Member.

Mr. Amar Nath Dutt : Let him have his full say.

Mr. President : If the cap fits the Honourable Member he might wear it.

Maulvi Abdul Matin Chaudhury : Sir, it is a matter of gratification that this House treated these vapourings with the contempt that they deserved. But, Sir, I would say at the same time that it is a shame and disgrace that the President of the Congress, for whose fairness and sense of justice I have got the highest respect and admiration, should have permitted a Member of his Party to move an amendment like that. It is a pity that it escaped your vigilant eye, Sir.

Munshi Iswar Saran (Lucknow Division : Non-Muhammadan Rural) : Sir, I do not wish to speak about this Bill from the

Mr. President : Then, the Honourable Member need not rise. It is the Bill that is under consideration. The Honourable Member said that he does not wish to speak on this Bill ; if that is his position, he need not rise.

Munshi Iswar Saran : May I say, with the most profound respect, that if I had been allowed to complete the sentence, the Chair would not have been put to the inconvenience of getting up to reprimand me. (Laughter.)

Sir, I do not wish to speak about this Bill from the point of view either of a Hindu or of a Muhammadan. Unfortunately the issues have been clouded and a great deal of heat has been introduced into this controversy. When you will find this Act on the Statute-book it will have to be administered against a Hindu, against a Muhammadan, against a

Christian, against a Parsee. The religion of the person will not matter ; what will matter will be the offence that will be committed by him.

Before I proceed further, I wish to say that there was one remark of the Honourable the Home Member which I was unable to understand. The Honourable the Home Member, in his speech which was more short than sweet, said that the House having accepted the principle of this Bill on two occasions it should now pass it. I venture to think that he referred to the reference of this Bill to the Select Committee and then he referred to the question that the Bill be taken into consideration. Both these propositions having been accepted by the House, the Honourable the Home Member has told us—and we have to accept his authority, because his authority is great—that we cannot after that reject the Bill. Are we to understand, Sir, that if a Bill is referred to a Select Committee and if after that it is taken into consideration, the House then is divested of its right to reject it ? (*Some Honourable Members* : “ No ”.)

Mr. President : The Honourable the Home Member is not entitled to lay down the law on the subject. The Honourable Member is perfectly entitled to oppose the Bill.

Munshi Iswar Saran : If I had not made this submission, we would not have been fortunate to get this authoritative ruling from the Chair. (Laughter.)

Sir, Colonel Crawford spoke on behalf of the European community ; he might have disappointed anybody else, but he did not disappoint me. What Colonel Crawford said was “ We want more stern measures in order to maintain peace in this country.” If Colonel Crawford and others of his way of thinking had their own way, I suppose we would have “ martial law and no d——d nonsense.” Colonel Crawford represents that class and it is very good that from time to time he reminds us of the existence of his class in this country.

Mr. K. Ahmed : Does not the country require him and his class ?

Munshi Iswar Saran : My country may not require him, but my Honourable friend Mr. Kabeer-ud-Din Ahmed does. Colonel Crawford unconsciously supported those of us who are not enthusiastic about this Bill. He said in effect, “ Yes, the honest editor, the cautious editor, may have very good cause to fear the consequences of this measure, but as far as the dummy editors are concerned, the men who are put up for a few rupees to insult either this religion or that, will remain untouched ”. I submit, Sir, that is exactly the position which we take. What I submit is that a man who is deliberately out to insult any religion or to insult any religious teacher, would not care very much for the measures that the House is about to pass to-day. It is only the expression of honest opinion on religious questions which in my humble opinion will be greatly hampered by the existence of this measure on the Statute-book. If you will be pleased, Sir, to refer to the law in England, you will find that it has undergone various changes, and now it has been authoritatively held in England in a case which is reported in 48 Law Times at page 739, the name of the case being *Rex v. Ramsey and Foote*, where Lord Coleridge distinctly laid down this rule :

“ If the decencies of controversy are observed, even the fundamentals of religion may be attacked without a person being guilty of blasphemous libel.”

[Munshi Iswar Saran.]

I submit, Sir, that we shall only get the true perspective of this Bill if we divest our minds of a great deal of prejudice that has been created. It is not a Hindu attacking a Muhammadan or a Muhammadan attacking a Hindu. I shall ask the House to bear in mind the case of a Hindu expressing views about the faith of the vast majority of his own co-religionists. Take, for instance, the case of an Arya Samajist who attacks idol worship. His attack may be right or it may be wrong. Please do not imagine that this measure will come into operation only when the trouble is between one religion and another. This Bill may come into operation even when a man of the same religion expresses views about certain doctrines with which he does not agree. Taking the Muhammadan religion, there are certain Muhammadan dissenters who may express views which may be unpalatable to the vast majority of their co-religionists. What will happen then? Take the Shiah and the Sunnis. I submit to this House with all respect that this question has to be looked at not from the point of view of the Hindu religion or the Muhammadan religion. It should be remembered that it is a piece of legislation which is being enacted and which will apply not only when there is a question between a Hindu *v.* a Muhammadan or *vice versa*, but which will apply to any case where there is attack on any religion, either by a man who professes that religion or some other religion. The House will notice that this measure has been disapproved of not only by Hindus—unfortunately it has become a Hindu-Muhammadan question—but even by non-Hindus, by Christians and by those who cannot be accused of any Hindu bias. Now, if you accept the submission which I have made, then I venture to hope that the House will agree with me that this is a very severe, a very drastic—I shall not use a stronger word—measure which is being put on the Statute-book.

Take, now, Sir, the provision that the Select Committee rightly incorporated in one of the clauses, namely, that this was a bailable offence. The House has made it non-bailable. It is rather difficult to understand the distinction between this measure and section 295 of the Indian Penal Code. I submit that if you look at it dispassionately, not from the point of view of a Muhammadan or a Hindu or from the point of view of a partisan, you will find that in substance there is no difference between the two provisions. Section 295 of the Indian Penal Code runs as follows :

“Whoever destroys, damages or defiles any place of worship or any object held sacred by any class of persons with the intention of thereby insulting the religion of any class of persons or with the knowledge that any class of persons is likely to consider such destruction, damage or defilement as an insult to their religion, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.”

This is a bailable offence. As I have already submitted, there is no difference in principle between the two offences.

I shall only express the hope that very soon our feelings will become normal and we shall bring in a measure not to amend but to remove this objectionable measure from the Statute-book. And I do sincerely hope that the Local Governments will administer this measure in the spirit in which it ought to be administered. I do also hope that my Honourable friend Mr. Neogy's apprehensions that Local Governments will not be guided by just considerations will prove unfounded.

Mr. K. C. Neogy : They have not been in the past !

Munshi Iswar Saran : I do hope that Local Governments will hold the balance even and will see that prosecutions are very seldom launched under this Act, because it has to be remembered that in order that our thought may advance and in order that there may be no impediment to the progress of religious ideas, there should be no bar on free thought and discussion. It will be useful if this measure will be used as sparingly as possible.

Mr. T. Prakasam (East Godavari and West Godavari *cum* Kistna : Non-Muhammadian Rural) : Sir, I rise to oppose the passing of this Bill. At the very outset I may say that the opposition to this Bill is not with a view to prevent redress which my Muhammadian brethren are anxious to get by way of punishing those who had attacked in the past the Muhammadian religion or the founder of the religion, the Prophet. If, as I thought, the object of the Bill was to give redress by way of providing penalties against such attacks, I should have expected the Government to make the provisions of this Bill more clear and more definite. They abandoned that course altogether and they have framed a section which applies not only to such specific cases, but to so many other general *bonâ fide* criticisms that might be brought under the Act. That is the chief complaint of mine before the House. This is an extraordinary piece of legislation undertaken by the Government, no doubt under difficult circumstances, when communal riots are going on and when they, as well as the leaders of the communities concerned, are anxious to put a stop to these disturbances and bring about a unity between the warring communities.

Now, Sir, there is section 298 of the Indian Penal Code. My contention is that that section would have been quite sufficient to bring all the offenders within the clutches of the law and punish them. Of course, one of the learned Judges of the High Court of Lahore pointed out that the law was defective as was understood by him. My submission is that that learned Judge is one of so many Judges who have erred in interpreting the law. My Honourable friend Mr. Kabiruddin Ahmed is always happy and he always laughs. I can only point out that section 298 of the Indian Penal Code lays down that whenever anyone deliberately wounds the religious feelings of any person or any class he should be tried and sentenced to one year's imprisonment. That is the section. (*Official Members* : "No".) I hear the cries of "No", but perhaps the word "class" is not there. I take it, Sir, that the word "religion" is not there ; I take it that the word "prophet" or the "founder of any religion" is not to be found in the section. But how else can religious feelings of individuals be wounded, if it cannot be done by attacking the religion or the founder himself. It is a matter of ordinary common sense with regard to the interpretation of law ; one need not know much of law. Whoever attacks a religion or a founder wounds the religious feelings of that society. He is guilty under section 298. With regard to that section, my submission is that the Government has been during the last five years, ever since these communal riots started, between the devil and the deep sea. They did not know what to do. Interference in these matters would perhaps make the public feel that they were interfering in religious matters. They were not able to lay their hands upon the provisions of law with courage and approach the matter and get at the offenders and put them on their trial and convict them. As I said on another occasion, these

[Mr. T. Prakasam.]

communal riots started just at a time when it was very helpful to Government with regard to putting a stop to the great non-co-operation movement. Four years have elapsed now. Day after day, month after month, year after year, there have been riots, but what steps had been taken with regard to prosecutions under section 298 or section 153A of the Indian Penal Code ?

