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SECOND SESSION

OF THE

FOURTH LEGISLATIVE ASSEMBLY
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LEGISLATIVE ASSEMBLY.

Tuesday, 15th September, 1931.

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

QUESTIONS AND ANSWERS.

SAFEGUARDING OF MUSLIM INTERESTS IN ACCOUNTS AND AUDIT OFFICES, IN THE NORTH WEST FRONTIER PROVINCE.

250 **Mr. S. C. Mitra** (on behalf of Maulvi Muhammad Shafee Daoodi) : (a) Has the attention of Government been drawn to a message in the *Muslim Outlook* of the 19th July, 1931, regarding reduction of about 24 Peshawari clerks as a result of the proposed amalgamation of the Frontier Civil Accounts and Audit Offices ?

(b) Are Government aware that this news has created an alarm in the educated circles of the province, since the local Muslim employees in these offices are temporary ?

(c) Is it a fact that :

(i) Muslims form only 48 per cent. of the present total strength of the Accounts Offices at Peshawar ;

(ii) out of it only 21 per cent. belong to that province ;

(iii) the share of this community in the supervising staff is about 22 per cent. ; and

(iv) the combined ratio of Muslims and non-Muslims of the Frontier in these offices is about 30 per cent. ?

(d) If reply to parts (b) and (c) above be in the affirmative, will Government be pleased to state what specific steps they propose to take to safeguard Muslim interests at the time of the proposed retrenchment ?

The Honourable Sir George Schuster : (a) and (b). Government have seen the message mentioned, and have also received representations on the subject.

(c) (i). Muslims form 45 per cent. of the present total strength of the Accounts and Audit offices at Peshawar.

(ii) Of these 55 per cent. belong to the Frontier Province, i.e., about 25 per cent. of the total strength.

(iii) The percentage of Muslims in the supervising staff is 28.

(iv) The combined ratio of Muslims and non-Muslims of the Frontier Province is 34 per cent.

(d) I would refer the Honourable Member to my reply to question No. 249, on the 11th instant.

(383)

**EXEMPTION FROM THE NEW CUSTOMS DUTY OF OUTSTANDING CONTRACTS
FOR THE IMPORTATION OF WHEAT.**

251 ***Seth Haji Abdoola Haroon** : (a) Will Government be pleased to state whether it is a fact that when a customs duty of Rs. 2 per cwt. on imports of foreign wheat was newly imposed on the 1st April, 1931, the contracts which were then outstanding were exempted from payment of customs duty ?

(b) If the reply to part (a) above is in the affirmative, what was the quantity of such outstanding contracts as shown by each one of the importers, separately for each port, and the total quantity so shown ?

(c) Were the outstanding contracts, referred to above, all found to be for account of importers alone or some were also found to have been wholly or partially placed or sold to dealers ?

(d) Who were the officers that kept record of the then outstanding contracts and who verify those figures with imports which are now taking place ?

(e) What quantity out of the outstanding contracts, referred to above, has been imported up to 31st July, 1931.

(f) What quantity of the outstanding contracts referred to above still remained to be imported as on 1st August, 1931 ?

The Honourable Sir George Rainy : (a) I invite the Honourable Member's attention to the provisions of section 3 of the Wheat (Import Duty) Act, 1931. I would point out at the same time that the provisions of the Act had effect from the date of introduction of the Bill, namely the 20th March, and not from 1st April.

(b) The quantities of contracts outstanding on the 20th March, 1931, were :

Bombay				32,995 tons.
Rangoon	..			2,888 tons.
Calcutta	..	..	..	79,353 tons
				subject to a variation of 3,774 tons more or less.

Total about 115,236 tons subject to a variation of 3,774 tons more or less. The Government of India have not obtained details of the importers and the quantities of wheat imported by each of them.

(c) Partly for the account of the importers themselves and partly for the account of the dealers.

(d) The Collectors of Customs.

(e) 116,461 tons of wheat have been imported up to the 20th August, 1931.

(f) Assuming that the total quantity, mentioned as the variation figure in reply to part (b), will be imported into India, 2,549 tons of wheat were outstanding on the 20th August, 1931.

DISCHARGE OF MUSLIM WORKMEN FROM THE NORTH WESTERN RAILWAY.

252. ***Seth Haji Abdoola Haroon :** (a) Has the attention of Government been drawn to an article under the heading " Muslims in North Western Railway, Electrical Branch ", which was published in the *Muslim Outlook* of Lahore in its issue of the 24th July, 1931 ?

(b) Will Government be pleased to state whether the figures of reduction of daily workmen given in the above article are correct ? If so,

(i) what was the reason that 90 Mussalmans were discharged against 33 Hindus and 11 Sikhs ;

(ii) what was the total strength of employees of each community working as daily workmen, of whom 90 Mussalmans, 33 Hindus, and 11 Sikhs were reduced as referred to above ; and

(iii) what is the reason of such discrimination being shown towards Mussalmans ?

(c) Will Government be pleased to state whether the figures of salary as shown in the article above referred to against employees of each community of the clerical establishment are correct ?

(d) If so, will Government be pleased to state what were the causes that led the authorities to differentiate between Hindus and Mussalmans both as regards the strength of clerical establishment and the grades of pay ?

(e) Will Government be pleased to state what action they intend to take for redressing the injustice done to Mussalmans as shown in the article above referred to ?

Mr. A. A. L. Parsons : I have called for information and will communicate with the Honourable Member on its receipt.

REPRESENTATION OF MUSLIMS ON THE NORTH WESTERN RAILWAY.

253. ***Seth Haji Abdoola Haroon :** (a) Has the attention of Government been drawn to an article under the caption " The meeting of Muslim employees of Railway ", which was published in the *Daily Inqilab* of Lahore in its issue of 22nd July, 1931 ?

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

(i) whether it is a fact that Mr. K. M. Hassan was deputed on special duty only with a view to bring about adequate representation of Mussalmans in the Department concerned ;

(ii) if so, whether his recommendations to the Railway Board receive attention, and if so, will Government quote instances of acceptance and rejection by the Board of his recommendations ;

(iii) if it is a fact that Mr. K. M. Hassan has not been empowered to fill in posts directly if at any time any vacancy occurs ; and

(iv) if it is a fact that Mr. K. M. Hassan has not been given adequate power to hear the cases of Muslims in cases of their dis-

missal and when injustice has been done to them as referred to in the article quoted above ?

(c) If replies to part (b) (i), (iii) and (iv) above are in the affirmative, will Government be pleased to state what was the object of appointing Mr. K. M. Hassan on special duty ?

Mr. A. A. L. Parsons : (a) No.

(b) While the answer to part (a) is in the negative, the following information may serve the Honourable Member's purpose :

- (i) Mr. K. M. Hassan has been placed on special duty to advise and assist Railway Administrations with a view to securing fullest compliance with the policy of Government regarding the adequate representation of Muslims and other minority communities in the various classes of non-gazetted establishments and to report on these matters to the Railway Board.
 - (ii) A preliminary report has just been received from Mr. Hassan and is under consideration.
 - (iii) Yes, but instructions have been issued to the Agents of State Railways to co-opt Mr. Hassan to act as a member of Selection Board when such a Board is convened in connection with recruitment and if it is not possible to appoint a Muslim officer of the railway to serve on it.
 - (iv) It is open to Mr. Hassan to report any cases in which injustice has been done to Muslims to the Agent and, if necessary, to the Railway Board.
- (c) The object of placing Mr. Hassan on special duty is explained in the answer to part (b) (i).

APPOINTMENT OF MUSLIMS IN RAILWAY ACCOUNTS OFFICES.

254. ***Seth Haji Abdoola Haroon :** (a) Is it true that in the Management Branch of the Railway Accounts Office there is no chance for Muslim candidates to enter into service as referred to in the article under the heading "The meeting of Muslim employees of Railways" appearing in the *Daily Inqilab* of Lahore, dated 22nd July, 1931 ?

(b) If the reply to part (a) above is in the affirmative, what action do Government propose to take to increase the number of Muslim employees in the above branch ?

Mr. A. A. L. Parsons : (a) It is understood that the question relates to the employment of Muslims in a particular section of the Accounts Office. If so, the reply is that the proportion of the minority community in an office is applied to an office as a whole and not to any particular section of the office.

(b) Government are not prepared to fetter the discretion of heads of officers as to the manner in which they should distribute their staff amongst the various sections of the office.

PREPARATION OF THE MORAL AND MATERIAL PROGRESS REPORT OF INDIA.

255. ***Mr. C. S. Ranga Iyer :** Will Government be pleased to state :

- (a) Why the task of preparing the Moral and Material Progress Report ("India in 1929 and 1930") was entrusted last year to "officers" of the Bureau of Information ;

(b) why the said Report does not appear over the name of the Director of Public Information as in the past ; and

(c) whether this innovation is only for 1929-30 or meant to be permanent ?

The Honourable Sir James Crerar : (a), (b) and (c). There was no change in procedure last year. The preparation of the Moral and Material Progress Report has always been entrusted to the officers of the Public Information Bureau, the work being done either by the Director or under his supervision, by the Deputy Director, or jointly by both. The prefatory note to the Report was modified at the request of the Director so as to remove the responsibility for the views expressed therein from any one individual officer.

REPORT OF THE ROYAL COMMISSION ON LABOUR.

256. ***Mr. C. S. Ranga Iyer :** (a) Will Government be pleased to state if any correspondence has passed between His Majesty's Government and the Government of India on the Report of the Royal Commission on Labour in India ?

(b) If the answer to part (a) be in the affirmative, will Government be pleased to place the said correspondence on the table ? If not, why not ?

(c) Is it a fact that His Majesty's Government expect the Government of India to bring in early legislation to give effect to the recommendations of the Whitley Commission ? Do Government propose to do so ? If so, when ?

Mr. J. A. Shillidy : (a) and (b). In view of the questions which have been asked in Parliament regarding the action which is proposed to be taken on the recommendations made by the Royal Commission on Labour, the Secretary of State has asked how the Government of India propose to deal with the Report. The matter is still under consideration and the Government of India regret that they are not in a position to place a copy of the letter on the table of the House.

(c) The Government of India have received no communication to this effect from His Majesty's Government. The Report of the Whitley Commission is receiving close attention but no conclusion has yet been reached on any of the recommendations.

Mr. C. S. Ranga Iyer : Will Government be pleased to state when they are likely to publish their recommendations or their conclusions ?

Mr. J. A. Shillidy : I think, I would like to remind the Honourable Member, as I have no doubt he is already aware, that the Report runs to something over 470 pages. There are over 300 recommendations, some of which will have to be dealt with by the Central Government, while a great many of them will have to be dealt with by the Provincial Governments. Other recommendations can only be dealt with by workers and employers in conference or in agreement. It will not be possible for the Government of India to undertake to state what their conclusions will be on all the recommendations within any specified time. It is a very big work before us.

RETRENCHMENT PROPOSALS OF THE JUKES REPORT.

257. *Mr. Bhuput Sing : Will Government be pleased to state :

- (a) whether it is a fact that the Jukes Committee was appointed with a view to find out possible avenues in the civil administration of the Government of India in which some sort of retrenchment could be effected ;
- (b) whether it is a fact that the committee came into being as the effect of some decision arrived at by the Government of India on a Resolution of the Legislative Assembly ;
- (c) whether it is a fact that after the session of the Assembly was over in July 1930 immediately steps were taken by the Government of India to include some more appointments under the Protected Services with the consent of the then Secretary of State for India ;
- (d) whether it is a fact that such a step to augment the cadre of Protected Services was taken without the knowledge of the Legislature ;
- (e) whether it is a fact that the list of such appointments was published in an issue of the *Gazette of India* in August 1930 ; and
- (f) how such a step by which expenses in the civil administration were sure to augment was to fit in with the retrenchment scheme that was then being sought to be worked out ?

The Honourable Sir George Schnuter : (a) No Committee was appointed. Mr. Jukes was placed on special duty in the Finance Department to carry out in conjunction with that Department a detailed and technical review of the various causes operating to increase the administrative expenditure of the Central Government and to explore avenues of economy.

(b) The circumstances in which Mr. Jukes's appointment was made are briefly described in paragraphs 80—82 of my speech introducing the Budget for 1930-31 to which I would invite the Honourable Member's attention.

(c) to (f). It is not clear what particular appointments are referred to, but if the Honourable Member has in mind the case of the re-organisation of the cadre of the Indian Political Department which received the sanction of the Secretary of State in May 1930, I would point out that those portions of the scheme which would, if put into effect, involve extra expenditure, are being held in abeyance, for the present, on financial considerations.

REPATRIATION OF INDIAN SETTLERS FROM BRITISH COLONIES.

258. *Mr. Bhuput Sing : Will Government be pleased to state :

- (a) the British colonies and possessions which have undertaken the repatriation of the Indian settlers from those places ;
- (b) the details by which such a scheme is worked in those places ;
- (c) whether the Government of India have had any knowledge or intimation of such a scheme before it came into operation in those places ; and

- (d) whether they have thought of any retaliatory measure in respect of the people of those places which have undertaken the repatriation of the Indian settlers ?

The Honourable Khan Bahadur Mian Sir Fazl-i-Husain : (a), (b), (c) and (d). Indian labourers who emigrated to Fiji, British Guiana, etc., under a system of indenture were generally entitled to a free return passage in accordance with the terms of their agreement. Many of them avail themselves of this right. In South Africa an Assisted Emigration Scheme was brought into force as a result of the Cape Town agreement. Any Indian wishing to avail himself of this scheme is granted a bonus in addition to a free passage. In Ceylon and Malaya, economic depression, principally due to the fall in the price of rubber, has led to the discharge of a large number of Indian labourers who are being repatriated free of cost. The Government of India have remained in close touch with the situation in all its stages. The Honourable Member will observe that repatriation is not compulsory. The question of adopting retaliatory measures therefore does not arise.

Mr. Gaya Prasad Singh : Is it contemplated to instruct our delegates who will attend the Round Table Conference at Cape Town not to agree to a scheme of assisted emigration or repatriation ?

The Honourable Khan Bahadur Mian Sir Fazl-i-Husain : For the present no instructions have been framed.

Mr. B. Das : Will the matter be kept in view by the Government of India ?

The Honourable Khan Bahadur Mian Sir Fazl-i-Husain : Certainly.

RETRENCHMENT IN ACCOUNTS AND AUDIT DEPARTMENTS OF STATE RAILWAYS.

259. ***Mr. Bhuput Sing :** Will Government be pleased to state :

(a) whether in view of impending retrenchment schemes the Accounts and Audit Departments of the State Railways will be amalgamated and the Central Office cut down at Delhi ; and

(b) whether operatives of machine-accounting employed in State Railways will remain partially suspended for the sake of economy ?

Mr. A. A. L. Parsons : (a) The question is being considered.

(b) Most of the experiments started by Mr. Scott with regard to mechanised accounting have been suspended, but there is no proposal at present to suspend such processes of machine accounting as have passed the experimental stage, like the Clearing Accounts Office.

RESTRICTION OF STORES PURCHASES.

260. ***Mr. Bhuput Sing :** Will Government be pleased to state :

(a) the projects that have been formulated for restricting the activities of the Stores Purchase Department with a view to economise expenses ;

- (b) the particulars by which such projects are to be carried into effect ; and
- (c) the total amount that is expected to be saved by the operation of such projects ?

Mr. A. A. L. Parsons : It is understood that the Honourable Member refers to the work of stores purchase undertaken by railways. This is not dealt with by a separate department, and forms a fairly small portion of the work performed by the Chief Controllers of Stores on the different railways. For some time past the agency of the Indian Stores Department has been utilised for the purchase of certain classes of stores, and at periodical meetings with the Chief Controller of the Indian Stores Department additions are made to the list of articles so purchased. But though to some extent the purchasing activities of the Chief Controllers of Stores on railways have been curtailed in this way, a charge is made by the Indian Stores Department for purchase, so that it is impossible to say that the cost to railways of their purchasing organisation as a whole has been reduced. In so far as the Chief Controllers of Stores on railways are concerned, any decrease in their purchasing work owing to the arrangements with the Indian Stores Department has been effected by an increase in the local purchase of stores under the new Stores Purchase Rules.

CONSTRUCTION OF A CENTRAL RAILWAY STATION IN CALCUTTA.

261; ***Mr. Bhuput Sing :** Will Government be pleased to state -

- (a) whether there will be a Central Station at Calcutta on the completion of the Bally bridge ;
- (b) if so, the year by which such a project will be taken in hand ,
- (c) whether in the event of the establishment of the Central Station at Calcutta all through mail and passenger trains from the East Indian Railway will run direct up to that place ;
- (d) the time by which the Bally bridge is expected to be completed and trial trains will run up to Sealdah ; and
- (e) the estimated cost for the construction of the Calcutta Central Station ?

Mr. A. A. L. Parsons : (a) No.

(b), (c) and (e). Do not arise.

(d) The Bally Bridge is expected to be opened at the end of December, 1931.

DEFICITS INCURRED IN THE ADMINISTRATION OF BURMA AND THE BURMA RAILWAYS.

262. ***Mr. Bhuput Sing :** Will Government be pleased to state :

- (a) whether the administration in Burma has been carried on year by year with a regular deficit ;
- (b) if so, the total amount of such deficits incurred during the last two decades ;

- (c) whether the Burma railways have always been carried on with a loss ever since their introduction ; if so, the total amount of such loss ;
- (d) whether it is a fact that the Government of India have had to make annually contributions towards the military expenditure of Burma ; if so, the total amount paid during the last two decades ; and
- (e) the nature and particulars of contributions that the Government of Burma have to make to the Government of India year by year ?

The Honourable Sir George Schuster : (a), (b), (d) and (e). Precise replies to most of these questions are not possible. I, however, will send to the Honourable Member a printed note (copies of which have been supplied to Members of the Standing Finance Committee) which will give him same information on these points, and also some indication of the difficulties in furnishing exact answers.

(c) No. On the contrary from 1900 to 1930 there has been an annual profit.

RATE WAR CARRIED OUT AGAINST THE PIONEER MOTOR TRANSPORT STEAMER COMPANY IN EAST BENGAL.

263. *Mr. Bhuput Sing : Will Government be pleased to state :

- (a) whether they ever received any representation from an inland indigenous steamer company by the name of the Pioneer Motor Transport Company in East Bengal regarding rate-war carried against that company by two other inland British steamship companies by the names of I. G. N. S. and B. I. S. N. ;
- (b) if the answer to part (a) is in the affirmative, the steps they were pleased to take in the matter ;
- (c) the manner in which they moved in the matter ;
- (d) the effect of the steps they have taken ;
- (e) whether the steps are calculated to protect other indigenous companies in a similar predicament ; and
- (f) whether similar complaints from other Indian steamer companies have also reached them from other places in India ?

The Honourable Sir George Rainy : (a), (b) and (c). The attention of the Honourable Member is invited to the Commerce Department Resolution and Notification both numbered 351-M. I. (2)30, and dated the 25th July, 1931, which were published in the Gazette of India of the same date.

(d) The Government of India have no information as to the effect of the steps taken by them, but have so far received no further complaints on the subject.

(e) The orders issued by the Government of India relate to a particular stretch of inland waterway, and apply to all inland steam-vessels plying on that run, but they do not affect inland steamer companies plying on other runs.

(f) One other complaint has been received and the complainant company has been asked to furnish the Government of India with a full statement of its case.

PROPOSALS BEFORE THE RETRENCHMENT COMMITTEES.

264. *Mr. Bhuput Sing : Will Government be pleased to state :

- (a) whether there were any proposals before the Retrenchment Committee concerned to circumscribe the activities of the Tariff Board for the sake of retrenchment ; if so, the decision since arrived at by Government ;
- (b) whether there were any proposals before the Retrenchment Committee concerned to limit the activities of the Imperial Agricultural Research Association for the same purpose ; if so, the decision arrived at by Government ;
- (c) whether there were any proposals before the Retrenchment Committee concerned to suspend the annual Simla move of the civil departments for the next three years by way of retrenchment ; if so, the decision arrived at by Government ; and
- (d) whether in effecting retrenchment the members of the Committees experienced any difficulty in getting over the effect of the Lee recommendations ?

The Honourable Sir George Schuster : I regret that I cannot make any statement regarding the proposals under consideration by the Retrenchment Committees until Government have received and considered their reports.

REGULATION OF MOTOR VEHICLES IN AJMER-MERWARA.

265. *Khan Bahadur Haji Wajihuddin : (a) Is it a fact that under rule 93 (b) of the rules for the regulation of motor vehicles in Ajmer-Merwara, framed by the Honourable the Chief Commissioner, Ajmer-Merwara, permission is granted to a *limited* number of proprietors of motor-buses to ply for hire in the district ?

(b) Is it a fact that the effect of the above rule has been that some particular proprietors of motor-buses have acquired from Government the *monopoly* of the use of certain public roads, whereas all motor-buses owned by other proprietors and plying for hire are forbidden to use the said public roads ? If so, will Government please state on what grounds the monopoly of public roads is given to a few persons and why others are denied the enjoyment of the right of using public roads ?

(c) Is the monopoly of the use of particular public roads given to the highest bidder at public auction ? If not, why not ?

(d) Do Government propose to abolish the grant of monopoly of the use of public roads in Ajmer-Merwara to particular proprietors of motor-buses plying for hire and to throw open the use of such public roads to all the proprietors of registered and licensed motor-buses ? If not, why not ?

Mr. E. B. Howell : (a) Rule 93 (b) of the Ajmer-Merwara Motor Vehicles Rules provides that :

“ The District Authority shall have the power to regulate the number of proprietors of motor buses and motor lorries plying for hire in the District or on any particular road, and the number of such vehicles that may be allowed on any particular road.”

In accordance with this rule a maximum number of public motor omnibuses allowable on each route, except the two routes on which for special reasons monopolies have been allowed, has been fixed by the District Authority which consists of the District Magistrate, the Superintendent of Police, the Executive Engineer and two non-official members.

(b) The monopolies were given more than three years before this rule came into force. There was, however, a similar rule in force at that time to the following effect :

“ The District Authority shall have the power to regulate the number of proprietors of motor buses and motor lorries plying for hire in the district.”

Only two monopolies have, as stated above, been allowed. One is on the Beawar-Todgarh Road. There is not much traffic on this road and, as it is a hilly road and dangerous in parts, a monopoly is considered advisable. The other is on the Nasirabad-Kekri-Deoli Road. The monopoly system was introduced because the competitive system had been tried and found to be most unsatisfactory. Many complaints were received from the public and it was decided that a regular, punctual and efficient service for the small and isolated towns of Kekri and Deoli could only be secured if a contract for the service carrying with it the mail contract were given to a single firm. There is very little traffic on this road and no scope for healthy competition. The contract only extends to public passenger omnibuses.

(c) No. There is no question of auction, as the right to ply omnibuses is not sold.

(d) The matter has been very carefully considered in all its aspects and on the recommendation of the District Authority the Local Administration has decided that when the present monopolies expire further monopolies shall be granted but not necessarily to the present contractors. Offers will be invited and when all applications have been received the contracts will be given to the applicants considered best qualified to provide the public with an efficient service at reasonable rates. The reasons have been explained in the answer to question (b).