Sir, no doubt prosecutions have been launched under the general provisions of riot, murder and other offences, and people had been sentenced. Not one step had been taken by the Government with regard to this matter of wounding religious feelings at least to the extent to which they could have gone. Of course, the question of insulting the Prophet came only very recently, and I do not say that they were not justified in attempting to remedy the defect in the law as was pointed out. But the law as it stands has been quite sufficient to meet these cases also. Now, what is it that they have marked out in new section 295A ? They have added the word "religion", they have added the word "class". The singular includes the plural in law. Now, by merely adding the word "religion" or the word "class", you have not in any way improved the position at all. Again, Sir, the Select Committee, on which many of my distinguished friends sat, have added the two words before the word "intention", namely, "deliberately and maliciously". I spent a good part of my life in the jugglery of the law in the law courts. The word "intention" is a plain honest word. Whoever intends to commit a crime comes within the purview of the law. The words "deliberately intends with malicious intention" are added. What is "malice" ? Where is it defined ? You have to go back only to civil law to know what is meant by "malicious". "Constructive malice", "legal malice", "actual malice" and all sorts of speculation have been gone through by the learned Judges who were called upon to interpret that word and any indirect motive was held to constitute a malice. How does it make any difference from intention, I am not able to understand. I do not understand the difference between intention and deliberate intention. Having made that provision, they satisfied themselves that this section would cover only those cases where a prophet is attacked or a religion is attacked, maliciously and deliberately with dishonest intention. My submission is that it is not only such class of cases that would be brought within the mischief of this section. From my 25 years' experience as an advocate or pleader, I could tell you that so much mischief was done on the interpretation that was put by the great, great judges or learned advocates like my Honourable friend Mr. S. Srinivasa Iyengar on the word "intention". How many people had been hanged, how many innocent people had been hanged—(Laughter)—how many guilty persons had been acquitted ?

Mr. S. Srinivasa Iyengar (Madras City : Non-Muhammadan Urban) : On a point of personal explanation, Sir. I never had to construe the meaning of the word "intention" in any case.

Mr. T. Prakasam : I did not mean any offence to my leader. I thought he would take it in the spirit in which I mentioned it.

Mr. S. Srinivasa Iyengar : I never had to appear in that class of cases where it was necessary to construe the meaning of the word "intention".

Mr. T. Prakasam : As has been pointed out by my Honourable friend who spoke before me, this section might apply to so many other classes of offences, not as between Hindus and Mussalmans alone, but it may be as between Hindus and the Christian missionaries. Allow me to tell the Honourable Members of this House that in the hamlet of one village in one of my districts nearly as many as 300 people who belonged to the *panchama* class and who formed all the population of that hamlet had been converted in one moment by one Christian missionary. Conversions to Christianity are going on on a very large scale in the southern part of India. May I point out to my Honourable Mussalman friends, who seem to be labouring under a misapprehension, that they are very much mistaken in thinking that those of us who are opposing this measure are having any idea against their own beliefs or ideas ? That is not so. This section is a very mischievous measure. As this measure is worked out in future—I only hope I will live to see it—you will find that this section will be applied in a most mischievous manner as regards the granting of sanctions for prosecution and with regard to prosecution itself.

Mr. K. Ahmed : You can amend the Act later on.

Mr. T. Prakasam : My Honourable friend says we can amend this Act later on. We are all sent here to legislate laws for our countrymen. Why not prevent instead of amending ? I hope my Honourable friend will be able to amend the law before it is too late. I submit that this is a measure which would apply not only as between Hindus and Mussalmans, as is very much misunderstood now, but it would also apply to every other community. Who are the persons after all that would accord sanction for prosecution ? There was an amending clause tabled here that the authority to accord sanction for prosecution should not vest solely in Government. That was voted down. Who are the persons that grant sanctions generally ? We know who would be approached in Local Governments for sanction to prosecute. Who is the officer approached ? What is the judgment of that officer ? Again, Sir, who are the Judges that hear these cases ? In India, one cannot say that a Hindu would be a Judge to hear disputes relating to Hindus alone. When communal differences and dissensions arise, when prosecutions are started under the existing law, an Englishman might be the Judge, a Hindu might be the Judge, a Mussalman might be the Judge, a Christian might be the Judge or a person belonging to any other community might be the Judge. What is it that this Judge can possibly understand with regard to these disputes as between two different religions ? The Judge belongs only to one faith, one religion. It would be very difficult for the Judge to decide aright. If it is a bailable offence or if it is an offence which is compoundable, it will be a matter as between the communities affected. Certainly there must be a prosecution. If there is no provision in the law for compounding, there will necessarily be a conviction. But my submission is that it must be left to the leaders of the communities ultimately to decide whether it is a case in which the man should be convicted or whether the matter should be adjusted between the communities themselves. I suggest this course because it is a matter which relates to criticism against a religion or against religious feelings of any particular individual or the founder of a religion.

Mr. K. Ahmed : In the meantime we will murder each other.

Mr. T. Prakasam : As regards killing each other, my Honourable friend has been on very safe ground. He has never killed another, nor has he got himself killed. He has never been in the fighting line where these riots take place. He has never given one blow, nor has he received any. According to my conception, the manner in which these riots should have been approached by ourselves or by the Government is quite different. According to me, at the very first instant of an outbreak of a riot, the Government or the leaders should jump into the breach and should take the necessary steps to put a stop to the whole thing. They must also attempt to settle disputes from time to time. If only the Government had done this, there would have been no trouble at all. You will pardon me, Sir, when I refer to the incident at Multan where you were also present. You were present at that time when the first riot occurred. You went from door to door, you yourself heard the tales of woe narrated by some of the ladies from within closed doors. What happened in Multan? My Honourable friend Pandit Madan Mohan Malaviya and my friend Hakim Ajmal Khan went to Multan and tried their best to bring about a compromise in the first instance. All of us were present at the first trip. But the second time when they were there with a view to bring about a settlement between the Hindus and Mussalmans, who was responsible for not allowing that to be done? It was one of the Government officers who was responsible for the break down. They were prevented from bringing about a compromise. That was the first attempt in which they failed. Since then so many riots have occurred. Sir, I would like to point out that these riots, these disturbances, could have been quelled completely if the Government had had a heart and if the Government had had a soul and had jumped into the breach between the two communities and had done their best to give relief to those who suffered and endeavoured to settle the differences. What suffering there was, what losses there were! And what redress was given by the Government by way at least of temporary relief to those who had suffered? Nothing has been done up till now, and that is why I submit the question of disturbances ought to be approached both by the Government and by the leaders of the country in quite a different spirit. I now see after living to this stage that the Government have at last realised their past error and that they are anxious to bring about a better state of things. Anything that they do will be welcome in the country and also by the leaders of the communities who have been so anxious to give full co-operation to the Government with regard to these matters. Therefore, Sir, this measure is unnecessary. It really interferes with the freedom of speech, with the freedom of the Press, with the liberty of person and the liberty of property also. That has been pointed out by my Honourable friend Mr. K. C. Roy, but because it is a journalist's opinion it was considered not to be of sufficient importance. And my Honourable friend Colonel Crawford wants to have another piece of legislation specially against the Press. Well, I have been in charge of a press also during the last 6 years and I know what trouble we are having even without your Acts and your legislation, without these prosecutions. What trouble are we having even to-day? The press which I control is under the ban of the Madras Government even now. It is no good your enacting a provision which will cover the whole ground and bring about the prosecution of innocent people. I do not charge the heads of Government for all these prosecutions. I may say at once it is not the Governor, the Viceroy or the Honourable the Home Member that would be directly

responsible for these prosecutions. We know who gives those opinions, how that gets the seal of the Government and the whole prosecution is started under the authority and in the dignified name of the State, and how poor individuals have to go through it all, and it is very rarely that a person escapes at the hands of the Magistrate or the Judge under the present constitution and the system of government in this country. So, Sir, I oppose the passing of this measure.

Sir Hari Singh Gour : I cannot permit this measure to pass out of our hands without informing this House as to the very great constitutional change that this law embodies. Frequent references have been made on both sides of the House, by the Honourable the Home Member in his opening speech as well as by Honourable Members on this side of the House, to the English law of blasphemy and blasphemous libel ; but may I remind the Honourable the Home Member and the Honourable Members who have followed suit that the English law cannot be compared to the Indian law, because under the English law the King is the Defender of the Faith and under the Established Church it is the duty of King and Parliament to protect the Protestant Church, and all the laws that have been made with that object in view ? But is that the position of the Government of India ? Are the Government of India the defender of the faith or of any faith in this country ? I submit, Sir, they are the defender of peace and not the defender of faith, and consequently the law that they are entitled to enact should have been directed against the breach of public peace.

Even in England with the growth of the Constitution and the multiplication of the dissenting sects the English law, which was originally intended to protect the Protestant Church, has been widened so as to protect the people against cracking each other's heads. In the numerous Statutes which Honourable Members will find regulating the course of religious debates in England, all that the English law aims at at the present moment is the preservation of public peace. I have in my hand, Sir, a reference to no less than eight English Statutes, and what is the summary of them all ? The summary of them all is that these Statutes have all been enacted with the object of preventing disturbances in churches, disturbing dissenting congregations, obstructing or assaulting a clergyman or other minister in the discharge of his duties, protecting church windows, and quarrelling, chiding or brawling, smiting or laying violent hands on a consecrated place. That is the present English law. My submission, therefore, is that when the Honourable the Home Member refers to the English law in support of this Bill, I submit he is referring first of all to a wrong system of law because that law is radically inapplicable to the Indian constitution ; and in the second place, even if it were to furnish any analogy for the enactment of a law in this country, that law is now limited and confined to the preservation of public peace. If, Sir, the Honourable the Home Member had come here with a Bill to preserve the public peace in matters religious and spiritual, I am perfectly certain that this side of the House would not have offered the opposition at every stage to which this Bill has been subjected. Sir, I regret that the Honourable the Home Member did not think it right to add a small clause to section 108 of the Criminal Procedure Code which deals with cognate offences. We have there the offence of sedition, that is, seditious libel. We have there an offence punishable under section

[Sir Hari Singh Gour.]

153A, that is, offences of one class against another. If a clause had been added there for the purpose of bringing in religious disturbance of public peace, I have no doubt that that section would have amply met the requirements of the present case and nobody would have had any serious objection to the Government introducing a clause in the Code of Criminal Procedure. But as it is we are asked to add one more offence to the substantive criminal law of this country, and I am certain that those who feel that the immediate cause of this legislation will be satisfied will very soon discover that either this law is a dead letter or that it will be applied in cases to which it was never intended by the Legislature that it should be applicable. Let me give an instance. No doubt the Select Committee have greatly improved the language of section 295, but what remains? I will ask any Honourable Member to give me in very clear and intelligent language the meaning of the following words. What is the meaning of the words "religious belief"? Now, Sir, so far as Hindus are concerned their social structure and religious system are interwoven, and what is a social matter to an Englishman is a matter of religious belief to a Hindu. The result is that matters of social reform, matters in which a person directs criticism against a purely social institution, are apt to come within the four corners of section 295A; and then, as I pointed out on the last occasion, it is not merely a case of Hindus *versus* Muhammadans, but it is a case of Muhammadans *versus* Muhammadans and Hindus *versus* Hindus.

We have in our community no less than 200 odd sects, and the Muhammadans have got half as many. And
 4 P.M. what will be the result? The result would be that small sub-sects. attacking the other sub-sects. on a purely religious controversy, though it may not endanger the public peace, because endangering the public peace is not a part of the offence, but it is merely the carrying on of a religious controversy with the malicious intention described in section 295A that is germane to the constitution of the offence—now, suppose that the two sub-sects, are carrying on a peaceful controversy, but each one is fired by religious rancour and we all know that there is such a thing as *odium theologicum*. In religious matters people lose their heads and they talk in a language which they may not in their cooler moments employ. Now, suppose we have controversies of that character. They do not endanger the public peace. Would not the Local Government be justified—any Local Government that reads the Act, would be justified in prosecuting one sect. against the other. And whom will it prosecute? Both classes are fighting with each other, we will assume, for the possession of a banner, or for the right of precedence in a religious procession, each one claiming to receive that precedence from the founder of the faith or from one of the spiritual vicegerents of that faith upon the earth. What will be the position? The position would be that both these classes which are fighting with each other for a purely civil right of precedence and possession, will be prosecuted under this section.

Mr. K. Ahmed : No, under section 144.

Sir Hari Singh Gour : I therefore submit that this section, enacted though it be for the purpose of preserving the public peace, will defeat the very purpose for which it has been enacted. Take the other side of the case. We have been referred to dummy editors. Well, Sir, we know these dummy editors. One comes in and the other goes out, and we have something like 10 or 14 editors in succession swearing to be the editor of a newspaper or the publisher of a newspaper. What will be the result ? Will you be able to deal with them ? You will not be able to deal with them at all, and the instrument or dissemination of objectionable literature would still remain in the possession of the mischief-makers, whereas if you resorted to the preventive procedure laid down in the Code of Criminal Procedure you would have immediately laid hand, your heavy hand, upon the printing press that is disseminating the objectionable literature or upon the conductors of that newspaper, and at the same time your action would have been justified, because it was preventive and not punitive. I therefore submit that on every ground—the ground of first principles, the ground of public expediency and the ground of impracticability—this piece of legislation is ill-conceived.

One word and I have done. I do hope that the Honourable the Home Member who has been all along supporting the recommendations of the Select Committee will stick to his guns and stand by the decision of the Select Committee. We find in section 295 of the Indian Penal Code, which has been read to the House, the offence, which is a far more serious offence, is bailable, and this new offence now intended to be created by section 295A is made non-bailable. The Honourable the Home Member interjected a remark when one of us spoke at an earlier stage of the debate, that section 295 dealt with individuals. May I ask the Honourable the Home Member to pay us the compliment of refreshing his memory by looking at that section once more, and he will find that section 295 deals with not only the disturbance of religious worship, but with the committing of a far graver overt act, such as the defilement of a place of worship, which is of course a far more serious offence than merely the use of words or the making of speeches which any Member of this House will admit is not so serious as a direct overt criminal act disturbing a religious place of worship or destroying some object of religious veneration. While a person who commits this far more serious crime is entitled to bail, yet a person who merely reviles another man's religion is to be laid by his heels and imprisoned before his trial. That, I submit, is a position which is intolerable, and I would ask the Honourable the Home Member to reconsider the decision and see that the offence is once more restored to the catena of bailable cases. Sir, I have stated what I wanted to say. I caution Government that they will find in the near future that this Bill will not serve the purpose for which it is being enacted, and very soon they will find that it will be necessary for them to come back to this House with an amendment of the Code of Criminal Procedure, or it may be, of the Press Act, or it may be of any other Statute of the Indian Legislature for the purpose of giving them power to attack the mischief which we are all anxious that the Government should possess the power to attack, but which we are equally anxious to see should not trench upon the right of speech and free discussion of the subject. It is upon that ground and not upon the narrow ground of communalism that I oppose this measure.

(Several Honourable Members : " Let the question be now put ".)

Mr. K. C. Roy (Bengal : Nominated Non-Official) : I shall not detain the House longer than two minutes and I shall give an early opportunity to the House to put the last motion to the vote. Before you do so, I wish to correct an erroneous impression which was created in this House by certain observations made by my Honourable friend, Mr. Farookhi. Mr. Farookhi told the House that the Urdu Press was unanimous in support of the Bill. That is not quite a correct statement. I will give you one or two examples from the Urdu Press to prove my statement. The Urdu Press in Northern India is divided into two sections, one controlled by the Mussalman leaders and another controlled by the Hindus. I

Mr. Abdul Latif Sahib Farookhi (North Madras : Muhammadan) : I did not say Urdu Press ; I said the Mussalman Press.

Mr. K. C. Roy : I will take the Mussalman Press first. The *Siasat* says :

" The proposed Bill will give endless disputes not only among the various communities in India but among the various sects of a single community ".

I shall give you another paper. The *Inqilab* says :

" The drafts of the new law that we have seen are all absurd and will bring to the country calamities which were not brought by any other law excepting perhaps the Press Act."

I will not cite the Urdu Press run by the Hindus or the Sikh Press run by the Sikhs. The Sikh Press in particular is very anxious that the right of initiation of a case should be vested in the communities and individuals along with Government. I congratulate the House on not accepting the amendment of my Honourable friend Mr. Bhargava. If that amendment had been accepted, it would have been impossible to run any press or newspaper, particularly, the big Anglo-Indian papers. Now, Sir, this Bill has been piloted with the help of my Muhammadan friends. I am glad they have honestly voted with the Government. (Mr. Yamin Khan : Also Hindu Members.) I am giving my views. You can give yours. But, Sir, there is a very large and influential section of Moslem opinion which does not share the views of the Muslim Members of this House. I have received numerous telegrams and letters. One which I value most is a telegram which I have received from the Honourable the Maharaja of Mahmudabad. Every Muslim in this House knows the service he has rendered to the Muslim community and to the country at large. I oppose the Bill.