ABOLITION OF THE POST OF EDUCATIONAL COMMISSIONER WITH THE GOVERNMENT OF INDIA.

266. ***Khan Bahadur Haji Wajihuddin :** (a) Is it a fact that the Indian Retrenchment (Inchcape) Committee recommended the abolition of the post of the Educational Commissioner with the Government of India after the inauguration of the reforms introduced by the Government of India Act, 1919 ?

(b) Is it a fact that instead of abolishing the post of the Educational Commissioner, the Government of India abolished the post of the Superintendent of Education of Delhi and Ajmer-Merwara and amalgamated the duties of the said post with the Educational Commissioner in 1923 ?

(c) Have Government received complaints that since 1927 the affairs of the Education Department in Delhi and Ajmer-Merwara have suffered from great mismanagement ?

(d) Is it a fact that the post of Superintendent of Education, Delhi and Ajmer-Merwara, has been revived and the Educational Commissioner with the Government of India relieved of the duties of the Superintendent of Education of Delhi and Ajmer-Merwara ? If so, why ?

(e) Do Government propose to abolish the post of the Educational Commissioner with the Government of India as recommended by the Inchcape Committee in view of the present financial crisis ?

The Honourable Khan Bahadur Mian Sir Fazl-i-Husain : (a) and (c). Yes.

(b) The post of Superintendent of Education for Delhi and Ajmer-Merwara was held in abeyance and the Educational Commissioner with the Government of India was put in collateral charge of the duties of that post in 1923 as an experimental measure.

(d) Yes. The combination of the two posts under a single officer proved to be most unsatisfactory and prevented the Educational Commissioner from doing justice to the duties of either appointment. The Chief Commissioners of Delhi and Ajmer-Merwara both protested against the continuance of the arrangement. A post of whole-time Superintendent of Education for Delhi, Ajmer-Merwara and Central India has accordingly been created temporarily, as an experimental measure, up to the 31st March, 1932.

(e) Government consider it essential to have a post of educational expert at headquarters, but are considering whether in present circumstances there can be any temporary reduction in its status.

ABOLITION OF THE POST OF ASSISTANT SUPERINTENDENT OF EDUCATION IN AJMER-MERWARA.

267. ***Khan Bahadur Haji Wajihuddin :** (a) Is it a fact that on the amalgamation of the duties of the Superintendent of Education of Delhi and Ajmer-Merwara with those of the Educational Commissioner with the Government of India, a part-time Assistant Superintendent of Education for the Delhi Province and a whole-time Assistant Superintendent of Education for the Province of Ajmer-Merwara were appointed ?

(b) Is it a fact that on the revival of the post of the Superintendent of Education of Delhi and Ajmer-Merwara in 1931 the post of the part-time Assistant Superintendent of Education, Delhi, has been abolished ?

(c) Is it a fact that the post of the Assistant Superintendent of Education of Ajmer-Merwara has not been abolished, in spite of the appointment of the whole-time Superintendent of Education ?

(d) If reply to part (c) above be in the affirmative, do Government propose to abolish the post of the Assistant Superintendent of Education of Ajmer-Merwara in view of the present strain on the public funds ?

The Honourable Khan Bahadur Mian Sir Fazl-i-Husain : (a), (b) and (c). Yes.

(d) No. Government consider that the retention of the post is necessary.

COMPLAINTS AGAINST THE ISTIMRARDAR OF PISANGAN.

268. ***Khan Bahadur Haji Wajihuddin** : (a) With reference to Government's reply to starred questions Nos. 268 to 275, in the Legislative Assembly on the 16th July, 1930, regarding complaints against the Istimrardar of Pisangan, will Government please state whether they have received a report from the local authorities on all those questions ? If so, will Government please place the said report on the table ?

(b) Will Government please state what action they have taken in the matters mentioned in those questions as promised in Government reply under reference ?

The Honourable Khan Bahadur Mian Sir Fazl-i-Husain : (a) Yes. A copy of the answers to the questions referred to by the Honourable Member was placed in the Library of the House in January last. The answers contain the information furnished by the local authorities.

(b) Government had only promised that on receipt of the report of the local authorities they would consider what further action, if any, should be taken. They came to the conclusion that the only action necessary was to revise the Ajmer Land and Revenue Regulation. The revision will be undertaken as soon as circumstances permit.

CONFERENCE ON THE INDIAN QUESTION IN SOUTH AFRICA.

269. ***Mr. B. Das** (on behalf of Mr. K. C. Neogy) : (a) Will Government be pleased to state what arrangements are being made for the conference between representatives of the Government of India and of the South African Government to be held early next year ?

(b) Has the personnel of the Conference been decided ; if so, what ?

(c) What are the terms of reference to this Conference ?

(d) Will Indians domiciled in South Africa be directly represented at the conference ? If not, why not ?

The Honourable Khan Bahadur Mian Sir Fazl-i-Husain : (a) (b) and (c). The Conference is arranged to be held in Cape Town between the 10th and 15th January, 1932. The personnel has not yet been settled. The agenda will be arranged as on the last occasion at the beginning of the Conference, when the representatives of both countries meet. Briefly, the subjects for consideration will be the Cape Town Agreement of 1927 in the light of experience gained since its inception, and the position in the Transvaal with which the Asiatic Tenure (Amendment) Bill was intended to deal.

(d) In a conference between the representatives of the two Governments, *prima facie* there is no scope for inclusion of direct representation of the resident Indian community. Every endeavour will, however, be made to ensure that the representatives of this community are given suitable facilities to place their views before the Indian Delegation to the Conference.

Mr. K. Ahmed : When are the representatives of the Government of India expected to start from India and when are they expected to return to Delhi ?

The Honourable Khan Bahadur Mian Sir Fazl-i-Husain : Return as early as possible.

APPOINTMENT OF MR. BOVENSCHEN TO THE ARMY RETRENCHMENT SUB-COMMITTEE.

270. *Mr. B. Das (on behalf of Mr. K. C. Neogy) : (a) Will Government be pleased to state the terms on which Mr. Bovenschen was brought from the War Office as a member of the Army Retrenchment Sub-Committee ?

(b) What are the qualifications for which he was selected as a member ?

The Honourable Sir George Schuster : (a) I lay a statement on the table.

(b) Mr. Bovenschen has had wide financial experience at the War Office in which he has served for 23 years. He has held, among other posts, that of Private Secretary to Sir Charles Harris, then Assistant Financial Secretary to the War Office, Financial Adviser to the Master General of Ordnance, and Assistant Secretary in charge of the Estimate Branch.

Statement showing the terms of employment of Mr. Bovenschen.

1. Pay as Assistant Secretary, War Office—paid by the Secretary of State, in England—at the rate of about £1,360 a year.
2. Outfit allowance £50.
3. Voyage allowance at £66-13-4 a month from 21st May—date of departure from London—to 5th June, 1931, date of arrival in Bombay and for return journey.
4. Daily allowance at Rs. 15 when not in receipt of travelling allowance.
5. Compensatory allowance at Rs. 1,000 a month in India.
6. First class B. P. and O. return passage to England.
7. First class travelling allowance in India under the Fundamental Rules.

These terms give him practically the pay of a European member of the Indian Civil Service of 23 years' service.

The Honourable Sir George Schuster : It may interest Honourable Members to know in connection with this question that I have received a letter signed by all the four Members of the Legislature who are on this Sub-Committee and who were present when they saw this question expressing very great appreciation of the services of Mr. Bovenschen. The letter ends as follows :

“ As you know to many of us on the Committee, Army matters were a sealed book hitherto and we can say most confidently that Mr. Bovenschen was most helpful to us and we are looking forward to his invaluable assistance in finishing the labours entrusted to us and we hope it will be possible for you to secure his services again when we next meet which we hope to do in December.”

Mr. Gaya Prasad Singh : The names of Members who signed this ?

The Honourable Sir George Schuster : Diwan Bahadur T. Rangachariar, the Honourable Major Akbar Khan, Sir Muhammad Yakub and the Honourable Sardar Shiv Deo Singh Uberoi.

Mr. B. Das : Did the Honourable Member ask for the opinions of these Honourable Members or were they voluntary ?

The Honourable Sir George Schuster : It was an entirely voluntary testimonial.

THE MOVE TO AND FROM SIMLA.

271. *Mr. B. Das (on behalf of Mr. K. C. Neogy) : (a) Will Government be pleased to state the date for the official move of the Government of India Secretariat to Delhi for the forthcoming winter ?

(b) Will Government be pleased to state when the Government of India will be moving up to Simla from Delhi for next summer ?

(c) Is there any intention to curtail the period of stay in Simla in the next summer ?

(d) What are the offices of the Government of India Secretariat which will be moving up to Simla for the next summer in full strength and what offices will move up in reduced strength ?

(e) Which of the attached offices now moving up to Simla will be located in Delhi for the next summer ?

(f) Are the Government of India aware that officers and members of establishment have to renew their house leases for the next year long before they move down to Delhi ? If so, do Government propose to make an early announcement on the subject of the move to Delhi and the move up to Simla next year ?

The Honourable Sir James Crerar : (a) The offices of the Government of India will close in Simla on the 17th October and re-open in Delhi on the 19th October, 1931.

(b) No date has yet been fixed.

(c) The period of stay in Simla varies to a certain extent from year to year owing to exigencies of work. There is no intention at present to make any change in the existing practice.

(d) and (e). I am unable to give an answer to these questions at present. The question of reducing the staff which comes up to Simla has been raised by the Retrenchment Committee and will be examined by the Departments concerned.

(f) The dates of the forthcoming move to Delhi have already been published and those for the move to Simla next year will be announced as early as practicable.

Mr. Gays Prasad Singh : May I know if the Report of the Retrenchment Committee will be placed on the table of the House and an opportunity given to Honourable Members to express an opinion before action is taken thereon ?

The Honourable Sir George Schuster : That, Sir, is a question to which Government cannot give any specific answer just at present. As announced by His Excellency the Viceroy in his speech yesterday, Government will take an early opportunity to inform the House of their plans as regards finance and the consideration of the Retrenchment Committee's report.

NAMES OF MEMBERS OF THE BOMBAY ADVISORY COMMITTEE OF THE GREAT INDIAN PENINSULA RAILWAY.

272. *Mr. Muhammad Azhar Ali (on behalf of Mr. Abdul Matin Chaudhury) : (a) Will Government be pleased to give a list of the names

of individuals, nominated by the Agent, Great Indian Peninsula Railway, to the Bombay Advisory Committees during the last six years ?

(b) How many of the nominees have been drawn from the staff of the *Times of India* ?

(c) Do the Great Indian Peninsula Railway and other railway officials place large printing and publishing orders with the *Times of India* ?

Mr. A. A. L. Parsons : (a) and (b). Under the constitution of the Bombay Advisory Committee of the Great Indian Peninsula Railway, the Agent is allowed to nominate one member to the Committee. His nominee has been Mr. Sheppard, Editor, *Times of India*, since June 1924, and during Mr. Sheppard's absence from India for about six months in each of the years 1925, 1926 and 1929, Messrs. Walker, Linklater and Low, respectively, who are on the staff of the *Times of India*, were nominated by the Agent.

(c) The Great Indian Peninsula Railway, the Central Publicity Bureau, Indian State Railways, and the Railway Board place some of their printing orders with the *Times of India* Press. Government have no information as to what other railway officials place orders for printing with this Press.

**PAYMENTS BY THE GREAT INDIAN PENINSULA RAILWAY TO THE
Times of India OFFICE FOR PRINTING AND STORES.**

273. ***Mr. Muhammad Azhar Ali** (on behalf of Mr. Abdul Matin Chaudhury) : (a) What is the sum total of bills passed through the Publicity Office, Great Indian Peninsula Railway, to pay the *Times of India* in respect of printing and stores during 1929 and 1930 ?

(b) What were the corresponding receipts of the *Times of India* in 1927 and 1928 ?

(c) Have Indian presses been patronised on a similar scale ?

(d) Are Government aware that printing concerns in Calcutta are relatively ignored in railway publicity ?

Mr. A. A. L. Parsons : (a), (b) and (c). I place on the table a statement showing the total amounts of the bills paid to the *Times of India* Press and other Indian Presses during the four financial years ending 31st March, 1931.

(d) Printing concerns in Calcutta have been given orders for printing miscellaneous publicity material which the Eastern Bengal and East Indian Railways were unable to print in their own presses.

Statement.

	1927-28.	1928-29.	1929-30.	1930-31.
	Rs.	Rs.	Rs.	Rs.
<i>Times of India</i> Press ..	36,761	51,511	67,131	53,906
Other Indian Presses..	38,439	35,814	60,782	37,618

Figures shown against the *Times of India* Press do not include the following payments made for the printing of the All-India Time Table for

which tenders were invited before the order was placed with the *Times Press* :

1929-30.	1930-31.
Rs.	Rs.
73,978	54,985

Mr. B. Das : Is the Honourable Member aware that the Government printing presses are at times idle and may I know why the Railway Board do not invite quotations from the Government printing presses for publishing the activities of the Publicity Department ?

Mr. A. A. L. Parsons : We do place a good deal of our work with the Government printing presses, but if the Honourable Member's suggestion is that when, for example, the East Indian Railway or the Eastern Bengal Railway have surplus work which they cannot do, they should invite the Government presses in Calcutta to compete for that work, I will have that suggestion considered.

Mr. B. Das : That was my suggestion.

APPOINTMENT OF THE PUBLICITY OFFICER OF THE GREAT INDIAN PENINSULA RAILWAY AFTER CONSULTATION WITH THE *Times of India*.

274. ***Mr. Muhammad Azhar Ali** (on behalf of Mr. Abdul Matin Chaudhury) : (a) Is there anything on record to show that the Publicity Officer of the Great Indian Peninsula Railway was selected after consultation with the *Times of India* in order to ensure "harmonious co-operation" ?

(b) Are Government prepared to lay on the table the correspondence which led to the appointment of the Publicity Officer of the Great Indian Peninsula Railway ? Is he a close relative of the *Times of India's* nominee on the Board ?

Mr. A. A. L. Parsons : (a) No. The officer in question was in the service of the Great Indian Peninsula Railway before his appointment as Publicity Officer and the *Times of India* had nothing whatever to do with the appointment.

(b) There was no correspondence. If the suggestion is that there is a nominee of the *Times of India* on the Railway Board, the Honourable Member must be aware that it is entirely without foundation.

EMPLOYEES OF THE *Times of India* NOMINATED TO THE BOMBAY RAILWAY ADVISORY COMMITTEE.

275. ***Mr. Muhammad Azhar Ali** (on behalf of Mr. Abdul Matin Chaudhury) : (a) Are Government prepared to caution the Agent of the Great Indian Peninsula Railway against the practice of restricting his nomination on the Advisory Board to the Directors and employees of the *Times of India* ?

(b) Is it a fact that there is no representation of Labour on the Committee ? If so, are Government prepared to advise the Agent on the desirability of transferring the *Times of India's* seat to a representative from the Railwaymen's Federation ?

Mr. A. A. L. Parsons : (a) and (b). There is no representative of Labour on the Great Indian Peninsula Railway's Bombay Advisory Committee. As stated in my reply to the Honourable Member's question No. 272, under the constitution of this Committee, the Agent is allowed to nominate one member to the Committee, and Government do not propose to interfere with the Agent's discretion in making this nomination.

**CLOSING DOWN OF THE OPERATIONS OF THE RAILWAY PUBLICITY
DEPARTMENT.**

276. *Mr. Muhammad Azhar Ali (on behalf of Mr. Abdul Matin Chaudhury) : (a) Have Government decided to close down the operations of the Railway Publicity Department ?

(b) How many officers have been discharged from railway publicity work since January 1st, 1931 ? How many of them are Indians ?

Mr. A. A. L. Parsons : (a) No.

(b) Two, one of whom is an Indian.

**MESSRS. TATA AND COMPANY'S OFFERS FOR RUNNING THE AIR MAIL
SERVICE IN INDIA.**

277. *Mr. Gaya Prasad Singh : (a) Will Government kindly make a statement giving in brief detail the offers made from time to time by Messrs. Tata's for running the air mail service in India, and the circumstances under which they were not accepted by Government ?

(b) What is the present position and future prospects of this air service, and how has it been affected by retrenchment ?

Mr. J. A. Shillidy : (a) Messrs. Tata Sons Limited have submitted three schemes for the operation of air services from Karachi to Bombay or South India.

First Scheme.—The scheme submitted in July, 1929, was shortly afterwards withdrawn and a revised scheme was submitted in November, 1929. This contained 3 alternatives :

(1) An air mail service between Karachi and Bombay.

(2) An air mail and passenger service between Karachi and Bombay.

(3) A seaplane service between Karachi and Colombo.

The first alternative which was given serious consideration and formed the subject of several discussions between the Company and the Department concerned involved the payment by Government of an annual subsidy of Rs. 1,10,000 in return for which all mails would be carried.

After very careful consideration, it was concluded that it would not be possible to make financial provision for this service, particularly in view of the fact that the saving in time provided was practically negligible.

Second Scheme.—In April, 1930, unofficial negotiations were opened between Messrs. Tata Sons Limited and the Director of Civil Aviation

as a result of which the Company submitted, unofficially, proposals for an air mail service, operated with small aircraft, between Karachi, Bombay and Madras. The Government of India were asked to pay Rs. 4 per lb. for the carriage of mails and to guarantee the Company an income of Rs. 98,000 a year. These proposals were given very careful consideration, until the whole programme of civil aviation expenditure was referred to the Retrenchment Committee. While proposals to abandon any Government expenditure on the Indian State Air Service from Karachi to Calcutta were under consideration, it was impossible to justify the expenditure of even the small amount of subsidy involved for another air service. The Company were informed accordingly, but in response to suggestions made to them they have now submitted a third scheme.

Third Scheme.—In July, 1931, the Company submitted, unofficially, proposals for the establishment of an air mail service from Karachi to Bombay and Madras, with a contemplated ultimate extension to Colombo, on condition that they should be given a monopoly of air mail carriage on this route for a period of 10 years at certain rates proposed.

These proposals are now being considered from the point of view of their financial effect and the practicability of the rates proposed under the terms of the universal Postal Convention. The Company has been so informed.

(b) Further information with regard to the present position and future prospects of this air service cannot be given until Government have reached a decision on the recommendations of the Retrenchment Committee.

Mr. Gaya Prasad Singh : May I know whether, before arriving at any conclusion on this important point, an opportunity will be given to this House to express its opinion thereon ?

Mr. J. A. Shillidy : I will put that suggestion before Government for consideration.

ACTIVITIES OF BRITISH INDIAN MUSLIMS IN CONNECTION WITH THE KASHMIR STATE.

278. ***Mr. S. C. Mitra :** (a) Has the attention of Government been drawn to the proceedings of the meeting recently held in Simla attended by several Muslims of the Punjab, wherein the internal affairs of the Indian State of Kashmir were discussed and certain recommendations made ?

(b) Has the attention of Government been drawn to the proposed Muslim *jathas* to march to the State of Kashmir ?

Mr. E. B. Howell : The reply to both parts of the questions is in the affirmative.

LEADING ARTICLES IN THE *Statesman* ON THE POLITICAL POSITION.

279. ***Mr. S. C. Mitra :** (a) Has the attention of Government been drawn to a series of leaders in the *Statesman* following the murder of Mr. Garlick ?

(b) Have Government taken legal opinion as to whether these articles offend against section 124-A and 153-A, I. P. C.? If not, do Government propose to take such legal opinion?

The Honourable Sir James Orerar : (a) I have seen the articles to which the Honourable Member apparently refers.

(b) The answer to both these questions is in the negative.

**BRITISH AND INDIAN POLITICAL AGENTS AND DEPUTY COMMISSIONERS
IN THE NORTH-WEST FRONTIER PROVINCE.**

280. ***Mr. S. C. Mitra :** (a) How many Deputy Commissioners and Political Agents are there in the North-West Frontier Province?

(b) How many of them are Indians and how many Britishers?

(c) How many of the British officers acting as Deputy Commissioners and Political Agents are junior in service to the Indian officers who are borne on the Foreign and Political list?

Mr. E. B. Howell : (a) and (b). There are six Deputy Commissioners (including one Joint Deputy Commissioner) and five Political Agents in the North-West Frontier Province and all of them are Europeans.

(c) Four of the Deputy Commissioners and three of the Political Agents are junior to one Indian Officer of the Political Department serving in the North-West Frontier Province. But that Indian Officer, like all the eleven European Officers above mentioned, is holding a superior appointment, namely that of District and Sessions Judge.

GAZETTED OFFICERS IN THE NORTH-WEST FRONTIER PROVINCE.

281. ***Mr. S. C. Mitra :** (a) How many officers drawing a salary of over Rs. 500 are Indian in the North-West Frontier Province?

(b) How many of them are Hindus, Sikhs and Muslims?

(c) How many gazetted officers in the (i) Educational, (ii) Medical, (iii) Agricultural and (iv) Judicial Departments of the North-West Frontier Province are Hindus, Sikhs and Muslims respectively?

Mr. E. B. Howell : A statement furnishing the required information is laid on the table.

Statement showing number of officers drawing a salary of more than Rs. 500 per mensem serving in the North-West Frontier Province.

	Hindus.	Sikhs.	Muslims.	Total.
Number of Indian officers drawing more than Rs. 500 ..	11	1	48	63†
Number of Gazetted officers serving in the Educational Department ..	Nil.	Nil.	11	11
Number of Gazetted officers serving in the Medical Department ..	9	2	10	21
Number of Gazetted officers serving in the Agricultural Department ..	Nil.	Nil.	3	3
Number of Gazetted officers serving in the Judicial Department ..	1	1	12	14

† Includes 2 Parsees and 1 Christian.

APPOINTMENT OF AGRICULTURAL DEMONSTRATORS IN THE NORTH WEST FRONTIER PROVINCE.

282. *Mr. S. C. Mitra : (a) How many of the Agricultural Demonstrators in the North West Frontier Province are Hindus, Sikhs and Muslims ?

(b) Is it a fact that there are at present four posts of Agricultural Demonstrators vacant ? If so, why have they not been filled up ? Are qualified candidates available ?

(c) Is it a fact that instructions have gone from the Government of India to the departmental head concerned that these posts should be kept vacant till qualified Muslims are available ?

The Honourable Khan Bahadur Mian Sir Fazl-i-Husain : (a) and (b). If the Honourable Member is referring to Agricultural Assistants, I would inform him that there are 14 such appointments in the North-West Frontier Province, one of which at present is held by a Hindu and four by Muhammadans. If he is referring to Kamdars, there are twelve such posts, all of which are vacant at present.

The vacant posts of Agricultural Assistants and the posts of Kamdar will not be filled up until the agricultural policy of the North-West Frontier Province has been reviewed next month in consultation with the Agricultural Expert of the Imperial Council of Agricultural Research.

(c) No.

CANDIDATES FROM THE NORTH WEST FRONTIER PROVINCE SENT TO THE AGRICULTURAL COLLEGE, LYALLPUR.