The Honourable Mr. J. Crerar : Sir, an Honourable Member opposite reproved me on a ground which I think was not entirely just. He reproved me for not making a longer speech and he reproved me for suggesting that this House was not at perfect liberty to vote as it pleased on this motion. That, Sir, is not what I said. What I said was that the House has already affirmed the principle of the Bill on two occasions, and that consequently it was unnecessary for me to deal with that matter at very great length ; and in truth the course of the debate

this afternoon on this motion has added little to what was already before the House. Most diverse criticisms have been made on this Bill. In some quarters it has been represented as an extremely drastic measure. Mr. K. C. Roy in his first speech quoted, I think, the opinion of some person with whom he had been discussing the matter—that the Bill went to the Select Committee as a small thing and emerged as nothing. Well, the Bill can hardly be a very formidable measure and nullity at the same time. Government have been accused of doing things which they ought not to do and of not doing things which they ought to do. My Honourable and learned friend on the opposite side, Mr. Prakasam, has argued that section 298 of the Indian Penal Code amply covered all possible cases of that kind. Now, Sir, I venture to reply that I am in disagreement with that opinion: Section 298 would not as a matter of fact cover the cases which we wish to cover by this Bill. I will not follow the Honourable gentleman's argument further. I will only say that another Honourable Member, the leader of his party, found it unintelligible and I may be pardoned for finding it equally unintelligible. What I would like to remind the House is that the issue before it which has been somewhat clouded in the course of the debate is really very simple. The real issue is this—if you have a scurrilous and deliberate insult to religion or religious beliefs, can it be directly penalised under the existing law? It cannot be directly penalised under the existing law and the object of the Bill is, as pointed out, to make deliberate and malicious and scurrilous insult to religion a substantive matter. I venture to say that the grave apprehensions that have been expressed as to the comprehensiveness of this Bill, as to the character of the actions, by speech or writing, which can conceivably come under this Bill, have been greatly exaggerated. Indeed I am myself somewhat inclined to believe that the language of the amended Bill is in some respects too narrow, though on that subject I am prepared to accept the verdict of the House. But, Sir, before I sit down there is one appeal which I wish to make to the House. It has been suggested that this Bill has been directed either to placate or to penalise particular interests. It has been suggested that particular interests are liable to be specially penalised by this Bill. I appeal to the House to look at this Bill, its intention and its consequences without any sectarian consideration whatsoever. The Bill is universal in its application. It will not penalise nor will it carry any special advantage to any one community as distinct from any other. The intention of the Government in bringing forward the measure is to do something, however inadequate, to deal with, at any rate, one aspect of what every one agrees is a very grave and serious problem. It has been suggested that this Bill does not really go to the roots of the matter. No one ever contended that the Bill really goes to the roots of the matter. It is obvious that moral remedies must be more potent and penetrating in this matter than any legal remedies, but that is no reason why we should refrain from adopting such legal remedies as are in our reach. In moving this motion, that is what I am asking the House to do.

Mr. President : The question is :

“ That the Bill further to amend the Indian Penal Code and the Code of Criminal Procedure, 1898, for a certain purpose, as reported by the Select Committee, and as amended, be passed.”

[Mr. President.]

The Assembly divided :

AYES—61.

Abdul Haye, Mr.
Abdul Matin Chaudhury, Maulvi.
Abdul Qaiyum, Nawab Sir Sahibzada.
Abdullah Haji Kasim, Khan Bahadur
Haji.
Ahmad, Khan Bahadur Nasir-ud-din.
Ahmed, Mr. K.
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.
Chalmers, Mr. T. A.
Coatman, Mr. J.
Cocke, Mr. H. G.
Cosgrave, Mr. W. A.
Courtenay, Mr. R. H.
Crawford, Colonel J. D.
Crerar, The Honourable Mr. J.
Crofton, Mr. R. M.
Dakhan, Mr. W. M. P. Ghulam Kadir
Khan.
Dalal, Mr. A. R.
Dalal, Sardar Sir Bomanji.
Donovan, Mr. J. T.
Dunnett, Mr. J. M.
Farookhi, Mr. Abdul Latif Saheb.
Ghazanfar Ali Khan, Raja.
Ghuznavi, Mr. A. H.

Gidney, Lieut.-Colonel H. A. J.
Haigh, Mr. P. B.
Irving, Mr. Miles.
Ismail Khan, Mr.
Iyengar, Mr. S. Srinivasa.
Jowahir Singh, Sardar Bahadur Sardar.
Kabul Singh Bahadur, Captain.
Keane, Mr. M.
Kirk, Mr. R. T. F.
Lamb, Mr. W. S.
Mitra, The Honourable Sir Bhupendra
Nath.
Moonje, Dr. B. S.
Muhammad Nawaz Khan, Lieut. Sardar.
Mukherjee, Mr. S. C.
Murtuza Saheb Bahadur, Maulvi Sayyid.
Parsons, Mr. A. A. L.
Rainy, The Honourable Sir George.
Rajan Bakhsh Shah, Khan Bahadur
Makhdum Syed.
Ruthnaswamy, Mr. M.
Sams, Mr. H. A.
Shafee, Maulvi Mohammad.
Shah Nawaz, Mian Mohammad.
Siddiqi, Mr. Abdul Qadir.
Singh, Rai Bahadur S. N.
Sinha, Mr. R. P.
Suhrawardy, Dr. A.
Tonkinson, Mr. H.
Wright, Mr. W. T. M.
Yakub, Maulvi Muhammad.
Yamin Khan, Mr. Muhammad.
Young, Mr. G. M.

NOES—26.

Aney, Mr. M. S.
Bhargava, Pandit Thakur Das.
Chunder, Mr. Nirmal Chunder.
Das, Mr. B.
Dutt, Mr. Amar Nath.
Dutta, Mr. Srish Chandra.
Gour, Sir Hari Singh.
Gulab Singh, Sardar.
Iswar Saran, Munshi.
Iyengar, Mr. A. Rangaswami.
Joshi, Mr. N. M.
Kartar Singh, Sardar.
Khin Maung, U.

Kunzru, Pandit Hirday Nath.
Mukhtar Singh, Mr.
Naidu, Mr. B. P.
Neogy, Mr. K. C.
Prakasam, Mr. T.
Rang Behari Lal, Lala.
Rao, Mr. G. Sarvotham.
Roy, Mr. K. C.
Sarda, Rai Sahib Harbilas.
Singh, Mr. Gaya Prasad.
Singh, Mr. Narayan Prasad.
Singh, Mr. Ram Narayan.
Sinha, Mr. Siddheswar.

The motion was adopted.

APPOINTMENT OF MEMBERS TO THE COMMITTEE TO CONSIDER THE QUESTION OF RESIDENCE AND ACCOMMODATION FOR MEMBERS OF THE INDIAN LEGISLATURE.

Mr. President : I have to announce that, in pursuance of the motion that was carried in the House on the 14th September, I have appointed the following six Members to serve on a Committee to consider the question of residence and accommodation for Members of the Indian Legislature, namely :

The Honourable Sir Bhupendra Nath Mitra,

Mr. Srinivasa Iyengar,

Mr. M. R. Jayakar,

Mr. H. Cocke,

Maulvi Muhammad Yakub, and

Mr. K. C. Roy.

THE HINDU CHILD MARRIAGE BILL.

Rai Sahib Harbilas Sarda (Ajmer-Merwara : General) : Sir, I rise to move that the Select Committee to which the Bill to regulate marriages of children amongst Hindus was referred do consist.....

Mr. K. C. Neogy (Dacca Division : Non-Muhammadan Rural) : On a point of order, Sir. The Honourable Member who is about to make this motion, moved for consideration of the Bill, and it was another Honourable Member who moved for reference of the Bill to a Select Committee. I submit that it is the duty and the privilege of that other Honourable Member to propose the names of that Select Committee.

Rai Sahib Harbilas Sarda : Either of the two, the Mover of the Bill or of the amendment, can make the proposal.

Mr. President : To which particular Standing Order does the Honourable Member (Mr. Neogy) refer ?

Mr. K. C. Neogy : The motion that the Bill be referred to a Select Committee is not complete in itself.....

Mr. President : I wish to know from the Honourable Member the particular Standing Order on which he relies ?

Mr. K. C. Neogy : I have not got the Standing Orders with me.

Mr. President : I know the practice of this House is that the Member who moves that the Bill be referred to a Select Committee also moves that the Committee do consist of such and such Members. But I do not know if Mr. Harbilas Sarda is debarred by any Standing Order from making this motion.

Mr. K. C. Neogy : As a matter of fact the motion he made was actually defeated by the House. The motion that was carried was for reference to a Select Committee, which was moved by another Member, and it really remains now for that Member to complete his otherwise incomplete motion.

Mr. President : I think we better stick to the practice we have followed so far in such cases. Kumar Ganganand Sinha.

Kumar Gangasind Sinha (Bhagalpur, Purbea and the Santhal Parganas : Non-Muhammadan) : Sir, I beg to move :

“ That the Select Committee to which the Bill to regulate marriages of children amongst the Hindus was referred do consist of the following persons, namely : Lala Lajpat Rai, Mr. M. R. Jayakar, Mr. M. A. Jinnah, Maulvi Muhammad Yakub, Colonel H. A. J. Gidney, Pandit Madan Mohan Malaviya, Lala Rang Behari Lal, Sir Hafi Singh Gour, Mr. K. C. Roy, Mr. W. A. Cosgrave, Rai Sahib Harbilas Sarda, the Honourable Mr. J. Crerar, Diwan Chaman Lal, Mr. Srinivasa Iyengar, Mr. M. Ruthnaswamy, Dr. Moonje and the Mover; and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be seven.”

The motion was adopted.

THE ADEN CIVIL AND CRIMINAL JUSTICE (HIGH COURT JURISDICTION AMENDMENT) BILL.

Sir Denys Bray (Foreign Secretary) : Sir, I beg to move that the Bill further to amend the Aden Civil and Criminal Justice Act, 1864, in order to make further provision for the jurisdiction thereunder of the High Court of Judicature at Bombay, as passed by the Council of State, be taken into consideration.

Sir, in this Bill we seek to put the finishing touches to the judicial reforms we have recently been introducing into Aden. We began some months back by appointing to Aden a Bombay civilian of standing and considerable judicial experience as District and Sessions Judge. A further step forward was made by the passing in the Bombay Legislative Council of a Bill amending the Aden Civil and Criminal Justice Act, 1864. The main purpose of the Act that was passed in the Bombay Council was the virtual transfer of the judicial administration at Aden from the Resident to the Judicial Assistant. Under that Act the Judicial Assistant is empowered to exercise all the powers that are exercisable by the Resident. In this Bill, Sir, we seek to make provision for appeals to the High Court of Bombay. I may simply emphasise two things. First, the provisions in this Bill were framed by a Select Committee of the Bombay Legislative Council. They sought indeed to introduce these provisions in their own Bill, but they were found to be *ultra vires*. The provisions before us have, moreover, the backing not only of the Bombay Government but also the general support of the High Court of Bombay.

***Mr. B. Das** (Orissa Division : Non-Muhammadan) : Sir, I do not want to make a speech but I want certain information in respect of one or two points either from my Honourable friend Sir Denys Bray, or the Finance Member. Sir, this Bill refers to certain legislative measures, but what I understood during the last Budget Session was that India has to pay £250,000 to the British Government and that India has no further commitments with regard to Aden. I would like to know whether we have still any executive or administrative responsibilities in connection with Aden, and whether we have any financial commitments either in the matter of administration or judicial administration or in any other directions, such as railways, and so forth, and whether India is committed to any further expenditure.

Sir Denys Bray : Sir, I fail to see myself how this question arises out of the Bill before the House. But I may say in a word that Aden

* Speech not corrected by the Honourable Member.

remains part of India ; that is to say, the Aden settlement proper remains as much a part of India as it did before. India is responsible for everything on the civil side connected with the actual settlement of Aden—administratively, executively, judicially and in respect of everything else I can think of. What has been transferred from India is merely the political arrangements connected with the Aden hinterland, the Aden protectorate, and the various political commitments that arise from and through the protectorate. Similarly, India has been relieved of the external defence of Aden, and it is for this purpose, and in consideration of the fact that His Majesty's Government have taken on the defence of Aden, that India naturally has to make a contribution towards the defence of Aden. Perhaps I may add this ; that the settlement in respect of Aden that has been arrived at is the settlement which was placed before the Inchcape Committee, and which that Committee enjoined on me as Foreign Secretary to promote.

“ This solution would in our opinion have several advantages and we recommend that it be examined with a view to its adoption ”.

The solution that has actually been adopted is the solution which earned this warm commendation from the Inchcape Committee.

Mr. B. Das : Sir, may I ask....

Mr. President : Order, order. This is not question time.

The question I have is :

“ That the Bill further to amend the Aden Civil and Criminal Justice Act, 1864, in order to make further provision for the jurisdiction thereunder of the High Court of Judicature at Bombay, as passed by the Council of State, be taken into consideration.”

The motion was adopted.

Clauses 2 and 3 were added to the Bill.

Mr. President : Clause 4.

Mr. S. Srinivasa Iyengar (Madras City : Non-Muhammadan Urban) : I should like to know, Sir, whether the Bombay High Court will have power of revision in respect of those cases in which there is no right of criminal appeal.

Sir Denys Bray : Sir, the present provisions still stand, that is to say, the provisions of section 29 of the Aden Civil and Criminal Justice Act, 1864. It will still be at the discretion of the Resident to reserve any point or points of law for the opinion of the said High Court in criminal cases which are not covered by appeals.

Mr. S. Srinivasa Iyengar : What about the power of revision of the High Court ?

Mr. President : Order, order.

The question is :

“ That clause 4 do stand part of the Bill.”

The motion was adopted.

Clause 4 was added to the Bill.

Clause 1 was added to the Bill.

The Title and the Preamble were added to the Bill.

Sir Denys Bray : Sir, I move that the Bill, as passed by the Council of State, be passed.

The motion was adopted.

THE INLAND BONDED WAREHOUSES (AMENDMENT) BILL.

The Honourable Sir Basil Blackett (Finance Member) : Sir, I move for leave to introduce a Bill further to amend the Inland Bonded Warehouses Act, 1896, for certain purposes.

The purposes for which this Bill is introduced are fully given in the Statement of Objects and Reasons, and I confine myself to making my motion.

The motion was adopted.

The Honourable Sir Basil Blackett : Sir, I introduce the Bill.

THE INDIAN DIVORCE (SECOND AMENDMENT) BILL.

The Honourable Mr. J. C. Crerar (Home Member) : Sir, I move that the Bill further to amend the Indian Divorce Act for a certain purpose, as passed by the Council of State, be taken into consideration.

In making this motion I hope I shall have the support of my Honourable friend, Sir Hari Singh Gour, because as a matter of fact it is largely due to his representations that this Bill has been submitted to the House. The point is a short one. While the House was engaged in discussing an earlier Bill to amend the Indian Divorce Act, it was pointed out by Sir Hari Singh Gour that the Indian Christian Marriage Act, which was passed about three years after the Indian Divorce Act itself was passed, permits of valid marriages being contracted between Christians and non-Christians. On the other hand, the Indian Divorce Act as it stands permits no relief to be granted except when the petitioner is a Christian. Sir Hari Singh Gour pointed out that that was in itself anomalous and that as a matter of fact a good many cases of hardship have occurred. He pointed out that it would be an equitable provision that relief should be granted under the Indian Divorce Act where either the petitioner or the respondent is a Christian. This will be the effect of the present Bill, which I ask the House to take into consideration.

The motion was adopted.

Clause 2 was added to the Bill.

Clause 1 was added to the Bill.

The Title and Preamble were added to the Bill.

The Honourable Mr. J. C. Crerar : Sir, I move that the Bill further to amend the Indian Divorce Act for a certain purpose, as passed by the Council of State, be passed.

The motion was adopted.

THE ASSAM LABOUR AND EMIGRATION (AMENDMENT) BILL.

The Honourable Sir Bhupendra Nath Mitra (Member for Industries and Labour) : Sir, I beg to move that the Bill further to amend the Assam Labour and Emigration Act, 1901, for certain purposes, as passed by the Council of State, be taken into consideration.

This is a very simple Bill of a purely formal character. Our reasons for bringing it before the Legislature have been fully explained in the Statement of Objects and Reasons, and it is hardly necessary for me to add anything to what has been stated therein. In short, some doubt has been expressed recently whether we had any legal authority to collect certain cesses which in fact have been collected ever since 1915 from employers in the tea industry for the purpose of the Assam Labour Board, and we want to regularise the position. That is the sole object of the Bill.

Sir, I move.

Mr. N. M. Joshi (Nominated : Labour Interests) : Sir, I do not wish to make a long speech, except to say that Government have neglected the amendment of this old Act for a very long time. When they decided to amend the Assam Labour and Emigration Act, I think they ought to have amended the whole Act and brought it up to date. That Act requires modification in various respects for the protection of the workers on the tea plantations of Assam. I hope, Sir, that Government will not be satisfied with this Bill in which the workers of Assam are not very much interested, but they will soon bring forward a Bill to amend the Assam Emigration Act, which is now a very old and obsolete Act.

Mr. President : The Honourable Member has got the power to do so.

The question is :

“ That the Bill further to amend the Assam Labour and Emigration Act, 1901, for certain purposes, as passed by the Council of State, be taken into consideration.”

The motion was adopted.

Clauses 2 and 3 were added to the Bill.

Clause 1 was added to the Bill.

The Title and Preamble were added to the Bill.

The Honourable Sir Bhupendra Nath Mitra : Sir, I move that the Bill, as passed by the Council of State, be passed.

The motion was adopted.

RESOLUTION *RE* RATIFICATION OF THE DRAFT CONVENTIONS CONCERNING (1) SEAMEN'S ARTICLES OF AGREEMENT, AND (2) REPATRIATION OF SEAMEN.

The Honourable Sir George Rainy (Member for Commerce and Railways) : Sir, I beg to move the following Resolution :

“ This Assembly recommends to the Governor General in Council that the question of the ratification of the Draft Conventions concerning—

(1) Seamen's Articles of Agreement, and

(2) The Repatriation of Seamen,

adopted by the General Conference of the International Labour Organisation of the League of Nations at its Ninth Session held at Geneva from the 7th to the 24th June

[Sir George Rainy.]

1926, should be considered at a later date, when the amendments necessary to bring the existing law into conformity with these Draft Conventions have been further examined in consultation with parties interested."