283. *Mr. S. C. Mitra : (a) How many Hindus, Sikhs and Muslims are sent to the Agricultural College, Lahore, at the instance or on the recommendation of the North West Frontier Province Government annually ?

(b) Is it a fact that Government have declared that no Hindu or Sikh can be sent hereafter ? If so, what are the reasons ?

The Honourable Khan Bahadur Mian Sir Fazl-i-Husain : (a) As there is no Agricultural College at Lahore, the Honourable Member is presumably referring to the one at Lyallpur. The North-West Frontier Province does not send any fixed number of students to that College, but has prior claim to nine seats in it. Candidates are not selected by communities ; nine Muhammadans and six Hindu students are there at present.

(b) No.

A COMMITTEE ON FRONTIER DEFENCE.

284. *Mr. S. C. Mitra : (a) Will Government be pleased to state whether there is a Committee recently appointed under the chairmanship of Mr. Howell to consider the question of the adequacy of the defence on the frontier ?

(b) Do Government propose to place a copy of the report on the table of the House ; if not, why not ?

Mr. E. B. Howell : (a) Yes, Sir.

(b) The recommendations made in the report are still under the consideration of the Government of India, and it contains a good deal of information, the publication of which would not be, in the public interest.

CASUALTIES IN THE PESHAWAR RIOTS OF 1930.

285. *Mr. S. C. Mitra : (a) Will Government be pleased to state how many people were killed and injured among the public and among the Government officials in the happenings at Peshawar on the 23rd April 1930 and in the happenings in the same city on the 31st May and 1st June 1930 ?

(b) Is it a fact that many of the killed were taken in Government lorries outside the city and buried ?

Mr. E. B. Howell : (a) So far as can be ascertained the following were the casualties :

<i>Public.</i>		Killed.	Injured.
23rd April, 1930	.. ..	30	33
31st May, 1930	.. ..	11	24
<i>Government Officials.</i>		Killed.	Injured.
23rd April, 1930	.. ..	1	13
31st May, 1930	.. ..	nil	nil

No one was killed or injured on 1st June, 1930.

(b) No ; relatives and friends were allowed to take away without hinderance the bodies of the dead for burial. The burial, however, of seven or eight of the killed whose relatives or friends could not be traced was arranged with the help of some of the citizens of Peshawar and was carried out with all due performance of the customary rites. As far as is known, no Government lorries were used.

APPOINTMENT OF A DEVELOPMENT COMMISSIONER FOR THE NORTH WEST FRONTIER PROVINCE.

286. *Mr. S. C. Mitra : (a) Will Government be pleased to state why it has been found necessary to appoint a Development Commissioner for the North West Frontier Province, and whether, in view of the financial position of that province, Government are prepared to cancel the proposed appointment ?

(b) What are the schemes for development, so far as Education, Medical relief and Agriculture are concerned, that are proposed to be taken up in the North West Frontier Province during the current year ?

(c) Have Government considered the advisability of stopping all these schemes in view of the present financial situation ?

The Honourable Khan Bahadur Mian Sir Fazl-i-Husain : (a) It was found necessary to appoint a Development Commissioner in the North-West Frontier Province, very largely in order that the administration might be better able to deal with economic development in the Province

and thus improve the financial position. Apart from this the Commissioner was required to help with the introduction of the elective principle in local bodies. It is not therefore wise to cancel the appointment of Development Commissioner.

(b) The schemes for the development of education, medical relief and agriculture, for which provision was made in the current year's Budget grants are briefly as follows :

(1) *Education*.—A sum of Rs. 66,000 has been provided to meet urgent needs in the expansion of vernacular education, mainly the training and employment of additional teachers.

(2) *Medical Relief*.—A sum of Rs. 1,26,400 has been provided to meet expenditure on schemes for the opening of 6 rural dispensaries, improvements to the Female Section of the Lady Reading Hospital, Peshawar, and the posting of women sub-assistant surgeons to three tehsil headquarters hospitals.

(3) *Agriculture*.—A sum of Rs. 13,000 has been provided to meet expenditure on the employment of additional agricultural staff.

(c) Yes. The question of holding some part in abeyance is under consideration.

COST OF THE BARA WAFAT-KHAJURI ROAD AND THE MILITARY OPERATIONS ENTAILED IN ITS CONSTRUCTION.

287. ***Mr. S. O. Mitra** : (a) What is the cost of making the new road from Bara Wafat, called Khajuri Road, to which reference was made by the Prime Minister in Parliament recently ?

(b) What is the nature of the military operations that were carried out in connection with the making of this road or otherwise at the time ?

(c) What is the cost of these military operations ?

(d) How many battalions were engaged in it ?

(e) What was the total number of casualties in (i) killed and (ii) wounded during the Khajuri operations ?

Mr. G. M. Young : (a) Rs. 1,75,613.

(b) The road was built in connection with the operations undertaken to prevent Afridi incursions into the Peshawar District.

(c) The total cost of operations in the Peshawar and Kohat Districts including the movements of troops, but excluding Military Engineer Service charges and value of bombs, amounted to Rs. 33 lakhs. The total Military Engineer Services expenditure reported amounts to approximately Rs. 11½ lakhs.

(d) Initially 12 Infantry battalions and Pioneer battalion : now reduced to 2 Infantry battalions.

(e) Casualties are as follows :

Killed or died of wounds. 1 British Officer, 1 British Other Ranks, 5 Indian Other Ranks.

Wounded. 2 British Officers, 8 British Other Ranks, 1 Indian Officer and 25 Indian Other Ranks. The casualties sustained by the hostiles are not known.

COST AND EFFECT OF BOMBING OPERATIONS ON THE FRONTIER.

288. ***Mr. S. C. Mitra** : (a) What is the total cost of the bombs used in the bombing operations last year on the frontier ?

(b) What is the total number of casualties believed to have been effected by such bombing operations ?

Mr. G. M. Young : (a) Approximately Rs. 21 lakhs.

(b) No estimate is possible.

THE MOVE TO SIMLA.

289. ***Mr. S. C. Mitra** : Have Government come to any conclusion as to the need for the move to Simla ?

The Honourable Sir James Crerar : The attitude of the Government of India is explained in my reply to parts (e) and (f) of question No. 174 asked in the Assembly by Mr. T. N. Ramakrishna Reddi on the 11th February 1931, to which I would refer the Honourable Member. The question whether any reduction can be effected in the staffs of the different Secretariats who come up to Simla has been raised of the Retrenchment Committee and is still under the consideration of the Departments.

Mr. Lalchand Navalrai : Will the Honourable Member be pleased to state whether he is aware that opinions of Members of both Houses of the Legislature have been called for out this point, and if so what are their opinions ?

The Honourable Sir James Crerar : I am not quite clear as to the occasion to which the Honourable Member refers.

Mr. Lalchand Navalrai : Opinions of the Members on this question of the move to Simla were called for : what I want to know is what are those opinions.

The Honourable Sir James Crerar : As I say, I am not quite aware to what the Honourable Member refers, and I would suggest that he should refer to the proceedings of this House.

Mr. Lalchand Navalrai : Very recently I got a letter from the Government of India—only a month back.

The Honourable Sir James Crerar : I am prepared to accept the Honourable Member's statement.

LACK OF DRINKING WATER AT MARWAT, BANNU DISTRICT.

290. ***Dr. Ziauddin Ahmad** : (a) What is the area of Marwat tract comprised in Tehsil (Lekki) District Bannu, North West Frontier Province, excluding the area known as Elage Nar ? Is it not over 1,500 square miles ?

(b) What is the population inhabiting this area ?

(c) Is it a fact that soil in this tract produces wheat and barley in large quantities without irrigation ?

(d) Is it a fact that there are less than half a dozen wells to supply drinking water to this tract ?

(e) Are Government aware that men and women have to walk sometimes over 20 miles every day to fetch water for cooking and drinking ?

(f) Is it a fact that there are more cases of abduction of women in this tract than in any other area ?

(g) Are Government aware that people in this tract to avoid labour of walking sometimes take drinking water from ponds where rain water is temporarily gathered after rainy season ?

(h) Are Government aware that cattle pollute the pond water, and make the water insanitary ?

(i) Is it not a fact that a large number of persons suffer from guinea-worm disease on account of drinking impure water ? What is the number of persons now suffering from this disease ?

(j) What steps, if any, have Government taken to supply drinking water ?

(k) What report, if any, has the Development Commission appointed this year in the North West Frontier Province written on this subject ?

(l) Are Government aware that money sanctioned by the District Board, Bannu, for cleaning the few wells in this tract was not spent in cleaning the wells ?

(m) Do the Government of India propose to take any step to remove the genuine grievances of the people ?

Mr. E. B. Howell : (a) The area of the three unirrigated assessment circles of the Marwat Tahsil, viz., Pakka, Gadwad and Shigha to which the question presumably refers, measures approximately 440 square miles.

(b) 67,513.

(c) Yes, if there is rain.

(d) There are four wells maintained by the District Board, three by M. E. S. and a number of private wells.

(e) Water is undoubtedly scarce and the people of certain villages have to go long distances for water.

(f) No definite answer is possible as it is not known with what other tracts it is desired to make comparison.

(g) and (h). Yes.

(i) Guinea-worm is rife in Marwat and in other tracts also where stagnant water is drunk from ponds or tanks. No statistics as to the number of people suffering from this disease are available.

(j) and (m). The Government of India have undertaken to supply funds on receipt of a suitable scheme. Geological reports do not indicate the probability of satisfactory supplies, but the matter is being further investigated by the Irrigation Department at the moment.

(k) None.

(l) No.

**SAFEGUARDING THE INTERESTS OF MUSLIMS IN REDUCTIONS OF CLERKS
IN FRONTIER CIVIL ACCOUNTS AND AUDIT OFFICES.**

291. ***Seth Haji Abdoola Haroon** : (a) Has the attention of Government been drawn to a message in the *Muslim Outlook* of the 19th July, 1931 regarding reduction of about 24 Peshawari clerks as the result of the proposed amalgamation of the Frontier Civil Accounts and Audit Offices ?

(b) Are Government aware that this news has created an alarm in the educated circles of the province, since the local Muslim employees are temporary ?

(c) Is it a fact that :

(i) Muslims form only 43 per cent. of the present total strength of the Accounts Office at Peshawar ;

(ii) out of it only 21 per cent. belong to that province ;

(iii) the share of this community in the supervising staff is about 22 per cent. ; and

(iv) the combined ratio of Muslims and non-Muslims of the Frontier in those offices is about 80 per cent.

(d) If reply to above be in the affirmative, will Government be pleased to state what specific action do they propose to take to safeguard the Muslim interests ?

The Honourable Sir George Schuster : With your permission, Sir, I will reply to questions Nos. 291, 293 and 294 together.

The Honourable Member is referred to the replies given by me to Maulvi Muhammad Shafee Daoodi's questions Nos. 249 and 250.

**REPRESENTATION OF MUSLIMS IN GOVERNMENT DEPARTMENTS IN THE
NORTH WEST FRONTIER PROVINCE.**

292. ***Seth Haji Abdoola Haroon** : (a) Will Government please state whether there are any orders to the effect that a minimum figure of 60 per cent. Muslim representation in the various Government Departments in the North-West Frontier Province will be maintained in view of the fact that they form above 95 per cent. of the whole population ?

(b) If so, will Government please state whether such orders have actually been brought into force in the North-West Frontier Province ?

(c) Will Government please lay on the table the figures Department-wise showing in detail the total strength of Muslims and non-Muslims, superior and inferior, prior to these orders and after they had been in force in the North West Frontier Province ?

Mr. E. B. Howell : The Honourable Member is referred to the answer given to question No. 248, asked in this Assembly.

**MUSLIM REPRESENTATION IN PAY AND ACCOUNTS AND AUDIT OFFICES
IN THE NORTH WEST FRONTIER PROVINCE.**

+293. ***Seth Haji Abdoola Haroon** : (a) Is it a fact that the Muslim representation in the ministerial staff of the Pay and Accounts and Audit Offices, North West Frontier Province, is 48 per cent. ?

+For answer to this question, see answer to starred question No. 291.

(b) If so, what measures are being adopted to raise this percentage to 60 per cent. ?

SAFEGUARDING THE INTERESTS OF FRONTIER MUSLIMS IN PAY AND ACCOUNTS AND AUDIT OFFICES IN THE NORTH WEST FRONTIER PROVINCE.

†294. ***Seth Haji Abdoola Haroon** : (a) Is it a fact that the scheme of re-amalgamation of Audit and Accounts will be operative in the North West Frontier Province also ?

(b) If so, have any orders been issued to prevent, reduce or repatriate the non-Muslims only with a view to maintain the minimum figure of 60 per cent. of the Muslim representation ? If not, why not ?

(c) Will Government please state what steps have been or will be taken to safeguard the rights of Frontier recruits at the time of curtailment, reduction or reversion of establishment on the occasion of amalgamation of the Pay and Accounts and Audit Offices in the North West Frontier Province ?

LACK OF VACUUM BRAKES ON THE EASTERN BENGAL RAILWAY.

295. ***Mr. A. H. Ghuznavi** : (a) Has the attention of Government been drawn to the report that appeared in the *Statesman* of the 12th April, 1931, Calcutta edition, about the train dacoity committed on the night of the 10th April, in the Bhairab Bazar-Mymensingh line of the Eastern Bengal Railway, wherein it was stated that the passengers pulled the alarm cord but as the train was not fitted with vacuum brakes it did not stop ?

(b) Is it a fact that the train was not stopped at once although the alarm cords were pulled ?

(c) Is it a fact that the train was not fitted with vacuum brake ; if so, why ?

(d) Is it a fact that most of the Eastern Bengal Railway passenger trains are not fitted with vacuum brakes ?

(e) Is it a fact that except the Assam Mail and Surma Mail, all the trains of the Assam-Bengal Railway are " mixed " trains inasmuch as they are comprised of 80 per cent. goods wagons in the front and 20 per cent. passenger carriages in the rear, rendering vacuum brake arrangement impossible ?

(f) If replies to parts (d) and (e) are in the affirmative, do Government propose to consider the necessity of providing all passenger trains with vacuum brake communication for the safety of lives and properties of passengers ?

Mr. A. A. L. Parsons : (a) Yes, but the Mymensingh-Bhairab Bazar line is a part of the Assam Bengal Railway.

(b) Yes.

(c) The train was not vacuum-braked throughout, as there were some foreign railways' goods vehicles on the train, which were not fitted with vacuum-brakes or pipes.

(d) On the broad gauge all passenger trains are vacuum-braked ; on the metre gauge 74 mixed trains out of 134 trains carrying passengers

†For answer to this question, see answer to starred question No. 291.

are not vacuum-braked ; on the narrow gauge no train is vacuum-braked.

(e) All trains carrying passengers on the Assam Bengal Railway are mixed, but if there is no foreign railway's goods vehicle on a train vacuum-brake arrangement throughout is possible.

(f) Does not arise.

INCONVENIENT ARRANGEMENTS AT CALCUTTA FOR THE RESERVATION OF BERTHS ON THE EAST INDIAN RAILWAY.

296. ***Mr. A. H. Ghumanavi** : (a) Will Government be pleased to state if before the 1st of December 1924 all reservation of berths in the East Indian Railway trains used to be made at Howrah Station only, and that since that date the system of reserving berths at the Head Office also has been introduced ?

(b) Is it a fact that the time for reservation at the Head Office is between 10-30 A.M. and 4-30 P.M. and at Howrah Station from 5-30 A.M. to 9-30 A.M. and again from 5-30 P.M. to 10-30 P.M. ?

(c) Is it a fact that from 9-30 A.M. to 10-30 A.M. and again from 4-30 P.M. to 5-30 P.M. on week days there is no arrangement for reservation at any of these places ?

(d) Are Government aware that on Saturdays the Head Office closes at 1-30 P.M. and the Howrah reservation office does not get the charts back till 3-30 P.M. and that this causes great inconvenience to the travelling public ?

(e) Is it a fact that for reservation of carriages on holidays and Sundays the Howrah Office has to refer to the Head Office while the Head Office remains closed, and the result is that no reservation becomes possible ?

(f) Are Government aware that reservation can be made from the city offices, and that the city offices and Howrah Station do it over the phone with the Head Office and that such verbal communication is at times misunderstood and instances have occurred where the class of accommodation or the date of departure has been wrongly recorded ?

(g) Is it a fact that statistics shew that big mercantile firms, the Government House, the Bengal Secretariat, the Remount Depot and Fort William prefer corresponding direct for reservation with Howrah, although the Head Office is situated within close proximity of them ?

(h) If reply to part (g) is in the affirmative, are Government prepared to consider the advisability of effecting the centralization at Howrah ?

Mr. A. A. L. Parsons : I have asked the Agent of the East Indian Railway for a report and will communicate with the Honourable Member as soon as it is received, but I would point out that these are exactly the sort of questions which could preferably be raised in the Local Advisory Committee.

Mr. B. Sitaramaraju : As question No. 297 has already been answered, Sir, I would like with your permission to ask No. 298.

RAISING OF LOANS FOR INDIA IN FOREIGN COUNTRIES.

298. *Mr. B. Sitaramaraju : Will Government be pleased to state :

- (a) whether there is any constitutional objection to raise our loans from foreign Governments ;
- (b) if the answer to part (a) is in the negative, why efforts were not made to raise these loans in foreign countries ; and
- (c) whether the possibilities of raising the required loans at a cheaper rate of interest either in America or in any other foreign market has been considered ?

The Honourable Sir George Schuster : (a) No.

(b) and (c). I would invite the attention of the Honourable Member to paragraph 2 of my speech on pages 2009 and 2010 of the Legislative Assembly Debates of the 13th March, 1931. Although it is, in a sense, a matter of opinion, I can inform the Honourable Member with the greatest assurance that it would not have been possible for India at present to raise loans in any foreign market on anything like such favourable terms as have been arranged in London.

THE RECENT INDIAN STERLING LOAN.

299. *Mr. B. Sitaramaraju : Will Government be pleased to state :

- (a) the necessity to borrow at a high rate of interest the recent sterling loan ;
- (b) whether sufficient opportunities were given to capitalists in this country to subscribe to the loan ; and
- (c) why the loan was not fully subscribed ?

The Honourable Sir George Schuster : (a) The rate of interest offered on sterling loans has to be fixed according to what the Government, acting on expert advice, consider to be necessary to attract investors. The fact that the last loan was not fully applied for by the public shows that Government did not err on the side of making the loan too favourable.

(b) Yes.

(c) This is a matter of opinion. If the Honourable Member will study the London financial papers, he will be able to form his own view as to the opinions which influence the London investment market in regard to Indian loans.

ALLEGED PROHIBITION OF THE EMPLOYMENT OF GRADUATES IN THE POSTAL DEPARTMENT.

300. *Mr. B. Sitaramaraju : (a) Are there any orders of Government prohibiting the employment of graduates in the Postal Department ?

(b) If the answer to part (a) be in the affirmative, will Government be pleased to state whether such prohibition would apply even to candidates who, being graduates, are willing to be treated as Matriculates or

S. S. L. C. holders and be paid the same scale paid to the latter class of employees ?

(c) Will Government be pleased to state the reasons for the orders, if the answer to part (a) is in the affirmative ?

Sir Hubert Sams : (a) There were certain orders temporarily suspending recruitment of graduates which have been cancelled.

(b) and (c). Do not arise.

APPLICATION OF SECTION 144, CRIMINAL PROCEDURE CODE.

301. ***Sardar Sant Singh :** Will Government be pleased to state how many times section 144, Criminal Procedure Code, has been applied from 1st April to 1st September, 1931 ?

The Honourable Sir James Orerar : I regret that the information is not in the possession of the Government of India and I am afraid I cannot undertake to collect it, as the labour involved would not be commensurate with its value.

NATION-BUILDING SERVICES OF THE NORTH-WEST FRONTIER PROVINCE.

302. ***Mr. S. C. Mitra :** (a) Has the attention of Government been drawn to a declaration by the Chief Commissioner of the North-West Frontier Province, in or about June last year, that the Government of India had decided to bring up the administration on the nation-building services of that province to a level with the frontier districts of the Punjab ?

(b) On what authority was this announcement of the Chief Commissioner made ?

(c) If the Government of India had authorised the announcement, will Government be pleased to state whether, before such authorisation, the financial implications of this announcement had been worked out and approved by them ?

The Honourable Khan Bahadur Mian Sir Fazi-i-Husain : (a) Yes.

(b) The announcement was made by the Chief Commissioner with the concurrence of the Government of India.

(c) The financial implications could not be worked out in detail but it was made clear that the pace at which new measures could be introduced must be dependent on the financial situation.

FUNCTIONS OF NOTARIES PUBLIC IN THE MOFUSSIL.

303. ***Mr. Jagan Nath Aggarwal :** (a) Has the attention of Government been drawn to a note in the *Daily Herald* newspaper, Lahore, dated July 25th, 1931, at page 6 relating to the anomalous functions of Notaries Public in the Presidency towns and in the Mofussil ?

(b) Is it a fact that the Notaries Public in the Presidency towns perform functions other than those under the Negotiable Instruments Act like attesting Powers of Attorney, administering oaths, and generally attesting all documents presented to them ?

(c) Is it a fact that in the mofussil (outside Presidency towns) such functions cannot be performed by Notaries Public appointed under the Negotiable Instruments Act and that if such functions are to be performed in the mofussil they must be done by a Notary Public in the Presidency towns ?

(d) Are Government aware that the rapid increase of trade and intercourse with foreign countries necessitates the attestation of different types of documents by Notaries Public only ?

(e) Are Government aware that absence of such powers from the Notaries Public in the mofussil causes great inconvenience to business men and others who may have frequent occasion to require documents to be attested by Notaries Public ?

(f) Do Government propose to take early steps to remove this anomaly and bring the law in the mofussil into line with that prevailing in the Presidency towns either by legislative enactment or by use of the rule making power ?

The Honourable Sir James Crerar : (a) Yes.

(b) to (f). A person appointed by the Local Government under section 138 of the Negotiable Instruments Act to be a Notary Public under that Act is not by virtue of such appointment a Notary Public in the general sense and the Honourable Member is mistaken in supposing that there is any distinction in this respect between persons so appointed in the Presidency towns and persons so appointed elsewhere. A person can only become a Notary Public in the general sense by obtaining a faculty from the Master of Faculties in England and it is for the person desiring to become a Notary Public and not for Government to move in the matter. The Honourable Member is, however, mistaken in supposing that there is in India no Notary Public in the general sense save in the Presidency towns.

COMPENSATION TO SARDAR GANGA SINGH AND MEMORIAL FOR HIS CHILDREN AT PESHAWAR.

304. ***Mr. S. C. Mitra :** (a) Is it a fact that the Honourable the Chief Commissioner, North-West Frontier Province, had announced that Sardar Ganga Singh whose two children were killed and wife seriously wounded by the British Lance Corporal on the last day of May, 1930 at Peshawar was to be compensated and if so, was he offered anything in cash or kind ? If so, how much ? Did Sardar Ganga Singh accept or refuse the offer and what is the reason of his doing so ?