I should like to explain briefly, Sir, why it has been found necessary to bring these Resolutions before the House. Under Article 405 of the Treaty of Varseilles, which deals with the International Labour Organisation, the Member Governments have bound themselves within a period of 18 months to bring any Draft Convention adopted by the International Labour Conference before the competent authority which has power to take action, at latest, within 18 months of the date when the Draft Convention was adopted. In this case the period of 18 months will expire on the 24th of December next, and as legislation will be necessary before the Government of India can ratify these Conventions it was necessary, in order to comply with the provisions of the Treaty, that the Draft Conventions should be brought before the Indian Legislature as the competent authority at this Session, because before the next Session begins the period of 18 months will have expired. I should like to explain also the reason why we are not in a position at present to place legislation before this House. Some Honourable Members are perhaps aware that our merchant shipping law is closely interlocked with the merchant shipping law of the United Kingdom, and it is sometimes a matter of great difficulty to ascertain whether a particular matter is regulated by Indian law or by the British Statute. It has been found, as regards these two Conventions, that legislation by the Imperial Parliament will be necessary before the Government of India can implement the provisions of the Convention, and it would not be correct for the Government of India to ratify until such legislation has been passed. The points on which legislation in the Imperial Parliament are necessary are not of anything like first class importance. Take first the Convention about the repatriation of seamen. So far as Indian seamen, engaged in India are concerned, the provisions of the Indian law already give greater protection than is required to be given by the Convention, and so far as that is concerned, there is no difficulty in ratifying. But in one small point, namely, the repatriation of foreign seamen employed on a ship registered in India, but engaged in their own country, we have been advised that that is beyond the power of the Indian Legislature to deal with. Therefore for the moment we are not in a position to ratify the Convention. We hope that the British Government will decide to ratify and will pass the necessary amendment to its own Statute and thereafter it may be necessary to have some subsidiary legislation in India, but in that case there will be no real difficulty about ratification. As regards the other Convention, namely the seamen's articles of agreement, there are three clauses in the Convention which will require legislation in India, but I do not think that any of them will give rise to much difficulty. There is however, another article, in the Convention—article 5—about which there may be some difficulty and which it will be necessary to discuss with the parties interested. It is this. Under the Draft Convention the seamen's discharge certificate shall not contain any statement as to the quality of the seamen's work or as to his wages; under the British law the discharge certificate may contain such a statement, if expressly asked for by the seaman while the Indian law, such a statement is neither

required nor forbidden. We do not know at present what the British Government may decide to do about this Article ; and it is very desirable before we undertake any amendment of the law in this matter that we should know exactly what their position is, because if we legislated without doing so, a very difficult legal position might subsequently arise owing to a doubt as to which law in a given case ought to prevail.

I think these are the main points that arose in connection with these Conventions. I should like to make it plain that the difficulty about ratification at present arises entirely over these legal points and not over any large question of substance because our law in the main is quite as advanced in these two matters as the Convention, and on certain points it is even more advanced.

Sir, I move.

Mr. N. M. Joshi (Nominated : Labour Interests) : Sir, I move :

“ That in that Resolution the words ‘ the question of the ratification ’ be omitted and that for the words beginning from ‘ should be considered at a later date ’ to the end of the Resolution, the words ‘ be ratified ’ be substituted.”

Sir, the object of my amendment is to request this House to recommend to the Government of India to ratify these Conventions at this meeting. The object of the original Resolution is to ask the House to postpone the consideration of this question. Sir, I want to show to the Members of this House that there are good reasons why we should not agree to the request made by the Honourable Member in charge of this Department. The attitude of the Government of India towards the question of improving the conditions of life and service of seamen is that of indifference and I am going to prove in a very brief speech that the Department does not deserve the trust which it asks this House to put in it. Sir, the life of seamen generally is very hard. Their life is full of risk and they have to work for a long time away from their homes and their families. It is, therefore, necessary that any Government which claims to be a Government caring for the working classes of that country should devote more than ordinary care to the welfare of seamen, and all over the world the Governments have done so. Unfortunately, our experience in this country is that the Government of India have not bestowed sufficient attention to this subject. For many years the Indian Merchant Shipping Act, which has some provisions for the welfare of Indian seamen, has not undergone any change. But since the International Labour Conference began to consider the question of labour and since the first Conference regarding the question of seamen was held at Genoa, the question of the conditions of service of seamen has begun to come before the Government of India and before the Legislature. But, Sir, the attitude of the Government of India towards the question of improving the conditions of seamen has been that of indifference. I remember very well when the Conventions and Recommendations of the Genoa Conference were placed before this House, the Government of India threw away almost all the Conventions and Recommendations. They, however, decided to enquire into some questions and they also promised to take some action on some others. But, Sir, the experience of the past six years shows that the Government of India have taken no action. I shall give you only a few instances. The Government of India appointed a Committee to go into the question of recruitment. When this House agreed to the recommendation of the Government of India that the Convention regarding recruitment of seamen should not

[Mr. N. M. Joshi.]

be ratified, they promised to appoint a Committee. They appointed a Committee and the Committee found that there was much bribery in the work of recruiting the seamen. The Committee also made certain recommendations, but the Government of India have not yet carried out any of those recommendations.

Sir, I shall give you another instance. The Government of India promised to make an inquiry as to whether the amendment of the law was necessary in order to provide compensation to workmen whose contract of service was terminated on account of shipwreck. Sir, I have not heard anything about that inquiry and no result has yet followed.

Sir, there is another case. The Government of India have ratified certain Conventions. They have ratified the Convention regarding the age of admission of children to employment on the sea. They have taken no action to give legislative effect to the Convention. Then, Sir, the Convention that they ratified as regards the age of admission for the work of trimmers and stokers has not yet been given effect to.

Mr. President : And yet the Honourable Member wants Government to ratify this particular Convention ?

Mr. N. M. Joshi : I want to recommend to this House that Government's Resolution should not be accepted because the Government do not deserve.....

Mr. President : The Honourable Member's case is that this Convention should be ratified and curiously enough he argues that Government have not given effect to certain other Conventions after ratifying them.

Mr. N. M. Joshi : That is unfortunately true. But it is to some advantage of the seamen of this country that they should ratify this Convention immediately, so that we can at least go on agitating and telling this House that the Government of India do not keep their word. Now, Sir, the Conventions that they ratified as regards the age of admission for the work of trimmers and stokers and for compulsory medical examination of children have not yet been carried out. Then they had also ratified a Convention.....

Mr. President : I fail to understand why the Honourable Member should go on enumerating his grievances regarding other Conventions in speaking to this Resolution which refers to one particular Convention. The conduct of Government in the matter of other Conventions has got absolutely nothing to do with the question which the Honourable Member has raised by his amendment.

Mr. N. M. Joshi : Sir, with your indulgence I wish to bring to the notice of the House that the Government have been indifferent in this matter. It is therefore better that this House should not accept the Resolution of the Government of India and should accept my amendment.

Now, Sir, the conduct of the Government of India as regards this question does not entitle them to ask this House to wait till they bring forward legislation on this subject. The Conventions which we are considering to-day are important from the point of view of Indian seamen. Sir, the first Convention is regarding the agreements of seamen. Now, if this Convention is ratified immediately, Government are bound to give

effect to the terms of that Convention. If they ratify the Convention, the seamen stand to gain in some respects. In the first place, the seamen of our country will gain as regards the continuous certificates given to them at the time of discharge. At present it is possible for the employers to include in the discharge certificate some terms regarding the quality of the work which the seamen do. It is a dangerous practice because, if you put in some words in the certificate regarding the quality of the work of the seamen, they are likely to lose. This Convention laid down that

5 P.M.

in the continuous discharge certificate no mention should be made of the quality of the work of the seamen. The seamen also have got the right to claim a separate certificate regarding the quality of their work. Then the Convention also gives the right to the seamen to get their pay when they get discharged before the termination of their contract if they provide a substitute. There are several other smaller items in which seamen stand to gain by the ratification of this Convention. I therefore think that this Resolution should not be accepted.

There is one other point on which I wish to say a word especially when we are discussing the Convention passed at the Ninth Session of the International Labour Conference. At this Conference the question of recruitment of seamen came up for discussion through a speech made by my friend Mr. Davood who represented the Indian seamen at that Conference. In reply to that speech a representative of the Government of India made a statement which in my judgment was quite inaccurate.

The Honourable Sir George Rainy : This does not seem to have any relevancy to the Draft Convention that we are discussing now.

Mr. N. M. Joshi : We are discussing the Convention passed at the Ninth Session of the International Labour Conference.

Mr. President : Not all the Conventions. We are only discussing the Convention which is under consideration and which is the subject matter of this Resolution. The question is whether this Assembly should ratify this Convention to-day or at a later date. We have nothing to do with any other Conventions. The conduct of the Government may be blameworthy in the matter of those other Conventions, but the reference to it is hardly relevant in dealing with this Resolution.

Mr. N. M. Joshi : What I am contending is that this Assembly has now got an opportunity to discuss certain Resolutions and Conventions passed at the Ninth Session of the International Labour Conference. It should be the ordinary parliamentary practice that, if certain statements have been made at that conference which are not accurate, we should have an opportunity of correcting them in this House on this occasion.

Mr. President : I cannot allow the Honourable Member to utilise this occasion for that purpose.

Mr. N. M. Joshi : With your indulgence, I want to point out that this is the only opportunity when we can discuss that point.

Mr. President : Order, order. The Honourable Member is not entitled to discuss that point on this Resolution.

Mr. N. M. Joshi : If that is your decision, Sir, I cannot point out at the present time the mistake or the inaccuracy of the statements made by the representative of the Government of India.

Mr. President : If it refers to this particular Convention the Honourable Member will be in order.

Mr. N. M. Joshi : It refers to this particular Convention only indirectly and not directly.

Mr. President : It is no use persisting. The Honourable Member knows it.

Mr. N. M. Joshi : There is only one other point to which I wish to refer and it is this. That statement refers to what had happened in this House. I am sure the House would be surprised to know that a false statement had been made at the Conference as regards what had happened in this House. If you will give me one minute, Sir, I shall explain what it was.

Mr. President : I am afraid that the Honourable Member is not at all in order in referring to that subject in dealing with this Resolution.