(b) Did the Honourable the Chief Commissioner sanction the amount of Rs. 15,000 to build a childrens' ward in memory of the children of Sardar Ganga Singh ? If the answer is in the affirmative, will Government please state when it will be built ?

(c) Has the attention of Government been drawn to the suggestion in regard to the said memorial as published in the *Daily Milap*, dated 30th August, 1930, and, if so, do Government propose to consider the suggestion ? If not, why not ?

(d) Has the attention of Government been drawn to the Public demand in regard to the said memorial as published in the *Tribune*, dated 14th January, 1931 and the *Hindu Herald* of the 15th January, 1931

suggesting that something should be done in memory of the shooting of peaceful processionists and carriers of the bier of the children of Sardar Ganga Singh ? If so, what steps have Government taken in the matter ?

Mr. E. B. Howell : (a) No. I would invite the attention of the Honourable Member to the reply given to part (b) of question No. 108 asked in this Assembly by Sardar Sant Singh.

(b) The Chief Commissioner, North-West Frontier Province, did not sanction a sum of Rs. 15,000 to build a children's ward in memory of the children of Sardar Ganga Singh.

(c) Does not arise.

(d) Government are not prepared to admit that peaceful processionists and carriers of the bier of the children of Sardar Ganga Singh were shot, and consequently do not intend to consider any proposal for a memorial.

THE IMPERIAL COUNCIL OF AGRICULTURAL RESEARCH.

305. **Mr. B. Sitaramaraju** (on behalf of Mr. A. Das) : (a) How much have the Government of India contributed to the funds of the Imperial Council of Agricultural Research since its constitution ? How much has been allotted in grants to Provincial Governments for research schemes ?

(b) What are the salaries of (i) administrative officers and (ii) expert officers ? What is the cost of office establishment of the Imperial Council of Agricultural Research ?

(c) What is the proportion of the total sum so far spent on administrative charges to the total amount allotted to Provincial Governments for research schemes ?

(d) Is the Imperial Council of Agricultural Research dependent for funds on grants from the Government of India ?

(e) Is it a fact that the Imperial Council of Agricultural Research has adopted the following principles in making grants to Local Governments for research schemes :

(i) that ordinarily land and buildings required under schemes should be provided by the Government or Governments concerned, the Council making a grant for equipment and staff alone ; and

(ii) that ordinarily the Government or Governments interested in a scheme should bear part of the recurring expenditure, the exact proportion to depend on negotiations between the Government or Governments concerned ?

(f) Have these principles been strictly adhered to ? If not, what schemes have been assisted by grants for land and buildings ?

(g) Are Government aware that in the present financial crisis many Provincial Governments are not able to find money for land and buildings for important schemes and that assistance is urgently needed for capital expenditure ?

(h) Are the Government of India prepared to consider the advisability of asking the Imperial Council of Agricultural Research to modify this condition relating to grants for land and buildings required

for approved schemes before proposing any further allotment of funds to the Council ?

The Honourable Khan Bahadur Mian Sir Fazl-i-Husain : (a) Rs. 35 lakhs and Rs. 28,80,253, respectively.

(b) The salaries paid are as follows :

(i) Vice-Chairman, Rs. 4,000 per month.

Secretary, Rs. 2,125 per month.

(ii) Agricultural Expert and Animal Husbandry Expert, Rs. 2,625 per month in the scale of Rs. 2,500-125-2,750, *plus* overseas pay of £13-6-8, each.

Cost of office establishment, Rs. 67,900 per annum.

(c) About 1 to 6.5.

(d) Mostly ; but under its rules and regulations the Council can also receive contributions from other sources, such as Indian States.

(e) Yes, among others.

(f) No ; exceptions are made where special reasons so require. The undermentioned schemes have so far been assisted by grants for land or buildings or both :

(1) Establishment of a sub-station of the Sugarcane Breeding Station, Coimbatore, at Karnal (for buildings) ;

(2) Establishment of a sugarcane research station in Bihar, and the appointment of a sugarcane specialist (for land and buildings) ;

(3) Research in mosaic and other sugarcane diseases, at Pusa (for laboratory buildings) ;

(4) Sugarcane Research Station in the Bombay, Deccan (for buildings) ;

(5) Co-ordinated rice research scheme in seven provinces of India (for buildings) ;

(6) Establishment of a sub-station of the Botanical Section of the Pusa Institute at Karnal (for buildings) ; and

(7) Sugarcane seedling testing station at Dacca (for buildings).

(g) Presumably, the position is as stated by the Honourable Member.

(h) I would refer the Honourable Member to the word ' ordinarily ' which is used in the conditions referred to in part (e) of his question. That the condition, referred to, is not absolute, is proved by the instances quoted in my reply to part (f) of this question. In the circumstances Government do not think it necessary to take any action.

Mr. B. Das : With reference to the reply to part (b) of this question, has the attention of the Honourable Member been drawn to the Press report that the Vice-President of the Imperial Agricultural Research Institute has written to the Government stating that he will give up 25 per cent. of his salary as a measure of retrenchment ?

The Honourable Khan Bahadur Mian Sir Fazl-i-Husain : I am afraid I have not seen that Press report.

Mr. B. Das : Does not the Honourable Member read the *Hindustan Times* and other newspapers in which that news was published ?

The Honourable Khan Bahadur Mian Sir Fazl-i-Husain : I read the particular newspaper he has mentioned, the *Hindustan Times*, but not every word of it.

Mr. B. Das : Will the Honourable Member consult his friend, the Director of Public Information, and find out whether the question I ask is correct ?

The Honourable Khan Bahadur Mian Sir Fazl-i-Husain : If the Honourable Member will kindly give me the date of the paper, I will see it myself.

Mr. B. Das : Has the Honourable Member any knowledge of the substance of the question that I just asked ?

The Honourable Khan Bahadur Mian Sir Fazl-i-Husain : I have, otherwise I could not have answered the question.

Mr. B. Das : Does the Honourable Member admit that the Vice-President of the Imperial Agricultural Research Institute has written to the Government stating that he is prepared to give up 25 per cent. of his salary as a measure of retrenchment and economy ?

The Honourable Khan Bahadur Mian Sir Fazl-i-Husain : It has not yet reached me, Sir.

Mr. B. Das : All right, I will supply the Honourable Member with a copy of the report.

The Honourable Khan Bahadur Mian Sir Fazl-i-Husain : Thank you.

EXPENDITURE ON AGRICULTURAL RESEARCH.

306. ***Mr. B. Sitaramaraju** (on behalf of Mr. A. Das) : What is the total amount spent on administration, including the travelling allowance of members attending the Advisory Board and the Governing Body and Committees paid by Local Governments from the constitution of the Imperial Agricultural Research Council till July 1st, 1931 ? What is the total amount of money that has been paid to and spent by Local Governments and other bodies from grants made by the Council for the same period ?

The Honourable Khan Bahadur Mian Sir Fazl-i-Husain : The total amount spent by the Imperial Council of Agricultural Research up till 1st July, 1931, on administration, including the travelling allowance of non-official members attending meetings of the Advisory Board, Governing Body, and the whole Council, is Rs. 4,24,394. This does not include the travelling allowance of official members, which is paid by their respective Governments, figures for which are not available. As regards the latter part of the question, the total amount actually paid to Local Governments and other bodies by the Council up to the same date is Rs. 5,52,672. Information regarding the amount actually spent by Local Governments and other bodies will not be available till the close of the current official year.

CONSTITUTION OF ELECTED CANTONMENT BOARDS IN THE NORTH-WEST FRONTIER PROVINCE.

307. ***Khan Bahadur Haji Wajihuddin :** (a) Is it a fact that the All-India Cantonments Association represented to Government the

desirability of constituting elected Cantonment Boards in those of the cantonment of the North-West Frontier Province as have a civilian population of 2,500 or more ?

(b) Is it a fact that Government gave an assuring reply to the above representation and informed the Association that the matter was receiving Government's careful consideration ?

(c) Will Government be pleased to state what steps have been taken to give effect to this reform, if any scheme has been formulated for the same and, if so, at what stage it is ?

(d) Are Government aware that the elective element has been introduced in Municipal Boards and other like bodies of the North-West Frontier Province ? If so, how do Government account for delay in introducing the same element in Cantonment Boards ?

(e) If this measure of reform be still under consideration, will Government state when it is expected to adopt it and put it in practice ?

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

(b) Government replied that the matter was then under consideration.

(c) Government have carefully considered the matter in consultation with the Local Administration and the local military authorities. They have decided to take no steps for the present.

(d) An elective element already exists in the Peshawar Municipality. It has been recently decided to introduce it also in other municipal and district boards in the North-West Frontier Province. The case of cantonments in this province is, however, different from that of other local bodies, as the cantonments are almost exclusively occupied by troops, officials and the population dependent on them.

(e) Government do not propose to re-open the question at present.

EXAMINATION FOR POSTAL ACCOUNTANTS.

308. *Rai Sahib Harbilas Sarda : Will Government kindly state if the Director General of Posts and Telegraphs will hold any examination of postal accountants this year also ? If so, when ?

Sir Hubert Sams : The last examination was held in January, 1931. It has not yet been decided when to hold the next one.

CONDITION OF MADRASI RESIDENTS, TRADERS AND LABOURERS IN BURMA.

309. *Mr. C. S. Ranga Iyer : (a) Has the attention of the Government of India been drawn to the discussion in the Madras Legislative Council on the 5th of August, 1931, on the "condition of the Madras residents, traders and labourers in Burma" ?

(b) Are Government aware that the Resolution on the conditions of Madras in Burma was unanimously adopted by the Madras Provincial Legislature ?

The Honourable Sir James Orerar : With your permission, Sir, I will answer the questions Nos. 309 to 312 together. I have seen a Press report of the debate in the Madras Legislative Council. No correspondence

has passed between the Government of India and the Government of Madras in the matter, but we have received reports from time to time from the Government of Burma bearing upon the position of Indians generally in Burma and are in close consultation with them in the matter.

CORRESPONDENCE ON THE SUBJECT OF MADRASIS IN BURMA.

†310. ***Mr. C. S. Ranga Iyer :** (a) Has any correspondence passed between the Madras Government and the Government of India on the subject of Madrasis in Burma ?

(b) If the answer to part (a) be in the affirmative, will Government be pleased to place the said correspondence on the table ? If not, why not ?

CONDITION OF MADRASI RESIDENTS, TRADERS AND LABOURERS IN BURMA.

†311. ***Mr. C. S. Ranga Iyer :** (a) Have the Government of India moved in the direction recommended by the Madras Provincial Legislature of obtaining a report on the condition of the Madras residents, traders and labourers in Burma ? If not, why not ?

(b) If the answer to part (a) be in the affirmative, has the said report been obtained and will it be published ? If so, when ? If not, why not ?

CONDITION OF MADRASI RESIDENTS, TRADERS AND LABOURERS IN BURMA.

†312. ***Mr. C. S. Ranga Iyer :** Have the Government of India represented to the Burmese Government in accordance with the Madras Provincial Legislature's recommendation the urgent need for the taking of "all necessary steps to safeguard effectively their persons and property" of the Madrasis in Burma ? If so, what steps have been so far taken ?

ASSISTANCE FOR MADRASI CULTIVATORS IN BURMA.

313. ***Mr. C. S. Ranga Iyer :** (a) Have Government taken action on the recommendation of the Madras Provincial Council in regard to the helping of the Madras cultivators in Burma by liberal advances and the traders by affording adequate credit facilities through the Imperial Bank and otherwise ?

(b) If so, will Government be pleased to state to what extent such help has been rendered and what further steps Government propose to take ?

(c) If the answer to part (a) be in the negative, will Government be pleased to state the reason why ?

The Honourable Sir George Schuster : No recommendation of the Madras Legislative Council on the lines referred to by the Honourable Member has yet been forwarded by the Government of Madras to the Government of India. The question would apparently be one for the Provincial Governments concerned.

(b) and (c). Do not arise.

†For answer to this question, see answer to starred question No. 309.

DEPARTURE OF INDIANS FROM BURMA.

314. ***Mr. O. S. Ranga Iyer :** (a) Has the attention of Government been drawn to the statement of Dr. P. Subbaroyan in the Madras Legislative Council that "nearly 150,000 Indians had left Burma, because Burmans had made it impossible for them to live there" ?

(b) Will Government be pleased to state if the above facts and figures are correct ? If not, will Government be pleased to state the number of Indians who had left Burma since the rebellion and the cause of their leaving ?

(c) Do Government propose to give the Indians who have left Burma any compensation for losses sustained owing to inadequate police protection or safeguarding of property and person ?

The Honourable Sir James Crerar : (a) I have seen a Press report of the statement referred to.

(b) I assume the Honourable Member desires information to show how far emigration was affected by the recent disturbances in Burma. For this purpose we may take the year 1929 as a normal year and compare the figures of that year with the figures of the current year. For the period, 1st January to 31st July, the number of emigrants was approximately 184,000 in 1929 and 187,000 in 1931. Of these latter emigrations 133,000 occurred between the 7th March and the 20th June, against 126,000 during the same period in 1929. The main recurring cause of Indian emigration from Burma, as the Honourable Member is aware, is the seasonal return of labourers ; and this is largest between March and June, when the average is about 30,000 a month. The rebellion in Burma was no doubt responsible to some extent for the increase in emigration this year.

(c) The question of the payment of compensation by Government does not arise.

Mr. K. P. Thampan : Will the Government be pleased to enlighten us as to the number of Madrasis who have left Burma on account of the rebellion ?

The Honourable Sir James Crerar : I must ask for notice of that question.

SENTENCE OF WHIPPING GIVEN TO A BOY IN KENYA.

315. ***Mr. Gaya Prasad Singh :** (a) Are Government aware that a boy named Amrit Lal, who is a student in a school, aged 13 years, son of one Hirji Monji, Nairobi, Kenya, was caught by the police on the 15th March last for riding an unlicensed motor cycle ; but he was subsequently released on his father signing a bond, but he was again arrested the next day, taken before the Town Magistrate, and sentenced to 12 stripes, which were administered to him, although his father informed the Magistrate that he was willing to pay any fine which the Court might impose on the boy (*vide Tanganyika Opinion*, dated the 3rd April, 1931, page 13) ?

(b) Is it a fact that no doctor was present at the time when the boy was caned ; but Dr. M. Mackinnon, who subsequently examined him, certified to "a considerable amount of energy having been applied in administering the 12 strokes", and that the boy was "in considerable degree of

pain, and is unable to sit down, or lie on his back", as the order " must have been vigorously administered " ?

(c) Are Government aware that this sentence of whipping for a trivial first offence has given rise to a great degree of indignation among the Indian settlers in East Africa ; and what steps, if any, do Government propose to take to avert the repetition of such incidents in future ?

The Honourable Khan Bahadur Mian Sir Fazl-i-Husain : (a), (b) and (c). Government have not seen the particular article referred to by the Honourable Member but similar accounts appeared in some of the papers in Kenya. As soon as the incident came to the notice of Government in May last, they made telegraphic inquiry from the Kenya Government. The information supplied by the said Government showed :

- (i) that the father of the boy was twice asked by the Magistrate whether he was prepared to pay any fine which might be inflicted, but declined to do so ;
- (ii) that the Sub-Assistant Surgeon of the prison was present when the caning was administered ; and
- (iii) that a light cane was used and the punishment was not carried out with undue severity.

Mr. B. Das : Is it not high time that the Government of India should appoint an Agent in East Africa and Tanganyika to look after the interests of Indians ?

The Honourable Khan Bahadur Mian Sir Fazl-i-Husain : If there is any general body of opinion in the House that in these days of retrenchment I should try for it, I shall have a try.

Mr. B. Das : I am quite game for it and I think this side of the House will always pass such a motion if the Honourable Member brings it forward.

IMPORT DUTIES IN TANGANYIKA ON INDIAN IMPORTS.

316. ***Mr. Gaya Prasad Singh :** (a) Has the attention of Government been drawn to the increased import duty in Tanganyika, on some of the exports from India, such as ghee and sugar and to the fact that the Indian members of the Legislative Council of Tanganyika opposed this increased duty ? Have Government made any representation, or taken any steps in this connection ?

The Honourable Sir George Rainy : Government have seen the Proclamation imposing increased duties on certain articles including ghee and sugar. They have no information regarding the attitude adopted by the Indian members of the Legislative Council of Tanganyika towards the imposition of these duties, which are applicable to imports from all countries.

Government have made no representation. I may, however, mention the fact that India's export trade in ghee and sugar with Tanganyika is insignificant, the total quantity exported to that territory during 1929-30, the latest year for which figures are available, being less than one ton in each case.

RACIAL DISCRIMINATION ON ITALIAN STEAMERS.

317. ***Mr. Gaya Prasad Singh :** Has the attention of Government been drawn to a letter signed H. M. Nurbhai (Dar-es-Salaam) published in the *Tanganyika Opinion*, dated the 6th November, 1930, in which it is stated, on the strength of the writer's personal experience, that racial discrimination exists on the Italian steamers calling at Dar-es-Salaam, in regard to the use of gangways for Europeans and others and in the examination of passports? And do Government propose to take necessary steps to see that such galling discrimination is eliminated at least in the case of His Majesty's Indian subjects abroad?

The Honourable Khan Bahadur Mian Sir Fazl-i-Husain : Government have just seen the communication referred to by the Honourable Member. The question of the action to be taken is under consideration.

RESOLUTIONS OF THE TANGANYIKA INDIAN CONFERENCE.

318. ***Mr. Gaya Prasad Singh :** Will Government be pleased to state if they have taken necessary steps to place before the Joint Select Committee of Parliament, the Resolutions passed by the Tanganyika Indian Conference, which was held at Dar-es-Salaam on the 28th and 29th December, 1930; and if so, what are the Resolutions that were placed?

The Honourable Khan Bahadur Mian Sir Fazl-i-Husain : The Indian Association, Dar-es-Salaam, sent a Memorandum to the Joint Select Committee of Parliament on East Africa and referred therein to the resolutions passed by the conference held on the 28th and 29th December, 1930. The Government of India also, in pursuance of the promise given in the reply to question No. 276 asked by the Honourable Member on the 2nd February, 1931, furnished their representative with copies of such of the resolutions as pertained to matters that came within the purview of the Committee.

REPORT ON CO-OPERATIVE SOCIETIES IN TANGANYIKA BY MR. STRICKLAND.

319. ***Mr. Gaya Prasad Singh :** Is it a fact that one Mr. Strickland, in charge of the Co-operative Societies, Punjab, has been deputed by Government, at the instance of the Tanganyika Government, to explore the possibilities of Co-operative Societies in Tanganyika? And if so, will Government make available to this House his report on the subject to see how it affects the interests of the Indians in that territory?

The Honourable Khan Bahadur Mian Sir Fazl-i-Husain : Mr. C. F. Strickland, I.C.S., retired from service in the Punjab in February, 1930. Government have no information regarding his deputation to Tanganyika.

GOVERNMENT HELP FOR THE BHARAT STEAM NAVIGATION COMPANY.

320. ***Mr. Gaya Prasad Singh :** Are Government aware that the Bharat Steam Navigation, Ltd., has been registered in Bombay, with the object, among others, to further the Indian shipping trade between India and abroad? And do Government propose to help in any way this shipping enterprise to Africa and elsewhere?

The Honourable Sir George Rainy : Government are aware that the Bhurat Steam Navigation, Limited, was registered at Bombay as a public limited company in October, 1930. Government are not aware of any reasons why special help should be accorded to this company.

REFUSAL OF THE TANGANYIKA INDIAN DELEGATION TO ATTEND THE JOINT PARLIAMENTARY COMMITTEE.

321. ***Mr. Gaya Prasad Singh :** Is it a fact that the Tanganyika Indian delegation to the Joint Parliamentary Committee refused to proceed to London as a result of a certain misunderstanding ? If so, will Government kindly explain the circumstances, and the steps taken in the matter ?

The Honourable Khan Bahadur Mian Sir Fazi-i-Husain : The Indian community in Tanganyika decided not to send any representative to London to give evidence before the Joint Select Committee of Parliament on East Africa as their request that a special representative of Indian commercial interests should be allowed to appear before the Committee was not granted. The Indian community seems to have corresponded direct with the Secretary of State for the Colonies in this matter.

ALLEGED PERSECUTION OF MUSLIMS IN TANGANYIKA.

322. ***Mr. Gaya Prasad Singh :** (a) Has the attention of Government been drawn to a report published in the *Tanganyika Opinion*, dated the 3rd July, 1931 (page 5), under the heading "Alleged Persecution of the Muslim Wachaga", over the signature of the President, Jamiyyat-ul-Islam, Moshi, in which it is stated that a number of Christians are harrasing and persecuting the local Mussalmans there, and that once a mosque was also broken by them ; and that as a result of a secret plot concocted by the Christians, the Governor of Tanganyika has deported a few Mussalmans ?

(b) Do Government propose to inquire into the matter, and make a statement on the floor of this House, indicating the steps which they have taken, or propose to take to protect the Mussalmans and their religious rights in that locality ?

The Honourable Khan Bahadur Mian Sir Fazi-i-Husain : (a) and (b). The communication referred to by the Honourable Member relates to the alleged troubles of Mussalman natives in a place called Machame. There is nothing to indicate that there are any Indian residents in this place or that they are in any way concerned. Government do not, therefore, propose to take any action.

MEDICAL FACILITIES FOR EUROPEANS, INDIANS AND AFRICANS IN TANGANYIKA.

323. ***Mr. Gaya Prasad Singh :** (a) Are Government aware that in the Sewa Hadji Hospital in Tanganyika, out of about 4,026 indoor patients every year, the Government of Tanganyika has provided only 12 beds for Indians and African natives, and spends only about £5,000 annually ; whereas for about 510 European indoor patients annually in

the European Hospital, the Government has provided 18 beds, and spends about £8,090 yearly ; and that the Sewa Hadji Hospital is not properly housed and maintained (*vide* the *Tanganyika Opinion*, dated the 17th July, 1931, page 4) ?

(b) Is it a fact that about 50 per cent. of the revenues of the Tanganyika territory are obtained by taxing the African natives, 40 per cent. by the Indians, and only 10 per cent. by Europeans ?

(c) Do Government propose to take necessary action to see that better medical facilities are afforded to the Indian nationals in Tanganyika ?

The Honourable Khan Bahadur Mian Sir Fazl-i-Hussain : (a), (b) and (c). Government have no information beyond what is contained in the article to which the Honourable Member has referred. They have received no representation on the subject and the local Indian community apparently realise that this is a matter in which they should present their grievances, if any, direct to the Government of the Tanganyika territory.

ARMS LICENSES FOR EUROPEANS AND INDIANS IN TANGANYIKA.

324. ***Mr. Gaya Prasad Singh :** (a) Has the attention of Government been drawn to the proceedings of the Tanganyika Legislative Council (published in the *Tanganyika Opinion*, dated the 16th January, 1931, page 4) from which it is seen that out of 1,926 European applicants for arms licenses in Tanganyika within the last 3 years, all of them were granted licenses ; while in the case of Indians, out of 280 applicants during the same period, only 225 were given licenses ?

(b) Are Government aware that in the Tanganyika Territory, there are about 20,000 Indians, and only 2,000 Europeans ? And do Government propose to take steps to see that the grievance of the Indian community in Tanganyika in the matter of possessing arms, is removed ?

The Honourable Khan Bahadur Mian Sir Fazl-i-Hussain : (a) Yes.

(b) According to the Blue Book of the Tanganyika Territory for the year 1929, the figures are :

Europeans	..	..	..	6,631
Asiatics (including Arabs and Indians)	..	..	..	24,414

Separate figures for Indians are not available. In a Memorandum prepared by the East African Indian Deputation which visited India in 1929, the Indian population was said to be about 19,000.

As regards the second part of this question, no grievance has been brought to the notice of the Government of India.

APPOINTMENT OF A TRADE COMMISSIONER IN EAST AFRICA.

325. ***Mr. Gaya Prasad Singh :** Have Government appointed any Trade Commissioner in East Africa ? If not, do they propose to appoint any ?

The Honourable Sir George Rainy : No, Sir. The sanctioned scheme provides for an appointment of Indian Trade Commissioner in East Africa, but as progress with the scheme has been delayed by the existing

financial stringency, Government are not in a position to say when it will be possible for them to make the appointment.

SEDITION ORDINANCE IN FIJI.

326. ***Mr. Gaya Prasad Singh** : Is it a fact that a Sedition Ordinance has been promulgated by the Governor of Fiji, directed against the local Indian Press, and the Indian public ? If so, when ; and for how long ?

The Honourable Khan Bahadur Mian Sir Fazl-i-Husain : An Ordinance to provide for the punishment of seditious acts and seditious libel and to central seditious publications and newspapers containing seditious matter in Fiji was passed in June last. There is nothing to indicate that this enactment is of a temporary nature. Government have no reason to think that it is directed against any particular section of the press or of the people in Fiji.

ELECTORATES IN FIJI.

327. ***Mr. Gaya Prasad Singh** : Are Government aware that the mind of the Indian community in Fiji is greatly exercised over the question of electorates ?

The Honourable Khan Bahadur Mian Sir Fazl-i-Husain : The Honourable Member's attention is invited to the reply given to his question No. 270 in this House on the 2nd February, 1931. The Indian community is still unrepresented on the Legislative Council.

EUROPEAN AND INDIAN LADIES WAITING ROOMS AT AJMER RAILWAY STATION.

328. ***Mr. Gaya Prasad Singh** : Are Government aware that at Ajmer Railway Station (Bombay, Baroda and Central India Railway) there are separate " 1st Class Ladies Waiting Room ", and " 2nd Class Ladies Waiting Room " ; but there is only one " Indian Ladies Waiting Room, 1st and 2nd Class ", with differentiation in the number and quality of furniture also ? Why is this racial discrimination allowed to continue ?

Mr. A. A. L. Parsons : I have asked the Agent of the Bombay, Baroda and Central India Railway for a report, and will communicate with the Honourable Member as soon as it is received.

COST OF RETRENCHMENT SUB-COMMITTEES AND THE RETRENCHMENT EFFECTED BY THEM.

329. ***Mr. Gaya Prasad Singh** : (a) Will Government kindly state separately the expenditure incurred up to date on the different Retrenchment Sub-Committees, the expenditure incurred in the travelling and halting allowances, etc., paid to witnesses ; and the places where each Sub-Committee held its sittings, or were visited by it ?

(b) What is the amount of money which each Sub-Committee has been able to retrench up to date ; and in what time are they expected to finish their labours ?

The Honourable Sir George Schuster : (a) A statement is laid on the table.

(b) The Sub-Committees are to report to the main Advisory Committee, and until this has been done and their reports have been considered, I am unable to make any statement regarding their recommendations. I expect that *interim* reports on the work accomplished up to date will be ready for the main Committee very shortly. The Sub-Committee on Public Works, Accounts and Audit has already completed its report. The other Sub-Committees are submitting *interim* reports and the dates on which they will finally complete their enquiries are not yet known.

Name of Sub-Committee.	Pay and allowances up to 31st August, 1931.	Travelling and daily allowances of members and staff up to 31st August, 1931.	Travel-ling and daily allowances of witnesses up to 31st August, 1931.	Places visited or at which meetings were held.
	Rs.	Rs. A. P.	Rs.	
Army Sub-Committee ..	8,850	9,197 11 0	823	Simla, Calcutta, Lahore, Coimbatore, Cawnpore, Shahjahanpur, Dagahai, Kasauli.
General Purposes Sub-Committee.	7,800	8,742 1 0	40	Simla.
Railway Sub-Committee ..	..	2,318 8 0	..	Calcutta and Simla.
Posts and Telegraphs Sub-Committee.		4,502 7 0	901	Bombay and Simla.
Public Works, Accounts and Audit Sub-Committee.		1,465 8 0	..	Calcutta and Simla.
Stores, Printing and Stationery Sub-Committee.	..	2,411 0 0	..	Calcutta and Simla.

Sardar Sant Singh : Was this expenditure provided for in the last Budget ?

The Honourable Sir George Schuster : No, Sir.

Sardar Sant Singh : Will it come up to this House for sanction ?

The Honourable Sir George Schuster : It will.

Mr. Gaya Prasad Singh : This session ?

(No answer was given.)

ARREST AND DEPORTATION OF MISS GEISSLER.

330. ***Mr. Gaya Prasad Singh :** Will Government kindly state the circumstances leading to the arrest and deportation of Miss Geissler from India, her antecedents, and the offence for which she was deported ? Why a regular case was not instituted against her if she was suspected of any criminal offence ?

The Honourable Sir James Crerar : The information in the possession of Government showed that Miss Geissler, who is a foreigner, was in close association with persons of communist views and that her presence in India was in consequence undesirable. The Government of Bombay accordingly decided to deport her under section 3 of the Foreigners' Act (III of 1864). It is not necessary that a criminal offence should be committed before action is taken under that section.

Mr. Gaya Prasad Singh : What is the charge under which she was deported ? What is the accusation against this particular individual ?

The Honourable Sir James Crerar : As I have already said, the information in possession of Government was that she was in close association with persons of communist views.

TRANSFER OF THE SUPERINTENDENT OF POST OFFICES, MALABAR DIVISION.

331. ***Mr. K. P. Thampan :** Will Government be pleased to state whether it is a fact that the Superintendent of Post Offices, Malabar Division, was ordered to be transferred ; and if so, why the order has not been given effect to by the Postmaster General, Madras ?

Sir Hubert Sams : Government have no information. The matter is within the competence of the Postmaster-General.

Mr. K. P. Thampan : On a point of order, Sir. May I ask if it would not be better if such questions are answered after the necessary information has been obtained ?

Mr. Deputy President : How is that a point of order ?

Mr. K. P. Thampan : My point is that there is no useful purpose served by giving such an answer.

Mr. Deputy President : That is the answer that the Government are prepared to give for the present.

Mr. B. Das : Does that mean that the telegraphic system has gone wrong and they could not get the reply ? May I repeat the question ?

Sir Hubert Sams : I thought the Honourable Member was addressing his remarks to the Chair.

TRANSFER TO REMOTE STATIONS OF OFFICE BEARERS OF THE CALCUTTA BRANCH POSTAL UNION.

332. ***Mr. K. P. Thampan :** Is it a fact that the Superintendent of Post Offices, Malabar Division, has been transferring the office bearers of the Calcutta Branch Postal Union to remote stations ? If so, why ? Was the fact brought to the notice of the Postmaster General, Madras, and was any action taken by him in the matter ?

Sir Hubert Sams : Government have no information. If any official has a grievance, it is open to him to represent it through the proper official channel.

(Mr. Deputy President called on Mr. S. G. Jog to put the short notice question standing in his name, but, as he was absent another Honourable Member wished to put the question on his behalf.)

Mr. Deputy President : Mr. Jog has given notice of a short notice question, and having given that notice, it is the duty of the Honourable Member to be in his seat and I cannot allow any other Honourable Member to put that question.

UNSTARRED QUESTIONS AND ANSWERS.

MUSLIM RAJPUTS IN THE BRITISH INDIAN ARMY.

29. Kunwar Hajee Ismail Ali Khan : (a) Will Government kindly inform the Assembly what was the total number of Muslim Rajputs in the British Indian Army and in its different branches before the Great War, i.e., 1914, and what is the present number ?

(b) In what proportion were the reductions made from different communities in the Army after the Great War ?

Mr. G. M. Young :

	1st January, 1914.	1st January, 1931.
(a) Cavalry	2,249	1,264
Artillery	37	6
Sappers and Miners and Signals ..	12	15
Machine Gun platoons of		
British Infantry		191
Pioneers	298	496
Infantry	2,262	1,195
Indian Army Service Corps ..	130	96
Remount Department		8
Total	4,988	3,271

These figures do not include Punjabi Muslims of Rajput origin, for whom figures are not available.

(b) The figures below give the pre-war and present strengths of some of the principal classes recruited to the Indian Army.

	1st January, 1914.	1st January, 1931.	Difference.
Pathans	13,456	7,440	-6,016
Punjabi Musalmans	38,055	40,618	+2,563
Musalman Rajputs	4,988	3,271	-1,717
Deccani Musalmans	3,862	906	-2,956
Madraasi Musalmans	3,127	366	-2,761
Sikhs	32,645	22,506	-10,139
Dogras	8,888	11,348	+2,460
Garhwalis	1,723	4,156	+2,433
Hindu Rajputs (Punjab and U. P.) ..	14,577	6,786	-7,791
Hindu Jats (Punjab and U. P.) ..	9,728	9,677	-51
Mahrattas	6,321	4,589	-1,732
Madraasi Hindus	6,431	3,373	-3,058

NON-RECRUITMENT TO THE ARMY OF MUSLIM RAJPUTS FROM THE UNITED PROVINCES.

30. Kunwar Hajee Ismail Ali Khan : (a) Are Government aware that the Muslim Rajputs of the United Provinces are not admitted in the Army as they were admitted before ?

(b) If the reply to part (a) is in the affirmative, will Government kindly state the reasons ?

Mr. G. M. Young : (a) and (b). Muslim Rajputs of the United Provinces are not recruited to the same extent as before the war owing to the reduction in the strength of the Indian Army and an alteration in the class composition of units.

RECRUITMENT OF MUSLIM RAJPUTS TO THE AIR SERVICE AND THE ROYAL INDIAN MARINE.

31. Kunwar Hajee Ismail Ali Khan : (a) Will Government kindly state if any provision has been made as to recruiting Muslim Rajputs in any of the branches of the Air Service and the Royal Indian Marine ?

(b) What is the present number of honorary and paid Recruiting Officers and how many of them are Muslim Rajputs ?

Mr. G. M. Young : (a) No specific provision has been made for the recruitment of Muslim Rajputs, as recruitment in the Royal Indian Marine and the Air Service is open to all classes.

(b) Recruiting Officers 9

Assistant Recruiting Officers .. 13 (including 2 Muslims).

Honorary Assistant Recruiting Officers 26 (including 14 Muslims).

It is not known how many of these Muslim officers are Rajputs.

APPOINTMENT OF B. BHAWANI CHARAN AS ACCOUNTANT IN THE GOVERNMENT OF INDIA PRESS AT ALIGARH.

32. Khan Bahadur Haji Wajihuddin : (a) Will Government be pleased to state what are the qualifications of B. Bhawani Charan, accountant in the Government of India Press, Aligarh ?

(b) Has he passed the accountancy examination ?

(c) Was the post of an accountant in Aligarh Press advertised on the retirement of the permanent accountant ? If not, do Government propose to advertise in future to give a chance to well qualified persons to apply for the post ?

(d) Is it a fact that the father of B. Bhawani Charan, accountant in Aligarh Press, was dismissed from the Aligarh Press (then Postal Press) ? If so, on what charges ?

(e) Is it a fact that B. Bhawani Charan owns a press known as the "Rose Press" in Aligarh ?

(f) To what extent is it true that some of the employees of Government Press are made to work on holidays in Rose Press without pay ?

(g) Will Government be pleased to state the number of clerks of different communities, respectively, in (a) the Government of India Press, Aligarh, and (b) the Workshop, Aligarh ?

(h) Is it a fact that the minimum qualification prescribed by the Manager, Government of India Press, Aligarh, for the appointments of clerks in the Aligarh Press is matriculate passed ?

(i) If the answer to the above is in the affirmative, will Government be pleased to state whether B. Bhawani Charan, accountant, has been offered post of accountant while the claims of seniors to him have been ignored ? If so, why ?

Mr. J. A. Shillidy : (a), (b), (c), (h) and (i). The Controller of Printing and Stationery, India, is responsible to Government generally for the efficient working of the Government of India Presses, and Government do not propose to call for information regarding these administrative details which are matters for his discretion.

(d) No information is available as the old records of the Press have been destroyed.

(e) No.

(f) Government have received no complaints and have no information regarding the employment of unpaid compulsory labour in the Rose Press, Aligarh.

(g) (a) 49, of whom 42 are Hindus and 7 Muslims.

(b) 15, of whom 13 are Hindus and 2 Muslims.

RETRENCHMENT IN THE GOVERNMENT OF INDIA PRESS, ALIGARH.

33. Khan Bahadur Haji Wajihuddin : (a) Is it a fact that other Government Presses have curtailed their expenses from heads other than establishment to make up deficiency and have not retrenched posts ?

(b) Is it a fact that a representation suggesting some alternative proposals to avoid retrenchment of posts in the Aligarh Press have been submitted to the Controller and the Hon'ble Member in charge of Industries and Labour on behalf of the Aligarh Muslim Defence Associations ? If the answer to the above is in the affirmative, will Government be pleased to state what action have they taken ?

Mr. J. A. Shillidy : (a) If the Honourable Member refers to the reduction in expenditure proposed to be effected in the Government of India Presses other than the Aligarh Press, the answer is in the negative.

(b) The reply to the first part is in the affirmative. The whole question of retrenchment in the Stationery and Printing Department is still under the consideration of Government.

TENDERS FOR REPAIR WORK AT THE GOVERNMENT OF INDIA PRESS, ALIGARH.

34. Khan Bahadur Haji Wajihuddin : (a) Is it a fact that tenders for repair work and articles locally purchased are not invited by the Manager, Government of India Press, Aligarh ?

(b) What amount of money was paid to contractor for repair work for the press in the last financial year ?

(c) Is it a fact that representations offering reduced rates for repairs and for articles locally purchased have been submitted to Government and, if so, what action have Government taken in the matter ?

(d) Have Government issued instructions to Manager to invite tenders for all works ?

Mr. J. A. Shillidy : (a) Heretofore tenders were not called for.

(b) Rs. 3,611.

(c) A representation on the subject was received by the Controller of Printing and Stationery, India, who has directed the Manager, Government of India Press, Aligarh, to call for tenders in future.

(d) Does not arise.

QUALIFICATIONS OF EMPLOYEES IN THE GOVERNMENT OF INDIA PRESS, ALIGARH.

35. Khan Bahadur Haji Wajihuddin : (a) Is it a fact that Mohammad Ismail, a clerk in the Government of India Press, Aligarh whose services have been transferred from the Canal Department [which he had served for twenty (20) years] is not a matriculate ?

(b) Is it a fact that he has been given by the Controller or the Manager one year's time to pass the matriculation examination, or if he fails or does not care to pass examination, he will be reverted to the Canal Department ?

(c) If the answer to the above is in the affirmative, will Government be pleased to state the names of other clerks not holding that qualification and who are doing work in the Government of India Press, Aligarh ? Are Government prepared to consider the advisability to have the order withdrawn ? Why is not the same rule applied to all others in the department ?

Mr. J. A. Shillidy : I propose to deal with questions Nos. 35 and 36 together. The Controller of Printing and Stationery is responsible to Government generally for the efficient administration of the Government of India Presses and Government do not propose to call for the information regarding these administrative details, which are matters for his discretion.

APPOINTMENT OF FOREMAN PRINTER, GOVERNMENT OF INDIA PRESS, ALIGARH.

†36. Khan Bahadur Haji Wajihuddin : (a) When did the post of a Foreman Printer fall vacant in the Government of India Press, Aligarh ?

(b) Was this post advertised ?

(c) If the answer to the above is in the affirmative, will Government be pleased to lay on the table a statement showing :—

- (i) the names of applicants, (ii) their technical qualifications,
- (iii) names of institutions which they are serving or have

†For answer to this question, see answer to unstarred question No. 35.

served, and (iv) length of service in case they have served or are serving any Government institutions !

(d) Is it a fact that no permanent appointment has so far been made? If so, why?

FIREARM LICENSES CONFISCATED IN THE UNITED PROVINCES.

37. **Kunwar Hajee Ismail Ali Khan** : With reference to my starred question No. 973, answered on the 16th March, 1931, regarding firearm licences confiscated in the United Provinces, will Government kindly lay on the table the following information ?

1	2		3		4	
Names of the Districts, United Province.	The number of licences confiscated.		The total number of licences.		The number of such Licences which issued again according to Irwin-Gandhi agreement.	
	Muslims.	Non-Muslims.	Muslims.	Non-Muslims.	Muslims.	Non-Muslims.

The Honourable Sir James Crerar : The information asked for is not in the possession of the Government of India and I consider that its collection would involve labour incommensurate with its value.

INCONVENIENTLY EARLY DEPARTURE OF THE POONA MAIL FROM BOMBAY.

38. Mr. N. R. Gunjal : (a) Are Government aware of the fact that much inconvenience is felt by the public of the Southern Maharashtra and Karnatak by the timing of the Poona Mail leaving Bombay at 4 P.M. ?

(b) Is it a fact that the Mail from the Southern Maratha country and Karnatak reaches Bombay just before noon and post is distributed to the public at about 2 P.M. ?

(c) If so, are Government aware that much inconvenience is felt by the public in replying on the same day the urgent correspondence received at that hour, owing to the early departure of Poona Mail ?

(d) Are Government prepared to direct the authorities concerned to start the Poona Mail at least not before 6 P.M. ?

Mr. A. A. L. Parsons : (a) and (b). Government have received no representations to this effect.

(b) I understand that the mails in question reach Bombay at 11-35 hours and are included in the 13 hours delivery from the Bombay General Post Office.

(d) No. The preparation of time-tables is a matter for Railway Administrations and not for Government.

EMPLOYMENT OF MUSLIMS IN THE SURVEY OF INDIA.

39. Kunwar Hajee Ismail Ali Khan : (a) Will Government be pleased to state the total number of Muslims and non-Muslims in the following services of the Survey of India, (i) Class I, (ii) Class II, (iii) clerical establishment ?

(b) What is the total number of executive, semi-executive and other minor independent charges in the Department and how many of these are being held by Muslims ?

(c) How many additional charges or posts carrying greater emoluments and responsibility have been, created from time to time during the last 15 years, both in the Department and how many of these have been offered to Muslims ?

(d) What is the proportion of Muslims and non-Muslims now working as permanent Head Clerks and Accountants in the various field parties and Drawing and Headquarter Offices ?

(e) What is the proportion of Muslim and non-Muslim clerks drawing a salary of Rs. 100 per mensem and over ?

(f) what is the total number of Muslim and non-Muslim officers in Class II drawing a salary exceeding Rs. 350 per mensem ?

(g) How many Muslim and non-Muslim employees of the Department have been (i) discharged or served with a notice of discharge, and (ii) made to retire on pension owing to retrenchment, and what is the average number of years they (of each community) have served in the Department ?

(h) Is the present representation of Muslim community in Class I, and higher grades of Class II and clerical services in accordance with the declared policy of Government ? If not, how do Government propose to redress the communal inequalities in accordance with their declared policy, to ensure that the Muslims are not deprived of their due weightage in the administration, and that their interests are safeguarded ?

The Honourable Khan Bahadur Mian Sir Fazl-i-Husain :

(a) (i) Muslims	..	..	Nil.
Non-Muslims	..	..	49
(ii) Muslims	..	..	12
Non-Muslims	..	..	70
(iii) Muslims	..	..	32 approximately.
Non-Muslims	..	..	225 approximately.
(b) Executive charges	..	..	33
Non-executive charges	..	..	5

None of these charges is held by Muslim at present.

Government have made enquiries as to the number of minor independent charges in the Survey of India Department and the number of such charges held by Muslim officers and will furnish this information to the Honourable Member in due course.

(c) The information asked for is not readily available. Government have made enquiries and when the requisite information is received, it will be furnished to the Honourable Member.

(d) Muslims	..	..	..	..	3
Non-Muslims	..	..	..	..	15
(e) Muslims	..	..	..	..	6
Non-Muslims	..	..	..	..	41
(f) Muslims	..	..	..	..	4
Non-Muslims	..	..	..	..	52

(g) Figures are being collected and will be supplied later.

(h) The comparative shortage of Muslims in the lower ranks of the Department is due to the fact that few Muslims have hitherto applied for admission to it. Class I is at present outside the scope of Indianisation as direct recruitment to it is made from among British officers of Army. The number of candidates of different communities to be admitted to class II is regulated by special rules which have been framed with due regard to the needs of the Department. As regards the clerical establishment, recruitment to it is being made in accordance with the declared policy of Government to secure the due representation of minority communities. Government hope that the number of Muslims in the Department will in due course show an increase.

†40.

ADMISSION TO THE PUBLIC SERVICE COMMISSION EXAMINATION OF UNQUALIFIED CLERKS.

41. **Mr. S. C. Mitra :** (a) Are Government aware that a few non-Matric and temporary clerks of the Army Headquarters and Headquarters, Royal Air Force, were allowed to sit at the last Public Service Commission examination? If so, will Government be pleased to state the names, the period of service and the reasons for allowing them to appear at the examination in each case?

(b) Is it a fact that a few clerks, who put in nearly two years' service and were willing to sit at the last Public Service Commission examination, were refused permission by Mr. E. A. Daniel, the late Establishment Officer of the Army Department? If so, will Government be pleased to state the names, the period of service and the reasons for such refusal of permission to sit at the examination in each case?

Mr. G. M. Young : (a) Two non-Matric temporary clerks only were declared by the Public Service Commission eligible to appear at the special qualifying examination held on the 30th March, 1931, in virtue of their services during the Great War. They had, on the 31st December,

†This question was withdrawn by the questioner.

1930, one year and 10 days and one year and 9 days service, respectively, in the Government of India Secretariat or its attached offices. Government do not propose to give prominence to their names.

(b) Five applicants, whose service in the Government of India Secretariat or its attached offices between the 1st April, 1928, and the 31st December, 1930, are given below, were refused permission to sit at the examination.

- A. Two years.
- B. Two years.
- C. Two years and seven months.
- D. One year and eleven months.
- E. Two years and three months.

The first three were educationally unqualified, and the remaining two were not in service at Army Headquarters on the 18th February, 1931.

TRAINING OF INDIANS IN THE MANUFACTURE OF ELECTRIC BULBS.