Mr. N. M. Joshi : I do admit that. But, with your indulgence I wish to state that this House was absolutely misrepresented at that conference. (*Several Honourable Members :* "Order, order".) The statement was made at that Conference that this House unanimously threw out the ratification of that particular Convention. As a matter of fact my Honourable friend Mr. Kabeer-ud-Din Ahmed had opposed that Convention (Laughter). When one Member had opposed that Convention, certainly it was wrong to say that this House unanimously threw out the ratification of that Convention. You know, Sir, the ordinary practice in our proceedings when a Resolution is adopted.....

Mr. President : The Honourable Member must now resume his seat.

Mr. M. S. Aney (Berar Representative) : Sir, I only wish to point out one inaccuracy in the amendment, as the amended resolution would be meaningless, if it be adopted as it stands. If the amendment is adopted the Resolution would read thus.....

Mr. President : The Honourable Member may vote against the amendment.

Mr. M. S. Aney : If this amendment is adopted the Resolution would read miserably. If the words sought to be omitted by the amendment are omitted in the Resolution, the resolution would read :

"This Assembly recommends to the Governor General in Council that of the Draft Conventions, etc., etc., should be ratified."

This is certainly meaningless. The word "of" after "ratification" has to be omitted.

Mr. President : The Honourable Member may vote against it.

Mr. N. M. Joshi : No doubt the word "of" also should be omitted.

Mr. M. S. Aney : The word "of" must go.

Mr. N. M. Joshi : Yes, Sir.

Maulvi Abdul Matin Chaudhury (Assam : Muhammadan) : Sir, I rise to support the amendment of my Honourable friend Mr. Joshi and in this connection I want to protest against the obstructive tactics that are usually adopted by the Government (hear, hear) whenever any

Convention of the International Labour Conference comes up before this House for ratification. The past experience does not very much encourage us to give an entirely free hand to the Government in putting off the ratification of the Convention for an indefinite period. I wish to illustrate my point by only one example. In the year 1920 the International Labour Conference held at Geneva adopted a draft Convention for establishing facilities for finding employment for seamen. In the autumn Session of the Legislative Assembly, in 1921, the Honourable Sir Charles Innes came before the House with a Resolution that that draft Convention should not be ratified, but that an enquiry should be made about the existing evil. The Government appointed a committee of enquiry. That Committee made its report in 1922. The Committee found grave abuses existed and they condemned the present system of recruitment by means of licensed brokers. They recommended that an employment bureau should be established at the ports of Calcutta and Bombay just on the lines suggested in the Draft Convention. The report of the Committee was so damaging that the Government in publishing that report suppressed the last three paragraphs of the report which dealt with the existing abuses.

Mr. N. M. Joshi : Sometimes, they suppress the whole of it.

Maulvi Abdul Matin Chaudhury : That was in 1922. Five years have passed. The Government know that grave abuses exist. The Government know that these poor seamen are being exploited. These brave seamen who saved England from starvation during the War—(hear, hear)—have been left to their fate. This Convention has been ratified by Germany, by Holland, by Italy, by Spain, by Norway, by Sweden, by Japan and by Finland.

Mr. K. Ahmed (Rajshahi Division : Muhammadan Rural) : They are all civilised countries.

Maulvi Abdul Matin Chaudhury : But for the last seven years, the Government of India have been incubating upon it. They have not ratified it. With this example of the non-ratification of the Geneva Convention of 1920 before us, the House will be very reluctant to agree to this Resolution of the Honourable the Commerce Member. Before we agree to this Resolution, I think the House may very pertinently ask the Honourable the Commerce Member what has been the fate of the Geneva Convention of 1920, what has been done with the report of the seamen's Recruitment Committee, which the Honourable Sir Charles Innes had promised to place before us, for discussion. Before we agree to this Resolution, we must have an answer to this question from the Government.

The Honourable Sir George Rainy : Sir, my Honourable friend Mr. Joshi gave two main reasons in support of his amendment. The first of them was that there was a Convention, or possibly more than one Convention, which the Government of India had never ratified. I am afraid I do not see how that is relevant to the Resolution I have placed before the House. The Government of India may sometimes have to decide that they cannot ratify a particular Draft Convention. But here the position is that we are anxious to ratify though there are certain legal and technical difficulties. As I endeavoured to explain to the House, these difficulties are not large questions of substance but mainly legal and technical points.

Mr. K. Ahmed : Why did you not say that at Geneva and why do you say it here ?

The Honourable Sir George Rainy : I may inform the Honourable Member that I have never been in Geneva. Now it may occur to some Honourable Member to ask " Why not ratify at once and legislate later on ? " ; but, Mr. President, if I were to propose that course to the House, I should immediately fall into the condemnation of the other precedents quoted by my Honourable friend Mr. Joshi when he said that the Government of India had, in the case of certain Conventions, ratified a long time ago but taken no action to give effect to them. If that be so, then it is a condemnation which I am anxious to avoid and it is precisely for that reason that the Government of India have put forward Resolution in this form, and not in the form of recommending ratification. We cannot put a Resolution before this House recommending ratification until we are sure that we shall be in a position, if we ratify it, to give effect to the Convention. I may mention that at the Tenth Session of the Geneva Conference this question of procedure was discussed. In a report which reached me within the last week there is a passage I should like to read :

" The Experts also mentioned a difference of practice among Governments with regard to ratification. Some Governments secure the passage of any necessary legislation before ratifying, others notify ratification before such legislation is actually on the Statute-book ; the Experts pointed to the disadvantage of the latter system, though they considered that such ratifications are of great value as signifying acceptance of the principle of a Convention and recognition of the obligation to legislate in conformity therewith as soon as possible ; they suggested, however, that when such ratifications are deposited it should be stated that they will take effect only on the expiry of a specified period. The juridical questions thus raised led to an interesting discussion in Committee, where Mr. Pfister (Swiss Government) and Mr. Oersted (Employers, Denmark) expressed the view that legislation, when necessary, should in all countries precede ratification, and this point was also urged in a speech in full conference by Mr. Thorsen (Norwegian Government). We think this matter worthy of the attention of the Government of India, as it has been the practice in India in most cases to communicate ratification before legislation has been passed."

We are trying in this case to follow the procedure approved by our own delegates and to make sure that we have full legislative power to carry out the Convention before we invite the Legislature to ratify it. That in substance, Mr. President, is my reply to the arguments used by my Honourable friend Mr. Joshi.

I should like, however, to refer briefly to two more points. Mr. Joshi said that the two Conventions were very important and that their ratification would do a great deal to improve the lot of Indian seamen. Now I do not underrate the importance of these Conventions, but I think my Honourable friend overlooked the fact that they only apply to foreign-going ships registered in British India, and that the number of such ships at present is extremely small. These Conventions, when we ratify them, as I hope we shall, will do something but, in the nature of the case, they cannot do a great deal to improve the lot of the Indian seaman.

The other point to which I wish to allude is this. I am sure the House will not expect me at this hour and without previous notice to say exactly what the Government of India did or did not do, or why they did it or did not do it, as regards the long list of Conventions to which my Honourable friend referred. I will look into those cases and

see what the position is, but clearly it is out of the question that I should reply in detail to-day.

Mr. President : The original Resolution was :

“ That this Assembly recommends to the Governor General in Council that the question of the ratification of the Draft Conventions concerning

(1) Seamen's Articles of Agreement, and

(2) the Repatriation of Seamen,

adopted by the General Conference of the International Labour Organisation of the League of Nations at its Ninth Session held at Geneva from the 7th to the 24th June 1926, should be considered at a later date, when the amendments necessary to bring the existing law into conformity with these Draft Conventions have been further examined in consultation with parties interested ”.

Since which the following amendment has been moved :

“ That the words ‘ the question of the ratification of ’ be omitted.”

2. “ That for the words beginning from ‘ should be considered at a later date ’ to the end of the Resolution, the words ‘ be ratified ’ be substituted.”

The question I have to put is that amendment be made.

The motion was negatived.

Mr. K. Ahmed : At this juncture I should like to bring to the notice of the Chair that it is now very late and important business is coming on.....

Mr. President : Will the Honourable Member resume his seat and allow the Chair to put the original Resolution to the vote of the House ? The question I have to put is :

“ That the following Resolution be adopted:—

‘ This Assembly recommends to the Governor General in Council that the question of the ratification of the Draft Conventions concerning

(1) Seamen's articles of Agreement, and,

(2) the Repatriation of Seamen,

adopted by the General Conference of the International Labour Organisation of the League of Nations at its Ninth Session held at Geneva from the 7th to the 24th June 1926, should be considered at a later date, when the amendments necessary to bring the existing law into conformity with these Draft Conventions have been further examined in consultation with parties interested ”.

The motion was adopted.

Mr. K. Ahmed : Sir, before taking up any other matter for discussion to-day in this Assembly, I should like to point out that, important subjects are still down in the agenda for to-day and many Members have already left the House, Sir, because it is not the custom of this House to remain here after 4-30—at least that has been our experience in this Session ; and I say, Sir, that on account of that and on account of the importance of these subjects, if these questions are taken up to-day and passed without giving an opportunity to the representatives of the people of this country.....

Mr. President : Order, order. The Chair has already taken all these matters into consideration.