42. **Mr. S. C. Mitra :** (a) Will Government be pleased to state whether bulbs of British manufacture are purchased by the Indian Trade Commissioner, London, the Indian Stores Department and the Controller of Contracts for being supplied to the Government of India ? If so, do Government propose to send Indian students to those British bulb manufacturing concerns for being trained in the art of manufacturing bulbs in India ?

(b) Is it a fact that Indian students are not allowed to learn bulb manufacturing in foreign countries ?

(c) Do Government propose to take steps for arranging to train Indian students in the art of manufacturing electric bulbs in the British bulb manufacturing concerns and do they propose to award Government scholarships to Indian students for such training ? If not, why not ?

Mr. J. A. Shillidy : (a) Electric lamps (bulbs) of British and Continental manufacture are purchased by the Chief Controller of Stores, Indian Stores Department and the Director of Contracts for various Departments of the Central and Provincial Governments. The Indian Trade Commissioner, London, is not a purchasing officer. The Government have not considered the question of sending Indian students for a course of training to the works of British or Continental electric lamp manufacturers as they have received no request to arrange for such facilities.

(b) The Government have no definite information but they are advised that the manufacture of electric lamps is a highly specialized trade in which there are many secret processes which manufacturers are reluctant to divulge.

(c) Government will carefully consider any application for facilities for training Indian students in the works of electric lamp manufacturers, and will endeavour to make suitable arrangements ; but in view of the present need for strict economy and also the fact that the development of industries is a provincial transferred subject, they can hold out no hope of being able to grant scholarships to Indian students for such training.

TRANSFER OF CONTROL OF THE CATERING DEPARTMENT OF THE EASTERN BENGAL RAILWAY FROM HEADQUARTERS TO THE DISTRICTS.

43. Khan Bahadur Haji Wajihuddin : (a) Is it a fact that the Catering Department of the Eastern Bengal Railway is under orders of transfer from the control of the Headquarters to that of the District ?

(b) Are Government aware that previously this Department was under the control of the District but for better control and supervision it was transferred to the Headquarters ?

(c) Is it a fact that since the transfer of the Department to the Headquarters, its income has risen to about 1½ lakhs a year without any complaints from the public ?

(d) Is it a fact that the Department was first started by Colonel Cameron with the approval and sanction of the Railway Board ? Has the approval of Railway Board been obtained to the above transfer ? If not, are Government prepared to inquire what has led to this reversion to the old arrangement ?

(e) Is it a fact that the contractors of the entire Railway have represented to the Agent the undesirability of such a transfer ?

(f) What action has been taken on the representation ? If it be still under consideration, are Government prepared to direct the stay of the transfer of control from the Headquarters to the Districts ?

Mr. A. A. L. Parsons : I have asked the Agent, Eastern Bengal Railway, for a report and will communicate with the Honourable Member on receipt of his reply.

TERM OF OFFICE OF THE TRAFFIC MANAGER, EASTERN BENGAL RAILWAY.

44. Khan Bahadur Haji Wajihuddin : (a) Is it a fact that the present Traffic Manager of the Eastern Bengal Railway has been holding that post for more than five years ?

(b) What is the ordinary term of an officer holding one post ?

Mr. A. A. L. Parsons : (a) No.

(b) Five years, but re-appointments to the posts may be as often, and in each case for such period not exceeding five years, as the Railway Board may decide, provided that the term of re-appointment shall not extend beyond the date on which the Government servant attains the age of 55.

ABOLITION OF THE PUBLICITY DEPARTMENT ON THE EASTERN BENGAL RAILWAY.

45. Khan Bahadur Haji Wajihuddin : (a) Are Government aware that the Publicity Department in the Eastern Bengal Railway was created by Colonel Cameron with the approval of the Railway Board ?

(b) Is it a fact that it has since been abolished ?

(c) What was the income and expenditure of this Department at the time of its abolition ?

(d) Has the sanction of the Railway Board been obtained for that ?

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(d) Has the sanction of the Railway Board been obtained for that ?

(e) Is it a fact that other Railways are strengthening and developing their Publicity Departments? What led to its abolition on the Eastern Bengal Railway?

(f) Are Government prepared to consider the desirability of re-constructing the Department, in the interest of the public?

Mr. A. A. L. Parsons : I have called for certain information and will communicate with the Honourable Member on its receipt.

HEAVY WORK IN DISTRICTS OF THE EASTERN BENGAL RAILWAY.

46. **Khan Bahadur Haji Wajihuddin :** (a) Are Government aware that owing to considerable retrenchment in the staff attached to the Districts of the Eastern Bengal Railway, the work in the Districts is heavy and in the Headquarters light?

(b) Will Government be pleased to state how many officers have been affected by the retrenchment operation and of which grade?

(c) Is it a fact that no reduction has taken place in the strength of officers in the Headquarters, and the Districts are being burdened with further work by the transfer of the Catering Department from the Headquarters to the Districts?

(d) Are Government prepared to consider the desirability of either reducing the number of the officers in the Headquarters or stopping the transfer of work from these, to Districts?

Mr. A. A. L. Parsons : I have called for certain information and will communicate with the Honourable Member on its receipt.

UNIFICATION OF THE KANARESE-SPEAKING DISTRICTS OF MADRAS AND BOMBAY PRESIDENCIES.

47. **Rao Bahadur B. L. Patil :** (a) Is it a fact :—

(i) that a resolution for unification of the Kanarese-speaking districts of Madras and Bombay Presidencies and Coorg into one province was moved in the Bombay Legislative Council in 1929 ;

(ii) that it was unanimously supported by all members from the Kanarese speaking districts ; and

(iii) that it was opposed by Government members ?

(b) Is it a fact that a similar resolution has been passed by the Coorg Legislative Council ?

The Honourable Sir James Orerar : (a) (i) and (iii). Yes.

(ii) I have no official information.

(b) Yes.

POPULATIONS, REVENUE, ETC., OF CERTAIN KANARESE-SPEAKING DISTRICTS.

48. **Rao Bahadur B. L. Patil :** Will Government be pleased to state what are the population, area, revenues from Provincial and Central heads, and expenditures on Central and Provincial Heads regarding the

following districts:—(1) Dharwar, (2) Belgaum, (3) Bijapur, (4) Karwar, (5) Sholapur, (6) Bellary, (7) Nilgiris, and (8) Coorg Province?

The Honourable Sir James Crerar : As regards the area of Coorg and of the districts mentioned in the question, I would refer the Honourable Member to the Imperial Gazetteer of India. As regards the population, he may refer to Volumes VIII and XIII, part II, Provincial Table 1 of the Census Report of India, 1921. The figures of the recent census have not yet been published.

The revenue and expenditure in Coorg are given in the Finance and Revenue Accounts of the Government of India, copies of which will be found in the Library. Figures of revenue and expenditure of the districts referred to are not separately available.

FORMATION OF A "KARNATAK PROVINCE".

49. Rao Bahadur B. L. Patil : (a) Are Government aware that the Madras Legislative Council passed a Resolution in 1929 recommending to Government that urgent steps should be taken for the formation of "Karnatak Province", comprising the Kanarese speaking parts of the Madras and Bombay Presidencies and of Coorg?

(b) If so, have either the Madras Government or the Government of India taken any steps to carry out that resolution into effect?

(c) If so, what are they; and if not, why not?

The Honourable Sir James Crerar : (a) Yes.

(b) and (c). A copy of the proceedings of the Madras Legislative Council received from the Government of Madras was forwarded to the Secretary of State.

UNIFICATION OF THE KANARESE-SPEAKING DISTRICTS OF MADRAS AND BOMBAY PRESIDENCIES.

50. Rao Bahadur B. L. Patil : (a) Are Government aware that for the unification of the Kanarese-speaking districts of Bombay and Madras Presidencies and of Coorg two Associations (i) "The British Karnatak Association", and (ii) "The Karnatak Yekikarna Sabha", are formed in Bombay Karnatak?

(b) Is it a fact that the first named association submitted its memorandum before the Simon Commission and also before the Central Co-ordination Committee?

(c) Will Government be pleased to state whether this subject is receiving attention at the hands of the Reforms Secretary and, if so, is he prepared to accept information and receive deputations?

(d) Will Government be pleased to state whether the depth of public opinion in this behalf in the Kanarese-speaking districts of Bombay and Madras Presidencies has been ascertained and, if not, are Government prepared to ascertain the same from the Oriental Translators' Offices from Bombay, Madras and Coorg before the despatch of Government of India is prepared?

The Honourable Sir James Crerar : (a) Government have no information.

(b) to (d). Government have not seen the memorandum referred to by the Honourable Member nor is the question at present under their consideration.

SELECTION OF A REPRESENTATIVE FROM THE KARNATAK FOR THE ROUND TABLE CONFERENCE.

51. Rao Bahadur B. L. Patil : Will Government be pleased to state whether communications and resolutions have been received from various associations from the Karnatak requesting Government to select a representative from the Karnatak for the Round Table Conference ?

The Honourable Sir George Rainy : The answer is in the affirmative. In this connection a reference is invited to the reply which I gave to Mr. Bhuput Sing's unstarred question No. 18 on the 26th January last.

NEW RULE FOR PAYMENT OF TWO ANNAS ON V.P. PARCELS AND REGISTERED NEWSPAPERS.

52. Rao Bahadur B. L. Patil : (a) Will Government be pleased to state whether representations have been received protesting against the new rule compelling payment of 2 annas in the case of all V. P. parcels, including registered newspapers and periodicals ?

(b) If so, are Government prepared to exempt the registered newspapers and periodicals ?

Sir Hubert Sams : (a) No.

(b) Does not arise.

INCOME-TAX APPEALS.

53. Rao Bahadur B. L. Patil : Will Government be pleased to state whether they have or are prepared to consider the question of joining the Income-tax Department to the District Revenue establishments on the lines similar to the old system and to arrange for the hearing of Income-tax appeals by officers unconnected with the work of departmental assessment, e.g., the officers of the Judicial Department ? If so, is it their intention to issue orders or to introduce necessary legislation ?

The Honourable Sir George Schuster : The Government do not propose to restore the work of collecting taxes on income to the District Revenue staff or to provide for Income-tax appeals being heard by officers not connected with the Department.

ENHANCED COST OF ENVELOPES AND PARCEL POST RATES.

54. Rao Bahadur B. L. Patil : Are Government aware that representations were sent by a large number of associations and individuals, protesting against the enhanced rate of one pie in the cost of the envelope and the enhancement of postal parcel rates from the 15th June, 1931 ? If so, what steps have been taken in this matter ?

Mr. J. A. Shillidy : Yes. The senders of the representations were informed of the inability of Government to accede to their request.

THE CODE OF CRIMINAL PROCEDURE (AMENDMENT) BILL.

Mr. Gaya Prasad Singh (Muzaffarpur *cum* Champaran : Non-Muhammadian) : Sir, I beg to move that the Bill further to amend the

12 Noon.

Code of Criminal Procedure, 1898 (*Amendment of Section 144*), be referred to a Select Committee consisting of the Honourable the Home Member, Diwan Bahadur T. Rangachariar, Sir Hari Singh Gour, Rai Sahib Harbilas Sarda, Mr. B. R. Puri, Mr. Lalehand Navalrai, Sir Muhammad Yakub, Maulvi Sayyid Murtuza Saheb Bahadur, Mr. C. B. Elliot, Mr. Muhammad Azhar Ali, and the Mover, and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five.

Honourable Members will remember that this subject was debated upon at considerable length in the last Delhi Session. My motion to refer this Bill to a Select Committee was lost by one vote. Since then the Bill went out to the country for the purpose of eliciting opinions thereon. With regard to the opinions that have been received since then, my first complaint is that the presentation of the opinion of the country leaves much to be desired. I find that most of the opinions are from local officials and Local Governments. In this connection I should like to ask my Honourable friend the Home Member if he has in his possession the names and number of non-officials who were consulted on this subject. It goes without saying that when the Bill was referred to public opinion, almost all the Local Governments and officials concerned would be hostile to my Bill. My apprehensions have been realised. I find, Sir, that most of the opinions emanating from official sources have been distinctly antagonistic to my Bill. That was a foregone conclusion. With regard to the opinions received, I must divide them into two parts, first those from official sources and the second from non-official. Non-official bodies and individuals have for the most part supported the general principles of my Bill. Before I proceed further, I should like to bring to the notice of this House that a question which was asked by my Honourable friend sitting behind me with regard to the number of cases in which this section was applied has not been answered by my Honourable friend the Home Member. His reply was that the trouble involved in getting the statistics would be out of all proportion to the results. That indicates, Sir, that there must have been innumerable cases in which this section must have been applied.

The Honourable Sir James Crerar : Will the Honourable Member allow me to interrupt him for a minute. That is not a fair inference from my reply. I must point out that, in order to provide accurate and ascertained statistics of the kind asked for by the Honourable Member, it would be necessary to refer to every District Magistrate, every Sub-Divisional Magistrate and every specially empowered Magistrate in India and that is a very great task.

Mr. Gaya Prasad Singh : I am not making a grievance of this fact.

The Honourable Sir James Crerar : I thought the Honourable Member was making a grievance of this.

Mr. Gaya Prasad Singh : I was only bringing to the notice of the House that it is not in a position to judge for itself in how many cases this section was applied by the officers of Government in all the provinces. Now, Sir, with regard to the opinions received, I should like to refer to the opinion of the Calcutta High Court, the

[Mr. Gaya Prasad Singh.]

premier High Court in India, and as befitting its position, it has declined to give any opinion on this question because it raises a controversial question of policy. This is exactly what other High Courts might with advantage have followed ; but I find that some of the High Courts with perhaps an unconscious political prejudice have gone out of their way in criticising what is after all a question of policy. The High Courts, as I understand it, have only to administer the law as they find it. It is no part of their duty to advise the Government on questions of policy, and I should have been glad if the other High Courts had followed the salutary example of the Calcutta High Court. Now, Sir, one Honourable Judge of the United Provinces High Court has approved of my Bill. This Honourable Judge says :

" I am generally in sympathy with the object of the Bill, but I am not in a position to say whether the Bill, as drafted, would answer the object the learned introducer of the Bill has in view. Although an order passed under section 144 of the Code of Criminal Procedure is open to revision by the High Court usually there would not be any materials before the Court on which it can pronounce any opinion. It would, therefore, be desirable that there should be some material on the record to indicate why the Magistrate issuing an order under section 144 of the Code of Criminal Procedure has issued a particular order. In urgent cases this will not be possible ; but when the urgency is over after the order has been passed, sufficient material may, in some cases, be put on the record in justification of an order passed."

Mr. Justice Boys of the same High Court says :

" The section as it stands is open to abuse and the instances quoted indicated that it has been sometimes improperly used."

For this limited support I am thankful to these two Honourable Judges of the High Court.

Mr. K. Ahmed (Rajshahi Division : Muhammadan Rural) : That is no support. That is against you.

Mr. Gaya Prasad Singh : My Honourable friend should apply his mind and read what I have just read out.

Mr. K. Ahmed : I have done it.

Mr. Gaya Prasad Singh : In my own province of Bihar and Orissa, it is stated that almost all the Bar Associations and the non-official bodies are in favour of the Bill. The Bihar and Orissa Chamber of Commerce is also in favour of the main features of my Bill. Then, Sir, I pass on to the opinion of the Commissioner of the Irrawaddy Division in Burma. He has opposed my Bill, and I do not at all find fault with it. But what I want to say is this—that he has indulged in language of a kind which does not befit his position as a responsible officer of Government. I want to bring to the notice of this House the language in which he has indulged. He says :

" In India and Burma the Government is constantly engaged in putting down violent disorders. Murderous riots arise from the smallest causes. There is a section of politicians who hope to profit by those disorders under the present Government and thereby hope to attain power more rapidly than they otherwise might. This section is engaged in the constant effort to eliminate the powers of Government to deal with disorder. I look on the Bill merely as an expression of the political intrigue of that section."

Sir, this language is impertinent, it is stupid, if I may say so.

Mr. K. Ahmed : That is not Parliamentary language to use !

Mr. Gaya Prasad Singh : May I ask what is the point my Honourable friend wishes to make ? Sir, instead of making these unintelligent

interruptions, it would be well for my Honourable friend to stand up and make such observations as he likes, and I am prepared to give way to him as many times as he likes to interrupt me.

Mr. K. Ahmed : You should follow my advice.

Mr. Gaya Prasad Singh : As I stated before, this is attributing a motive which no responsible officer of the Government should have done. Can I not retaliate that these officers of Government want to retain these powers in their own hands, so that in the event of the Round Table Conference failing and of the civil disobedience or any other movement springing up afresh in the country, they might have sufficient powers to curb the legitimate activities of the people and thereby to preserve powers for their own selves and for their own children and grandchildren who come from a distant country, and who in their own country can never hope to make as much money as they are privileged to make in this country.

Mr. K. Ahmed : Hear, hear.

Mr. Gaya Prasad Singh : Now, Sir, my Bill provides for an appeal to the Sessions Judge ; and in favour of this proposal I find that among the officials there is a Judge of the United Provinces High Court, and a District Magistrate of Burma, whose opinion is given on page 27. This is what the latter says :

“ It seems to me impossible to deny that there should be an appeal and that the appellate court should be accessible. The absurd orders that have been issued in some cases seem to justify the claim.”

An Honourable Member : Where is this ?

Mr. Gaya Prasad Singh : On page 27. He admits the desirability of an appeal to the Sessions Judge. I need not refer to other opinions in my support. The Commissioner of Arakan in Akyab is also in favour of my Bill. Then, Sir, I will read out to you just one sentence from the letter of the Chief Secretary to the Government of Assam, which is at page 35. In the course of that letter it is stated :

“ Non-official opinion on the Bill generally discloses a resentment of the use of section 144 of the Criminal Procedure Code for preventing political processions, speeches and meetings.”

Now, Sir, in the course of my speech which I delivered to the House when making my motion on the last occasion, I gave innumerable instances in which the provisions of this section have been misused. On two known occasions when the cases went up to the High Court, the absurd orders that were promulgated under section 144 had to be set right by the High Court. I referred to the two cases in which the District Magistrates issued orders prohibiting people from wearing what are known as Gandhi caps, and hoisting in their private houses national flags.

Mr. K. Ahmed : You mean only for these two cases there should be an appeal ?

Mr. Gaya Prasad Singh : I shall give a few more instances. In April 1925 a garden party was given by the Mahant of Emir Math in Puri to the Governor of Bihar and Orissa. As a resentment against this action, a *hartal* was observed by the public and a protest meeting was held. Immediately, a notice under section 144 was issued on Pandit Gopa Bandhu Des and six others prohibiting them from holding any meeting. Now those who wanted to hold this protest meeting wanted to do so on

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the ground that the Math was a trust property, and no expenditure should have been incurred out of this trust property for the entertainment of Government officials. I ask, Sir, was that a proper justification for the issue of a notice under section 144 ?

Mr. K. Ahmed : Why did you not institute a civil case and ask for an injunction ?

Mr. Gaya Prasad Singh : On another occasion orders under section 144 were served on the President of the Congress at Dehra Ismail Khan prohibiting the picketing of shops or the organizing of such picketing for two months in July 1931. This was after the Gandhi-Irwin pact, although it is mentioned in that pact that peaceful picketing should be allowed. In May last in Bankura in Bengal a circus company arranged a benefit night in aid of the local Congress Committee. The Secretary, with the help of workers of the Committee, managed to sell tickets amounting to about Rs. 400. In the evening the Sub-Divisional Officer promulgated an order under section 144 prohibiting the manager of the circus from showing any performance that night. Can the lawful right of a citizen, Sir, be curtailed in this way anywhere else in the world ? If the circus company had not arranged for a benefit night with the Congress, this order would never have been issued.

Mr. K. Ahmed : Why did you not avail yourself of the provisions of section 439 and move the High Court, when you would have got a better remedy ? And in the latter case a suit for damages would serve the purpose.

Mr. Gaya Prasad Singh : Then, Sir, in May last a notice was issued on a person in District Murshidabad prohibiting a particular person from delivering a lantern lecture on behalf of the Congress. Then, in Chittagong a very curious order under section 144 was issued in June last. I shall read it out to you ; it will at once show to you its absurdity. The District Magistrate says :

“ I am satisfied that it is necessary for the immediate preservation of public tranquillity and for the prevention of danger to human life that young men belonging to the *Hindu Bhadralog* class between the ages of 16 and 26 should not leave their respective houses in the under-mentioned areas between 7-30 P.M. and 5 A.M. I direct under section 144 of the Criminal Procedure Code that all *Hindu Bhadralog* class youths within the areas mentioned above, residing or staying within the limits of the municipality of Chittagong, the jetties and Pahartali not to leave their respective houses between those hours.” “ The order will ” (it was stated) “ come into force from the 8th June. Persons serving in the railways and jetties affected by this order should apply for passes. Other persons having urgent requirements may get passes from the Kotwali.”

Now, Sir, this from a Magistrate's order actually issued. It was impracticable, and it gave rise to considerable resentment and trouble. It had been applied only to Hindu Bhadralog youths of particular ages. Then in the United Provinces in Rae Bareilly in June 1931 a worker of the Kissan Sabha was served with a notice prohibiting him from addressing meetings, organizing Kissan Sabhas, distributing handbills and collecting funds. The President of the District Congress Committee in Lucknow was served with a notice under section 144 prohibiting him from making any speech or utterance, or attending any meeting or disseminating any

leaflet, or collecting subscriptions, or doing anything in writing whatsoever on the present agrarian or political situation in the district in connection with any propaganda, directly or indirectly, connected with agrarian, political or labour problems. I beg to submit that this is a most comprehensive order and it embraces within its scope almost all phases of legitimate national activity. Almost all the legitimate activities which a person is entitled to under the law are sought to be prevented under the cover of this section.

I will now read to the House the text of an order which was issued under section 144 in a place called Urgaon in the Madras Presidency. This order was issued on Mr. O. V. Rajgopal Naidu and seven others representing the Humanitarian League and the Temperance Federation, prohibiting them and others from picketing, lecturing or holding any demonstration within a radius of two furlongs of the excise shops in a particular locality.

Mr. A. H. A. Todd (Madras : Nominated Official) : Are you referring to a place which is in British India or in a Native State ?

Mr. Gaya Prasad Singh : I do not know exactly the locality of this place.

Mr. A. H. A. Todd : It is not in British India at all.

Mr. Gaya Prasad Singh : Then I am sorry I mentioned it.

Now, Sir, the way in which section 144 has been misapplied, abused and prostituted for the purpose of putting down legitimate political activities of the people and of the Congress in the United Provinces has been referred to in that memorable letter written by Mahatma Gandhi to the United Provinces Government, as a result of which the Commissioner of Rae Bareilly had to withdraw the notice which was issued under this section. Pandit Jawahar Lal Nehru, in the course of a Press interview relating to the misuse of this section in some of the districts of the United Provinces and other places, says as follows :

“ The use of section 144 to curb and stop Congress activities cannot be tolerated for long.”

Honourable Members will remember that in Simla only in July last the States People's Conference was going to be held and the delegates assembled at a particular place. The then Deputy Commissioner of Simla, the late Mr. Crump, or his Assistant did issue an order under section 144 dispersing that peaceful gathering. I have not a word to say with reference to the merit of that particular meeting which was going to be held, but it was on insufficient materials and on the spur of the moment that this order was issued, and it formed the subject of controversy between the Local Government and some of the organisers of the meeting.

Sir, I have mentioned just a few instances where this section has been misapplied. Honourable Members will see that it is high time that steps should be taken to prevent any further mischief being done as a result of the abuse of powers vested in the Magistrates under section 144. I assert, Sir, that some of our Magistrates have not properly applied the provisions of the section. They have forfeited our confidence to that extent, and it is therefore proper that we must circumscribe the powers which this law vests in the Magistrates. This section forms an entire chapter by itself in the Code, and it has been expressly enacted for the

[Mr. Gaya Prasad Singh.]

purpose of preventing urgent cases of nuisance or apprehended danger, but it is being extensively misapplied all over the land for political purposes. There is a general bitterness of feeling against the abuse of section 144. Sir, it is quite possible that the language of my amendment may not come up to the mark. After all, I am concerned only with the substance of the amendment which I seek to introduce in that section. I therefore move that my Bill be referred to the Select Committee. The Select Committee, if it pleases them, might make suitable modifications on whatever line they think fit. I do not want to take up the time of the House any more because the subject has already been debated at considerable length in the last Delhi Session.

I therefore move my motion.

Mr. J. F. Dyer (Central Provinces : Nominated Official) : Sir, I am not astonished that in moving that his Bill be referred to a Select Committee the Honourable the Mover has succeeded in making only a very halting and in some places, I think I am right in saying, an intemperate speech. I have read the opinions recorded on the Bill and I was frankly wondering what answer he would give to them. First of all, he said there were too many official opinions, but I should like to bring to the notice of this House that officials have a very particular interest in this section. It is on the shoulders of the executive officials to see that proper orders are made and applied ; it is on the shoulders of the members of the Bench to see that the section is not abused.

In going through the opinions the Honourable the Mover made certain quotations. It is rather significant that he omitted one quotation which I will now make. It is from Bihar and Orissa, which is the province of the Honourable Member himself :

“ The High Court considers that it ” (*the Bill*) “ has no merits and should be opposed.”

Of all the opinions recorded, the one which I like the most is that given on page 7, the opinion of the Honourable Mr. Justice Muhammad Raza. Before I quote that opinion, I should like most respectfully to protest against the language used by the Honourable the Mover about the opinions of judicial officers. If I am not mistaken, he insinuated that they were influenced by political motives. I am only an executive officer but prefer to believe that the High Court Judges are honest men who give honest opinions. Now, this opinion of Mr. Justice Muhammad Raza has two merits—it is short and it is to the point. He says :

“ In my opinion the proposed amendment is ill-advised and mischievous in its consequences. I am entirely against the Bill. I agree with my brother, Kisch, J.”

Now that opinion, if it had been passed by an executive officer, a District Magistrate or a Commissioner, might well have been rejected by this House as prejudiced, but it is passed by a judicial officer. I ask the House a fair question. It is alleged that section 144 has been grossly abused. It is a fact that the only bodies which can at present interfere with an order under it are the High Courts. Why is it then that the opinion of the High Court Judges is almost unanimous in opposing the Honourable the Mover's Bill ? Until we get a clear answer to that question, the Bill should not go to Select Committee.

Section 144 is only one of the many instruments in the hands of the executive Government for maintaining law and order, not always as I

know from a fairly considerable personal experience a very easy or a very pleasant task. Personally I have not much resorted to it. Since I returned to duty from long leave in July of last year, I have consistently counselled District Magistrates in my Division against its use. I have gone further and have argued with my Local Government against its use. The section has many objections. One is this: If I may use what is now-a-days a common expression, it invites people to cheap martyrdom. In this case the martyrdom is very cheap indeed because the ordinary maximum punishment under section 188 of the Indian Penal Code is only one month's simple imprisonment. I do not know what other Provincial Governments have done, but my Provincial Government have provided a "B" class jail in one of the best places in India. One month's simple imprisonment in a cool district is a great deal more of a rest cure than a martyrdom. But there are circumstances under which section 144 is the proper instrument, and so long as these circumstances exist, so long as the section is on the Statute-book at all, it must remain there in an effective form, because to put it bluntly, it is a serious thing to trifle with it, for such trifling not always but often may amount to trifling with men's lives.

One of the many ways of maintaining order is that the people should have confidence in the man who happens to be the local Magistrate. He is not necessarily the best District Magistrate who faces the music with the greatest courage when trouble arises; nor is he necessarily the best, who takes the quickest and most effective means of restoring peace when it is disturbed, nor is he necessarily the best Magistrate who always passes orders under the Criminal Procedure Code in such a way that no High Court wants to interfere with them. He is the best Magistrate who so inspires confidence in his subordinates, Magistrates and police down to the constable and who so inspires confidence in the public that extraordinary measures are never necessary. No man can inspire confidence in others unless he has confidence in himself, and no Magistrate is going to have confidence in himself if he knows that what should be a stout staff in his hand is in reality a broken reed, such as the section will be if it is amended as the Honourable the Mover wants.

The Honourable the Mover devoted much of his speech to the abuse of the section, and in the debates in the Assembly when the Bill was first introduced, that point was raised. There are, I believe, somewhere about 250 districts in India. The Honourable the Mover has to give me 250 illustrations of abuse before he reaches an average of one abuse of the section in each district of India. This is not the only provision of law that is ever abused, and to say that it is sometimes abused is merely to say that Magistrates are human. If High Courts never misapplied the law, there would be no work for the Honourable the Judicial Committee of the Privy Council. Until I get proof that this section is habitually abused, as the Honourable the Home Member said when he spoke in the Assembly in January last, I am not convinced that its abuse is a ground for amending it. I know that in my own province the section has been sparingly used. There are two forms of abuse. There are orders which are positively wrong and bad. These can be corrected under the present law by revision in the High Court. There are orders which are merely over-cautious, and every body who has studied the delicate question of the maintenance of order in this country knows that it is better to be over-cautious ten times than to be under-cautious once and to be caught napping.

[Mr. J. F. Dyer.]

There are three main principles in the Bill. Firstly, there should be a special procedure for what the Bill describes as "any public or political meeting, association, processions or other demonstration". Yesterday in the debate on the Press Bill, Sir Hari Singh Gour rightly talked about the necessity for good definitions. It seems to me that this is rather a loose definition, and I defy human ingenuity to define precisely what a political meeting is. This is not a question of detail or of drafting. It is fundamental that there cannot be a satisfactory definition such as can be embodied in this clause. Also the implication is that all political meetings were legitimate activities. I quote the words used yesterday afternoon by Mr. Ranga Iyer :

"It is from these big huge processions that immature youths derive their inspiration. From black flags they march on to black actions."

That is a description of a "political procession" from the opposite side of the House the purport of which ought, I presume, to find a place in this clause.

Let me give two examples from my own Division. In one of the more backward districts of the Central Provinces, the Gonds had heard in their homes the glad tidings that Swaraj had come to India. They marched to headquarters to verify the fact. Unfortunately their Swaraj was of a kind which would not command universal approval. It was all too simple. It consisted of what I may call the three F.'s, free land, free forests and free drink. They marched to headquarters several thousands strong. They were met by the Superintendent of Police with an adequate force. He dealt gently and tenderly with the procession. There was no violence, there was no lathi charge, but when the mob had vanished and the police had finished their work, the District Superintendent had in his possession enough sticks to equip fully the local boy scouts. Is that the sort of meeting or procession which is to be specially protected by this Bill? Let me give another example. I happened to be in one of my districts when the District Magistrate and the Inspector of Schools had made up their minds to reopen the Government High School after it had been closed on account of civil disobedience. The local apostles of non-violence presented an ultimatum to the District Magistrate, that they would not permit the school to be opened unless the Congress flag were hoisted on it. They told him that if he attempted to reopen the school without hoisting the flag, in five minutes a crowd of two thousand would appear from the bazar and prevent the reopening. The District Magistrate did not take action under section 144. He merely made adequate dispositions of the available police force, and the mob did not appear. Is that the sort of political procession that is to be given a special procedure under this Bill? The fact is that in this country, we never know, when a meeting is going to be orderly or when it is going to be disorderly. Seventy years ago the Indian Penal Code provided for an assembly which starts as lawful becoming in its course unlawful. Precaution is necessary, as we never know when there is going to be danger.

The second principle is that in certain circumstances evidence should be recorded. Now, evidence can only mean evidence in one sense, evidence as we know it inside the four corners of the Evidence Act; and the very essence of this section as at present drafted is that the facts on which a Magistrate acts are not evidence under the Evidence Act. He has to draw on his own experience of what has happened in previous cases; he has to act on probabilities and possibilities; he has to weigh risks, and he has

always to err on the side of caution. Delay in passing an order under this section may mean murder.

The third principle is that of appeal. There are two objections to this principle. The first is that the appeal is to the Sessions Judge. I say this quite frankly and without any unfriendly feeling towards Sessions Judges. They may be older, more experienced and wiser men than the District Magistrates. In my Division at present there are five District Magistrates and three Sessions Judges. In each case the Sessions Judge is older in years and of greater experience than the District Magistrate. I have every confidence in each of them. But the whole nature of the Sessions Judge's training unfits him to judge an order under this section. He is accustomed to sit down at his leisure, study evidence carefully, hear counsel, consult his lawbooks and his law reports and then in his own time come to a very considered decision. The District Magistrate in passing an order under section 144 has to act on the spur of the moment and judge more by the atmosphere than by the evidence. But the great objection to this provision of appeal is that it gives divided responsibility. Whoever has to see the show through cannot be interfered with. It is an old saying that one general, even though he is an indifferent general, is better than two. What are we to think if one general has to plan and carry on the action and then another general suddenly cuts across his path and upsets all his plans? If I can judge from some of the questions which I have heard answered in this House, some of the Honourable Members are interested in horses. To put one man in the saddle and another man on the reins is not the best way to get a horse over a jump.

Sardar Sant Singh (West Punjab : Sikh) : Then why do you keep the judicial system? Abolish it and have executive authority.

Mr. J. F. Dyer : I am afraid I must ask for notice of that question. If I am driving a motor car and I am to be responsible for any accident, I am not going to allow the Honourable the Mover to interfere with the steering wheel just as some joy-walker comes across my front.

Some of the opinions talk of coming political changes. I do not quite know how they affect the question, except of course on the old principle of King Charles' head. But in one way, I think they do come in. One of the many privileges of self-government is, if I may use a familiar expression, that one must do one's dirty work. I do not see why the stipendiary Magistrate should for ever face the music and the honorary Magistrate should take refuge behind him. It will be increasingly the duty of honorary Magistrates to deal with law and order. I can quite well imagine an unkind fate making the Honourable the Mover an honorary Magistrate. I can imagine him sitting down to record evidence under his revised section 144, and just as he is doing so, a well-aimed brickbat hitting him fair on the chest. What is he going to do? Is he going to continue recording his previous evidence? Is he going to continue to scribble while Muzaffarpur burns? He would most appropriately be hoist with his own petard, and to the harassed executive officer it would be just retribution in an otherwise inequitable world.

Mr. Muhammad Yamin Khan (Agra Division : Muhammadan Rural) : Sir, the principle of section 144 of the Criminal Procedure Code is, as all Honourable Members know, to stop a thing from happening which if it happened would be deplorable. That section

[Mr. Muhammad Yamin Khan.]

is to be used in emergency cases and is used to stop a thing which should not happen. Let us see what the amendment of the section, as proposed by my Honourable friend, is seeking to do. He wants that, before a Magistrate takes action, he should give weight to and duly record evidence before passing any order. The words which he has used are "duly record evidence". Duly recording evidence means that witnesses must be summoned or brought under warrant, because a Magistrate has got no right to catch hold of a man without issuing any process and ask him to come before him and give evidence. And evidence naturally means that the other party must also be present to cross-examine. Any party who is aggrieved or any party against whom it is sought to pass an order under section 144 is to be given a full chance of cross-examining those persons who come before the Magistrate to make their statements. Then only it can be duly recorded evidence. If that is the meaning of my Honourable and learned friend, then I think he is suggesting something which will defeat the very object for which section 144 is meant. Instead of stopping those things from happening it will encourage them to take place ; I will give certain concrete examples. It is not very long ago that we had a debate in the Assembly about the affairs which took place at Cawnpore ; we had a motion for adjournment and what was it ? It was to blame the Government for not taking proper action in time to stop the thing which happened there. Now, any of my Honourable friends from Cawnpore can bear me out that twitness after witness who came before the Inquiry Committee blamed the officials for not taking action in time to stop those really sad occurrences which we all deplore.....

Mr. Gaya Prasad Singh : Did any of the witnesses suggest the promulgation of section 144 ?

Mr. Muhammad Yamin Khan : Not one ; quite right ; but if section 144 had been used, it was the real thing to stop the mischief.

An Honourable Member : Question.

Mr. Muhammad Yamin Khan : My friend wants that section 144 should not be used until the whole evidence is gathered and until the whole thing comes up to this pitch that a fight takes place, bringing ruin to a city or district. If this Bill is passed, that is what it would really amount to.

I will just draw my Honourable friend's attention and request him to give a moment's thought to what he is driving at and what will be the consequences if this section comes in. He wants not only to stop a Magistrate from taking action in political meetings or public meetings ; but he wants that a procession or demonstration should not be stopped unless he has duly recorded evidence and finds on that evidence that the procession should be stopped. Does he remember an instance which took place some years ago in Delhi, when some Muslims wanted to take a procession of a cow on a Bakr-Id day decorated to the slaughter house through a Hindu *mohalla*, and what would have been the result if that had not been stopped then and there ? Would he like on the Bakr-Id day that some people should take out a procession just to annoy the Hindu public, through a *mohalla* mostly inhabited by the Hindu public, and to create a quarrel and a riot between the two communities ?

Would he like the Magistrate to sit at his home and wait till witnesses were summoned and evidence tendered and cross-examination allowed.....

Mr. Gaya Prasad Singh : That is why I have provided for an *ex-parte* order to be promulgated in the next sub-clause.

Mr. Muhammad Yamin Khan : Supposing he makes an order for forty-eight hours ; these people will say, " All right we will wait ". This procedure will take three or four days ; does he want the Magistrate to sit there and wait till a motion of adjournment is brought in this House and a vote of censure is passed on the Government because the Magistrate did not take proper action in time ? We know there have been many occasions when the Muharram and Janmashtami Ramnaumi fell on the same day ; on many an occasion the Hindus and Muslims come together and arrange that at such and such a time the Muharram procession will pass and at such and such a time the Janmashtami procession will pass amicably and satisfactorily. But supposing in one place the Hindus and Muslims are not so wise and they do not have the regard for each other's feelings that they ought to have, then there will be a clash. Does my friend want that a procession should be passing and demonstration should take place in the same streets on Muharram and Janmashtami ? There may be bloodshed and hundreds of people may be killed ; but my friend wants that the Magistrate should sit in his room and say, " I will issue warrants and summons to record evidence of witnesses who will come before me and I will give a chance to people to cross-examine them ". Will that be right and proper ? And is it the remedy which my friend is seeking for ? I may say that there is some justification when he complains that this section has been misused by the magistracy, *e.g.*, in regard to the Gandhi cap. But these are trifling matters which might have occurred.....

Mr. Gaya Prasad Singh : How many heads were broken as a result of the promulgation of this order ?

Mr. Muhammad Yamin Khan : I do not know how many heads were broken. I listened very carefully to his speech and found that he did not give any number ; but I find that in many cases section 144 has been used to save many heads from being broken ; it has not been used in many cases to break heads but to save heads. I do not say that all Magistrates are perfect ; after all they are human beings. I do not say that every Magistrate is above all other human beings ; he is as much infallible as we are. He may misuse his powers, which we are liable to misuse if we are placed in that position ; he has to make up his mind and come to a decision on the spur of the moment without losing any time ; and he is quite likely to make an honest error of judgment. But you cannot say that because that is likely to happen therefore the law should be taken away. There are many laws which are broken every day. Although we have got many sections in the Penal Code, there are people always ready to come forward to break the provisions of law. There are sections to stop burglaries, but burglaries are happening to-day. But there is a section of the people who are terrified of the law. Proper use will bring this about. I quite admit there has been improper use of the law and some people might

[Mr. Muhammad Yamin Khan.]

have been swayed by feelings at a certain time. But you have to judge them from the circumstances in which they were placed. When we sit coolly in a cool atmosphere far away from the scene of the occurrence, we cannot properly judge of the feelings of the Magistrate at the time. We will have to go to the place and actually see and judge the man from the circumstances from which you can never separate his action. If you judge it in that light, you will find that there is not always so much want of justification as is sometimes alleged. I quite agree that there will come a time when the Magistrate will use this power very sparingly. Times are changing. Political disturbances take place and some people of one party want to force their will on other people. Then a peaceful citizen has got other remedy ; he has to go to a Magistrate, and the Magistrate can do nothing else except to use section 144. We know that in Cawnpore the riot came about simply because a certain section of the people chose to force their will upon others who were not willing to share their views. The result was so sad. If section 144 had been properly used at that time, we know that this would never have taken place and much monetary suffering and bloodshed would have been avoided. Naturally the Government, after full and careful inquiry, have found that the proper remedy was not applied, and my Honourable friend wants to take away that remedy from the hands of the executive. Our complaint is that it has not been properly used ; it has not been used on occasions when it ought to have been used. My friend ought to have said that this power ought to be very carefully used rather than deny it to the executive. If my friend disagrees with me in my views, political or otherwise, and if I force him to agree with me, there is no reason why he should accept that position. I can persuade him to agree with me, but I have no right to force him to my wishes. And if I use any force, the Magistrate must be there to save him from my high-handedness. If a Magistrate is not protecting him, he is not discharging his duty properly. This is the only weapon which is in the hands of the executive. I know that there is some defect in section 144. It can be improved. But this is not the way of improvement, this is not going to improve section 144.

1 P.M.

An Honourable Member : Go into the Select Committee and improve it.

Mr. Muhammad Yamin Khan : Unless the whole Bill is absolutely changed, which will never be allowed in the Select Committee. Instead of improving section 144, it is going to ruin the law as it stands, and for that reason, Sir, I oppose the motion made by my Honourable friend.

Mr. A. Hoon (Allahabad and Jhansi Divisions : Non-Muhammadian Rural) : Sir, I really do not understand why an idea has taken hold of our friends on the other side of the House that section 144 is going to be removed from the Statute-book or that the powers which the Government are now armed with are going to be taken away from their hands altogether. The Honourable and the learned speaker who spoke last and the one who spoke before him both sounded this note of warning, and they seemed to be under the impression that the whole administration was going to come to an end, and they also gave us to understand that section

144 is the only weapon in the hands of the Government with which it can maintain peace and order in the country.....

Mr. J. F. Dyer : On a point of order, Sir. That is precisely what I did not say.

Mr. A. Hoon : I again say that you implied that every time in your speech. The point to be considered is this, has the Honourable the Mover suggested that section 144 should be removed from the Statute-book, or has he suggested that, taking into consideration the particularly difficult times, section 144 and its provisions are likely to be abused by young and inexperienced Magistrates who are now given administration of districts even with 3 or 4 years' experience only? Sir, there is a very strong desire on the part of every one of us that peace should be maintained. I am one of those who will hold the Government responsible if peace is not maintained. I do not want that the powers of the Government should be curtailed, but at the same time, Sir, I say with all the emphasis at my command that I do not want the Government to commit acts by which their officials hold the whole Government in contempt in the country. (Hear, hear.) There is a provision in the Indian Penal Code according to which if a person does any act, makes any speech or does anything in writing by virtue of which he holds the Government up to contempt in any way, he can be run in under section 124-A., one of the most penal sections in the Indian Penal Code. I submit, Sir, that the time has come when there should be introduced a similar section which should say that a Government official who by his acts holds the Government up to contempt should also be similarly dealt with. (Hear, hear.)

Sir, the mischief which is done by the abuse of law is much more harmful than the mischief which is done by the actions of private individuals, and the absurd and ridiculous orders passed on the two occasions mentioned by my Honourable friend under section 144, I submit, show the extent to which the provisions of the section can be abused. All that we say is that, considering that we are going through difficult times and considering that we cannot help putting in officers with little experience, or shall we say immature experience, in charge of districts, is it or is it not time that we should see that no provisions of the law are abused? Sir, there is no gainsaying the fact that the provisions of section 144 are so wide that they are likely to be abused by young and inexperienced Magistrates. The chapter under which section 144 comes in says,—“temporary orders in urgent cases of nuisance or apprehended danger”. The Honourable and the learned Mover has made provision in his Bill under which an *ex parte* emergency order can be passed, but with this proviso he says that the *ex parte* order will not remain in force for more than 48 hours. Sir, it is up to the gentlemen who go to the Select Committee to extend that period if they like. But I submit that the Magistrate is empowered to pass an *ex parte* order, and if that *ex parte* order remains in force for 48 hours, there is no reason why an inquiry cannot be instituted, and I believe my friend the Mover of the Bill has got this idea in mind that once the inquiry is started, the action complained of will not come until the matter is decided. My friend who spoke last totally ignored this special provision of the Bill which is now before the House. The emergency powers are there. A Magistrate can pass an *ex parte* order if he likes, but all that we want him to do so is, if he does pass such an order, to give us a chance to explain to him as to why that order should

[Mr. A. Hoon.]

not have been passed. If you think the time stated, namely 48 hours, is too short, extend that time.

Mr. K. Ahmed : The intention is there.

Mr. A. Hoon : The intention, Sir, is there no doubt. Suppose I am the District Magistrate of a district, and at 9 o'clock in the morning I come to know that there is going to be a procession at 11, I will pass an order straight off, because the Bill makes a provision for it. I am afraid, Sir, that the gentlemen who are objecting to the Bill have not studied the Bill carefully and with sympathy. If you do not read the Bill with sympathy, you are likely to ignore its provisions, which go to its very root. I submit, Sir, that when the new Bill which is now before the House, does give powers to the Magistrates to take action immediately, it does not curtail their powers in any way. It only throws on them the further responsibility of taking evidence. My friend Mr. Yamin Khan has given in detail the difficulties that are likely to crop up when the question of taking evidence comes up. I do not see any of those difficulties. The Magistrate will duly record the evidence put before him by one party. Similarly he will ask the other party to say what they have got to say, but there is no reason why we should entertain the fear that the proceedings are going to be very prolonged. The proceedings may be summary, and evidence may be taken in a summary manner and the case decided without delay. There is absolutely no reason for any apprehension with regard to the curtailment of the powers of the Government, and I do not see why there should be so much concern in the minds of our friends opposite with regard to this provision. I remember when the Bill came up before this House at Delhi my friend Mr. Puri quoted several instances of the abuse of power and he wound up by saying that if such orders are passed under section 144, it is clear that either something is wrong with the magistracy or something is wrong with the provisions of the Bill.

Mr. K. Ahmed : What is wrong with the magistracy ?