RESOLUTION RE RECOMMENDATIONS CONCERNING (1) THE REPATRIATION OF MASTERS AND APPRENTICES, AND (2) THE GENERAL PRINCIPLES FOR THE INSPECTION OF THE CONDITIONS OF WORK OF SEAMEN.

The Honourable Sir George Rainy. (Member for Commerce and Railways) : Sir, I move the following Resolution :

“ That this Assembly recommends to the Governor General in Council that no action be taken on the Recommendations concerning :

- (1) the Repatriation of Masters and Apprentices, and
- (2) the General Principles for the Inspection of the Conditions of Work of Seamen,

adopted by the General Conference of the International Labour Organisation of the League of Nations at its Ninth Session held at Geneva from the 7th to the 24th June 1926 until the amendments necessary to bring the existing law into conformity with these Recommendations have been further examined in consultation with parties interested.”

I will try to deal with this matter very briefly, Sir. The reasons for bringing forward the Resolution are very similar to those which exist in the case of a Draft Convention but there is this difference, that here we are dealing with recommendations of the Labour Organisation and not actual Draft Conventions. In the case of a Draft Convention, if a Member Government proposes to adopt it, it must formally ratify it exactly as it stands without amendment. In the case of a Recommendation there is no question of ratification, and the Member Government can accept as much or as little as it pleases of the proposals included in the Recommendation. We are, however, bound exactly in the same way as in the case of a Draft Convention to bring Recommendations before the competent authority—that is, in this case the Legislature—within the specified period.

Now, as regards the first Recommendation, namely, the repatriation of masters and apprentices, the view of the Government of India is that in all probability no amendment in the law as regards masters will be found necessary. But as regards apprentices, it will be desirable to legislate in order to bring the law bearing on the repatriation of apprentices into line with the law bearing on the repatriation of seamen. That will mean legislation both in the Imperial Parliament and also in India. The other Recommendation is as regards the general principles for the inspection of the work of seamen. Here the necessity for legislation arises out of an Article in the Recommendation which expresses the desirability that, as far as possible, all the authorities charged with the inspection of the work of seamen should be brought under a single control. That is entirely in line with the policy of the Government of India, as I think I have explained more than once in this House. Our policy is to bring the administration of the merchant shipping law, which includes inspection of the work of seamen, under the direct control of the Central Government instead of leaving it largely to the Local Government as we do at present. In order that that may be done, it will be necessary to amend the Merchant Shipping Act, and I hope it will be possible to introduce a Bill dealing with that point in the cold weather Session. It has not been possible to introduce the Bill this Session, and therefore it became necessary to bring this Resolution before the House.

Sir, I move.

Mr. N. M. Joshi (Nominated : Labour Interests) : I move an amendment to this Resolution :

“ That for the words ‘ no action ’ the words ‘ necessary action ’ be substituted.

‘ That all the words beginning from ‘ until the amendments necessary ’ to the end of the Resolution, be omitted.’ ”

The Honourable Member in charge of the Department said that these Conventions and Recommendations are only applicable to seamen working on foreign-going ships registered in India, and there are very few such ships at present in India and so they are not of great importance to Indian seamen. Sir, in this world very little is done for the working classes and especially for the seamen. So I am prepared to admit that whatever is done by these Conventions and Recommendations is indeed very little. But the working classes receive so little that even when a little is done, they think that much is done for them. It is for that reason that I say these Conventions and Recommendations are useful to the seamen.

My amendment asks this House to recommend to the Government that necessary action on the Recommendations should be taken. One of these Recommendations is intended to ask the Government to establish a proper and regular system of inspection of the conditions under which seamen work on ships, conditions as regards health, safety and other matters. Under the Indian Merchant Shipping Act there is no provision for a regular system of inspection through special inspectors. The shipping masters have got certain powers to inspect ships under certain conditions, but the shipping masters have got their ordinary work to do and they cannot under ordinary circumstances find time to inspect the ships on which the Indian seamen work. If the Recommendation is given effect to at once, the Government will have to appoint inspectors to inspect the conditions on ships.

Sir, the Recommendation also insists that if the seamen have any grievances, they should have the right to bring them to the notice of the inspectors either directly themselves, or through their representatives. Under the present Indian Merchant Shipping Act every seaman cannot do this. It is necessary that three seamen should combine together to bring to the notice of the shipping master any grievances that they may have ; nor can they bring their grievances to the notice of the shipping master through their representatives. Again, this Recommendation insists that such inspectors should be appointed as will be acceptable to the seamen as well as to the employers. The Recommendation also insists that the inspectors should from time to time consult the organisations of seamen as well as the employers. You will thus see that if necessary action is taken on this Recommendation the Indian seamen stand to gain something, although I am not prepared now to say that they will gain very much. I therefore hope that the House will pass my amendment.

The Honourable Member while moving this Resolution stated that the necessary changes will take some time. He also stated that in some circumstances it is not within his power to take action, as our law as regards merchant shipping is interlinked with the English law. I hope the Honourable Member will take steps to see that the Indian Merchant Shipping Act is made independent of the British Merchant Shipping Act,

[Mr. N. M. Joshi.]

so that if we want to make any changes in the law as regards the conditions of service of seamen we may be able to do so without being dependent upon the British Parliament.

I hope this House will accept my amendment.

Mr. K. Ahmed (Rajshahi Division : Muhammadan Rural) : I request that the discussion may be adjourned, as there is the Unity Conference sitting downstairs.....

Mr. President : Order, order. Sir George Rainy.

The Honourable Sir George Rainy : I will try to be very brief in replying to what my Honourable friend, Mr. Joshi, has said. He admits now that the benefit which the Indian seamen can derive from the adoption of these Recommendations is not very great ; but still he would like to see them put in force, and that, I may say, is also the desire of the Government of India. There may be one or two points on which they are not able to accept the Recommendations exactly as they stand, but the Recommendation about inspection to which the Honourable Member attaches most importance, has been examined in detail, and, as far as we can see, legislation will be required only on two points one of which is a very small one. To give effect to the other parts of the Recommendation, we can proceed by executive action, and very largely it would be part of our reorganisation scheme for merchant shipping work generally. There was one other small point to which I wished to refer but it escaped my memory for the moment, and I do not know that I need add anything further.

Mr. President : The original Resolution was :

" That this Assembly recommends to the Governor General in Council that no action be taken on the recommendations concerning

(1) the Repatriation of Masters and Apprentices, and

(2) the General Principles for the Inspection of the Conditions of Work of Seamen,

adopted by the General Conference of the International Labour Organisation of the League of Nations at its Ninth Session held at Geneva from the 7th to the 24th June 1924 until the amendments necessary to bring the existing law into conformity with these Recommendations have been further examined in consultation with parties interested."

Since which the following amendment has been moved :

" That for the words ' no action ' the words ' necessary action ' be substituted.

That all the words beginning from ' until the amendments necessary ' to the end of the Resolution, be omitted "

The question that I have to put is that that amendment be made.

The motion was negatived.

Mr. President : The question is :

" That the following Resolution be adopted :

" That this Assembly recommends to the Governor General in Council that no action be taken on the recommendations concerning

(1) the Repatriation of Masters and Apprentices, and

(2) the General Principles for the Inspection of the Conditions of Work of Seamen,

adopted by the General Conference of the International Labour Organisation of the League of Nations at its Ninth Session held at Geneva from the 7th to the 24th June

1926 until the amendments necessary to bring the existing law into conformity with these Recommendations have been further examined in consultation with parties interested'."

The motion was adopted.

RESOLUTION *RE* CENSORSHIP OF CINEMATOGRAPH FILMS.

Mr. President : The House will now resume further consideration of the following Resolution moved by the Honourable Mr. J. Crerar on the 14th September, 1927 :

" That this Assembly recommends to the Governor General in Council that he be pleased to appoint a committee to examine and report on the system of censorship of cinematograph films in India and to consider whether it is desirable that any steps should be taken to encourage the exhibition of films produced within the British Empire generally and the production and exhibition of Indian films in particular."

Sir Hari Singh Gour (Central Provinces Hindi Divisions : Non-Muhammadian) : Sir, I move the adjournment of the further consideration of this question.

Mr. President : Does the Honourable Member really realise the effect of the adjournment motion ? The Governor General in Council has got the power to appoint the Committee referred to in the Resolution. If the Assembly does not express its opinion to-day it may be that the Government, without consulting the Assembly might appoint a Committee. In that event, the House will lose the opportunity of influencing the decision of the Government.

Sir Hari Singh Gour : I bow to what has fallen from the Chair but the Members are now fully jaded. It is past half past five and we have other engagements to meet, and I hope the Honourable the Home Member will realise that this Resolution is far too important to be discussed at this very late hour. We have a number of amendments on the paper and full justice cannot be done to these amendments unless we are prepared to sit till 9 or 10 at night. I therefore ask that, with the concurrence of the Honourable the Home Member, the further discussion of this motion be adjourned till Wednesday or till the winter Session in Delhi.

The Honourable Mr. J. Crerar (Home Member) : I have no desire whatever to detain the House if there is a common desire to adjourn, but I must point out that the position that will emerge is precisely what you, Sir, have indicated.

Mr. President : The question I have to put is :

" That the further discussion of this Resolution be adjourned."

The motion was adopted.

The Assembly then adjourned till Eleven of the Clock on Tuesday, the 20th September, 1927.