Mr. A. Hoon : Please speak louder, and I will answer your question.

Then, Sir, my friend Mr. Yamin Khan made a reference to the affairs at Cawnpore, and I think it my duty, although perhaps it will not be very very relevant to the Bill, to advert to that point. My friend Mr. Yamin Khan thinks that because section 144 was not invoked in time in the city of Cawnpore, all that bloodshed and rioting took place. My friend is entirely wrong. He was not in Cawnpore. I was in Cawnpore in the thick of the riot, and I know what was the cause of those riots. Sir, it was not because section 144 was not invoked ; it was the vindictive lethargy not to do one's duty which caused all that bloodshed in Cawnpore. The finding of the Committee of enquiry appointed by the Government is not that section 144 was not invoked, but that the District Magistrate was keeping all the time inside his house and not going about and doing his duty as he ought to have done.

Mr. Muhammad Yamin Khan : What could he do by going about without the powers ?

Mr. A. Hoon : I am surprised to hear those remarks from Mr. Yamin Khan who I believe is in touch with some sort of administration of a Municipal Board. Don't you think that personality counts and carries a lot

of weight ? Don't you think if there was a riot in the city, and the District Magistrate went round the affected area with some respectable citizens, he could do a lot ? Our friend the District Magistrate at Cawnpore was sitting inside his house and telephoning and answering telephone calls, and unfortunately, in answering those calls he was making some remarks which were extremely tactless ; such that I do not want to repeat them here.

My Honourable friend Mr. Yamin Khan has also said that we are passing through very difficult times and Mr. Gaya Prasad Singh should really ask the House to make such a provision in his Bill that section 144 may be used all the more. I submit that that very reason goes to the root of the necessity of proposing this change. If times are difficult, and if section 144 is likely to be used more in future, the abuse is likely to be more in the future. Section 144 has been on the Statute-book for a very long time and I am sure that for a long time even the lawyer never heard anything about it, the reason being that it was seldom invoked. The abuses have only come in since that section has been applied indiscriminately in many cases. I submit, Sir, that the proposition before the House is a very simple one and there is no reason why, if the Bill goes to a Select Committee,—there are officials on the Select Committee as well as other gentlemen whose views differ from those of the Honourable the Mover—its members cannot make provisions by which they can stop further abuse of the provisions of section 144 and thus control all those people who by their indiscreet actions do a lot of harm to the prestige of the Government and to the peace of the country.

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

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

Mr. Muhammad Azhar Ali (Lucknow and Fyzabad Divisions : Muhammadan Rural) : I am really surprised to find my lawyer friends getting up to oppose this motion of my Honourable friend Mr. Gaya Prasad. It is a very innocent motion. Those who have been in practice in the law courts know the difficulties they have to meet when they appear in cases under section 144. It may be all right for laymen to advance views, which I would say, are all based on inexperience.

Mr. K. Ahmed : What about Aminabad ?

Mr. Muhammad Azhar Ali : My friend knows very little about Aminabad Park.

Mr. Gaya' Prasad Singh : What does he know about anything ?

Mr. Muhammad Azhar Ali : I know more about it than my friend. It is not a question of Aminabad or Cawnpore or Chittagong or any other place. It is a question of law and this subject is only for those who have experience of the law courts. It is for them to discuss it from legal point of view. My submission is that in this motion Mr. Gaya Prasad simply wants safeguards and that evidence should be duly recorded. Nothing more than that. If there is a provision for an appeal, I would say that no sensible man in this House can say that it would in any way endanger

[Mr. Muhammad Ashar Ali.]

public security or human life. Now the proposed new sub-section 3A says :

“ Notwithstanding anything hereinbefore contained, no order under this section shall be made by a Magistrate so as to restrict the right of any person or persons to convene, attend, or take part in any public or political meeting, association, procession or other demonstration, unless the Magistrate finds on evidence duly recorded ”, and so on.

The words “ evidence duly recorded ” mean nothing more than evidence on oath. Now any person can come forward and make a statement and he gets off without punishment, if the charge proves to be false. Thus, I ask my friends, if it is proper that a man should be allowed to make absurd statements which he cannot substantiate and then get away without being punished ? My lawyer friends know very well that it is not justice to allow that sort of thing and what do we find in practical experience ? When an application is lodged under section 144, although the Act says that it is the District Magistrate who should administer justice, his powers are generally delegated to Deputy Magistrates and Sub-Divisional Magistrates. If the matter were exclusively in the jurisdiction of the District Magistrate, he being a man of experience he could be relied upon to some extent to administer justice properly. It is only those who have practised in the law courts that know that these matters always go in to the hands of Deputy Magistrates, Sub-Divisional Magistrates and even honorary Magistrates for the matter of that. If you study this question in that light, you will find that justice is not properly administered. Now, when the matter goes before the Deputy Magistrate or the Sub-Divisional Magistrate, what happens ? He generally asks for a police report. I am told that he always asks for a police report. When the matter goes before the police, do you expect even-handed justice ? The House knows very well how difficult it is to know on what evidence the police base their report

I do not want to look at this question from a communal point of view at all. Whether the parties concerned are Hindus, Mussalmans, Parsis or Christians, the matter is entirely in the hands of the police who can report either this way or that way. The report of the police carries a very great weight with the Deputy Magistrate when he makes an order under section 144. This is the actual state of affairs which I want to place before the opposite side of the House. I want to discuss this subject only from the legal point of view, and I trust that my lawyer friends will enlighten the House about their personal experiences of cases under section 144. This Bill is only intended to amend one section of the Criminal Procedure Code. Now, Sir, in cases of riot or affray, if an application is lodged under section 144 and the police report is obtained and the Magistrate has made an order, what is the harm in making provision for an appeal to the Sessions Judge ? The order will be there, but where is the harm in giving a right to my lawyer friends who could say that there would be a greater chance of making money if there was an opportunity for an appeal ?

Sir Muhammad Yakub (Rohilkund and Kumaon Divisions : Muhammadan Rural) : Probably it is for this reason that you want this amendment, namely, that there will be more riots if this amendment is made and you will make more money ?

Mr. Muhammad Ashar Ali : If my Honourable friend, Sir Muhammad Yakub, had ever dealt with a case under section 144, he would not

have said that. It is not because we want to make money but in order to obtain justice from the hands of a court of law that we ask for this. (*Cries of "Hear, hear."*) Then, Sir, there is a provision by which, as my Honourable friend, Mr. Hoon, has said and as has also been remarked by my Honourable friend, Mr. Gaya Prasad Singh, this *ex parte* order may remain for 48 hours or it can be extended to any amount of time, but there is no specific sub-section added to this section, and therefore Mr. Gaya Prasad Singh has put it as a proviso that no *ex parte* order should be passed by Magistrates in such cases without evidence being duly recorded. Now, Sir, when evidence is duly recorded, it is this evidence which can go up to appeal, but in cases where there is no evidence duly recorded but merely an order, what am I to take to the court of appeal—simply an order of the Magistrate or the police report? Then it is very difficult for me to expound my case, to explain before the Sessions Judge or any court of law what I am to argue my case upon, unless there should be at least duly-recorded evidence. It would of course be one-sided evidence, but something at any rate to show that we have come with some record in our hands. Then, Sir, the Bill says :

“(2) after sub-section (6) the following sub-section shall be inserted, namely :

“(7) An appeal shall lie from an order passed under sub-section (6) to the Court of Sessions.”

Now under this section no order shall remain in force for more than two months from the making thereof unless there is a danger to human life or the likelihood of a riot and so forth, when the Local Government may by notification otherwise direct. Then there is already a provision in the Act itself saying that for two months the order should remain in force. Now where is the harm, if an *ex parte* order remains in force for a longer period than 48 hours? I do not see that there is any great change in the section, but it is a very salutary amendment which my friend, Mr. Gaya Prasad Singh, has put forward, and I give my whole-hearted support to the motion.

Mr. F. B. Leach (Burma : Nominated Official) : Sir, the Honourable Member who spoke before lunch, Mr. Hoon, accused all the Members on these Benches who have failed to support this Bill of not having studied it with sympathy. (*An Honourable Member* : “Care and sympathy.”) Well, Sir, I do not know what meaning the Honourable Member attaches to the word “sympathy”. My experience shows that it is a much-abused word. There are a large number of people who call any kind of objection or any kind of criticism of their own point of view unsympathetic. Not knowing exactly what the word “sympathy” connotes to the Honourable Member, I cannot say for certain whether I have studied the Bill with sympathy, but I can certainly claim to have studied it with a good deal of care ; and there are, in spite of the speeches that have been made in favour of the Bill, one or two points in it which are still not clear to me. The Honourable Member on my left who criticized the Bill has pointed out that it would be extremely difficult to limit the meaning of the phrase “political meeting”. But I would like to point out that the wording of the Bill goes even further than that. It says “any public or political meeting, association, procession or other demonstration”. Well, Sir, I can hardly imagine any wider phrase than “any public demonstration”, which would cover any kind of meeting or any kind of procession or any kind of public function that one can imagine. Then there is the phrase

[Mr. F. B. Leach.]

which has given rise to a great deal of discussion, "evidence duly recorded". In a large number of the criticisms in the printed papers on this Bill it is pointed out that "duly recorded" is not a phrase which is found in the Criminal Procedure Code and that the meaning attached to it is very doubtful; and the Honourable Member who has introduced this Bill has not explained the phrase, anyhow in a way that I am able to understand. If it means the evidence of independent witnesses, it is I think obvious that it would render the provisions of the section completely nugatory in any case of real emergency where immediate action had to be taken. If it does not mean that, it appears to me that any Magistrate could get round it by merely putting the police officer who came to tell him that a riot was likely to take place on oath or affirmation and rapidly scribbling down in a few words what he had to say. The provision would thereby be made almost useless. Then the meaning of the first proviso is difficult to me. The main part of sub-section 3 (a) states that no order shall be passed unless the Magistrate finds on evidence duly recorded and the proviso says that no *ex parte* order shall be passed in such cases without evidence duly recorded. Well, if no order of any kind can be passed without evidence duly recorded, I do not see the object of a proviso to say that no *ex parte* order can be passed without evidence duly recorded. That however is a minor matter which, if the Bill does go to a Select Committee, no doubt the Mover will be able to explain.

I think therefore there are considerable objections to the Bill from the drafting point of view; but these objections are small compared with the objections to it on principle. As has been repeatedly pointed out, section 144 is intended to deal with sudden emergencies, and it is quite obvious that in dealing with sudden emergencies immediate action must be taken. One objection that was pointed out by the last speaker was that in many cases action under this section is taken not by the District Magistrate himself but by his subordinate Magistrates. The Honourable Member who introduced the Bill quoted three or four instances, one of which unfortunately apparently happened outside British India, but he did quote three or four instances where the provisions of this section have been misapplied. It was not quite clear, however, what was the status of the Magistrates who took action in these particular instances. I would suggest to him that if he distrusts the subordinate magistracy, most of whom are Indians, he might suggest an amendment to the Code by which action should be restricted to the District Magistrate himself. That would perhaps be sufficient. But that the present state of India does need some provision for immediate action in cases of real emergency, is a fact which, to the mind of any man who will face the facts, admits of no doubt. And I am afraid it is going to be a very considerable time before a section of this kind is not needed. In this opinion I am supported by an Indian retired District and Sessions Judge who, in his opinion on the Bill on page 14 of Paper No. 1 says that, "Even under Swaraj such a provision will be absolutely necessary".

Mr. Gaya Prasad Singh : We will then enact it. That is all.

Mr. F. B. Leach : The Honourable the Mover says that he will then enact it. I would suggest to him that it is hardly worth the trouble of repealing or amending the provision now if he admits the probability of its being necessary even under Swaraj, and I think this admission rather

weakens his argument that it is not necessary at the present moment. (Hear, hear.)

Sir, the Honourable the Mover has found extremely little support for his Bill in the provinces. He has, of course, dismissed as not worth considering the opinions of executive officers. But he has not made a very good case to meet the fact that practically all, or at least the great majority of the Judges of the High Courts have condemned the Bill. He has tried to make out that one or two Judges have approved of it. One of the Judges whom he quoted as approving of it ends his remarks by saying :

"The words 'public or political meeting, association, procession or other demonstration' are so wide that they would delay prompt action by the Magistrate in innumerable cases in which probably even the proposer would consider prompt action essential."

I do not know how the Mover of the Bill can hold that that Honourable Judge is in favour of his Bill.

One of his points, of course, is that the provisions of this section have been misapplied. Sir, I quite admit that the provisions of this section may have been misapplied. I should be interested to hear the Honourable Member's opinion whether there are any of the more commonly used sections of the Indian Penal Code and the Criminal Procedure Code which have not been misapplied pretty frequently. I have a fairly long experience myself as District Magistrate and Sessions Judge when I had to take up criminal cases of Subordinate Judges on appeal and revision. If every section of the Indian Penal Code which has been misapplied in my own experience was going to be repealed or amended, there would not be much law left in this country. I submit that the proper action when the law is misapplied is not to rush in and alter the law, but to instruct the Magistrates and, if necessary, to deal with the Magistrate who misapplied it. Surely that is a commonplace in any country. In all countries law is misapplied in certain instances. We are all, I suppose, familiar with the criticisms that have frequently been made on what are disrespectfully called "the great unpaid" Magistracy in England. There is one particular paper which used (it has discontinued it now) to put down side by side too severe and too lenient sentences by the Magistracy on different kinds of offences. One kind of offence which was very savagely dealt with at one time by a good many Magistrates was an offence against the motor laws. But I do not think that anybody would suggest that because a certain number of County Magistrates were fond of inflicting the maximum penalty on everybody who exceeded the speed-limit, it would therefore be a good thing to repeal all the motor laws and to allow every road-hog to go along the roads at any pace he liked. That appears to me to be analogous to what the Honourable the Mover of this Bill wishes to do.

The Honourable the Mover has held up to obloquy, as an example of executive officers, an unfortunate Commissioner in my province who dared to suggest that in his opinion there was a political motive behind this Bill. Well, Sir, he did not mention the fact that exactly the same suggestion is made by an Indian pleader in Assam who has given a very long opinion on the Bill in which he has discussed the origin of the section from the year 1861. On page 44 of Paper II this gentleman says :

"Mr. Gaya Prasad, by this amendment, wants to legislate for the benefit of the political agitators by giving them free scope to follow their own avowed policies against the Executive Government unfettered by the order of a magistrate under section 144, Criminal Procedure Code."

[Mr. F. B. Leach.]

Sir, it is not merely the opinion of the sun-dried bureaucrat that there is a political motive behind the Bill—of course, I do not suggest that there is.

Sir, this section of the Criminal Procedure Code was amended as recently as 1923. Provision was then made for revision of orders passed under this section by the High Court or by the Sessions Judge, which did not previously exist. I do not think, therefore, that the provision for appeal will really add much to what was inserted in the Code in 1923 and that, I may say, is the opinion of the majority of the Judges of the High Courts who have commented on this Bill. I would ask the Honourable the Mover whether he seriously considers that there has been so much change in the atmosphere of this country in the last eight years as to justify further amendment of the provisions of the section which was considered by a very distinguished and representative Committee in that year to be still necessary in the interests of the preservation of peace in the country. Personally, I cannot see that there has been any such marked change in these eight years.

There is one other point which I should like to mention. We are constantly being asked when Ordinances are passed or when special legislation is proposed as, for instance, yesterday in the case of the Press Bill, why Government cannot utilise the provisions of the ordinary law and why it is necessary to introduce special legislation or to promulgate Ordinances. Well, Sir, if the ordinary law is to be tampered with merely on

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the ground that it has in a small number of cases been abused by particular Magistrates, it is perfectly obvious that every year it will become more and more impossible to preserve order through the ordinary law, and more and more necessary to pass special legislation. I cannot conceive of anything more disastrous in any country than to weaken the ordinary law to such an extent that it is constantly necessary to pass special legislation. In the province from which I come, as Honourable Members are aware, rebellion has been going on for the last eight months. Until about a month ago we managed with great difficulty to deal with that rebellion without any special legislation. One of the provisions of the ordinary law which has been found most useful in Burma during recent months has been this section 144, Criminal Procedure Code. It has been used constantly in every district and has had the most beneficial effect in the prevention of further violence. I can say without very much hesitation that if it had not been for this section and for one or two other similar preventive sections in the ordinary laws of the country, it would almost certainly have been necessary to proclaim martial law in Burma a good many months ago, and that would have been very much more drastic than the retention on the Statute-book of this section as it stands. I hope Honourable Members on the other side will consider this point, that it is necessary in every country to have a reserve of power in the hands of the executive, not to be used every day, but only to be used on rare occasions, but if that reserve is not there, occasions will happen and a demand will arise for emergency powers, and if the emergency powers do not exist, the only thing Government can do is to promulgate emergency Ordinances and possibly in certain cases have recourse to martial law. I cannot help feeling that a strong law is better than a weak permanent law and perpetual resorts to emergency legislation.

Mr. Lalchand Navalrai (Sind : Non-Muhammadan Rural) : I rise to make a few observations on this Bill. I must say straight away that I am in favour of this Bill being sent to Select Committee. This section is too wide in my opinion and it gives too wide powers and provides too wide a method for using those powers. In common parlance this section may be described to give powers which are nothing less than blank cheques into the hands of the Magistrates to use. This section has two aspects, one that it gives powers which are very wide to the magistrates and the other that it provides a method for the use of that section which is still wider. Before I read that section to the House, I must say that I have not heard a single Member say that the power portion of this section should be done away with or curtailed. It is only the method, in which those powers are used, that is being objected to or is being asked to be amended from this side of the House. I do not think Honourable Members on the other side should object to this Bill going to Select Committee. I have heard from Benches opposite that there are difficulties in the way of adopting any other method than the one that is provided by the Act. I do not admit it. I submit section 144 of the Criminal Procedure Code provides that :

“ In cases where, in the opinion of the District Magistrate, a Chief Presidency Magistrate, Sub-divisional Magistrate, or any other Magistrate, (not being a Magistrate of third class), specially empowered by the Local Government or the Chief Presidency Magistrate or the District Magistrate to act under this section provided there is sufficient ground for proceeding under this section and immediate prevention or speedy remedy is desirable. Such Magistrate may, by a written order stating the material facts of the case and served in manner as provided for by section 134, direct any person to abstain from a certain act.”

These powers are given not in cases of emergency only but a distinction has been made in paragraph (2) of the section that in cases of emergency such orders may be passed *ex parte*. The section therefore comprises cases of emergency and other occasions where there is any fear of breach of peace or other disturbance. I submit that the Mover of this motion, however, does not want those powers to be taken away. Why should not therefore an amendment be passed which only deals with the method of enquiry preliminary to the passing of the orders by the magistrates ? The lawyers know full well how this section is used. What is asked is only that some better course should be adopted which is required by fundamental principles of jurisprudence, namely, that such drastic orders, as are provided for by section 144, Criminal Procedure Code, should be passed after some caution. That is the long and short of what is wanted by this Bill. Let us see how orders are passed at present. I have some experience of this. A Sub-Inspector goes to a Sub-Divisional Magistrate, or even to a second class Magistrate and whispers into his ears, or places some police report before him, that there is something horrible going to happen. Magistrate hears him or takes his statement, makes an order on such material only and sends it down to his office. The order is then served in the manner as is provided by section 134 by way of serving a summons. It is, Sir, only after this procedure is followed that the order restraining the assembly or a particular man from doing a particular action functions. Now, I ask what time would be required for all this ? There will be some good space of time required. Where therefore is the haste that the Magistrate should not even wait to take one or two witnesses on oath ? It is known to the Honourable Members that the law does not require a number of witnesses. Section 134 of the Evidence Act provides that the

[Mr. Lalchand Navalrai.]

Magistrate may be satisfied on a matter by examining only one or two witnesses. Therefore what this Bill aims at is only to provide that some legal and independent evidence should be taken to make the order legal. What objection therefore can there be to this amendment? I submit that in making that order the Magistrate will have only to take down some witnesses and it will be easy for the Sub-Inspector or Inspector, whoever it may be, if there is truth in the report, to bring one or two independent and respectable witnesses and have the order passed. It cannot certainly be urged that there is always an immediate danger of riots taking place. This section aims also at apprehended riots that may take place even after a week. Therefore why is it that the very first principle of jurisprudence is being denied to the public?

Now, Sir, an Honourable Member opposite, who seemed to hold a brief for the District Magistrate, said that this order can be better made by a District Magistrate than considered in appeal by a Sessions Judge, because, as I understood him, he meant that the Sessions Judge will only sit in his office, read the evidence and pass the order; but what does the District Magistrate himself do? I know how the District Magistrates pass orders. I have seen District Magistrates sitting within the four walls of their offices when the Sub-Inspector appears and gets the order passed. The real difference, however, between the two is that the District Magistrate makes the order only on the word or the rumour that has been heard by the Sub-Inspector, whereas the Sessions Judge in appeal would consider the order judicially. He must consider the evidence that is before him. But what evidence will he consider? That is the point with me. The section requires that he should have the material facts placed before him to make the order, but what materials has he got at all? On this point I will read to the House the opinion of one of the High Court Judges. It has been said to-day from the opposite Benches that the High Courts have all said that this Bill should be rejected.

Mr. F. B. Leach : I said the majority of them, not all.

Mr. Lalchand Navalrai : I do not find that even the majority have said that. I was saying that the High Court Judges do recognise that there is no material before them in their revisional jurisdiction to consider such an order. If that is so, are you still of opinion that this Bill should not be sent to the Select Committee or even considered there? I am reading from page 3 of Paper I which contains the opinion of the Honourable Judges of the United Provinces. One Judge says;

“ Although an order passed under section 144 of the Criminal Procedure Code is open to revision by the High Court, usually there would not be any materials before the Court on which it can pronounce any opinion.”

Can there be any stronger statement than this to justify my remark?

The Honourable Sir James Orerar : Will the Honourable Member kindly read through the whole of that opinion?

Mr. Lalchand Navalrai : I will, but that is not pertinent to the present point. My point is that there is no material before the Court to come to a decision.

The Honourable Sir James Crerar : The point of the Honourable Judge is that in urgent cases it would not be possible.

Mr. Lalchand Navarai : I am reading that portion of the opinion of the Honourable Judge :

"It would therefore be desirable that there should be some material on the record to indicate why the Magistrate issuing an order under section 144 of the Code of Criminal Procedure has done so."

I am submitting, therefore, that there are no materials upon which I can call it a judicial order. If you call it a judicial order and want to give it a colour of having been passed by a Magistrate, I submit the fundamental principle of law must be followed, otherwise the order is illegal. But if the House is of opinion, at least the Members on the opposite Benches are of opinion, that this should not be considered a judicial order at all, then you can proceed in this way. Leave it to the executive, the Sub-Inspector or the Inspector or the Superintendent of Police to make such an order. I therefore submit that this amendment that is being asked for is very modest and absolutely reasonable.

Sir, when a provision is made in a Code it depends upon the officers that use the provision. Now, it was said that some of our Indian District and Sessions Judges have made certain observations to the effect that this Bill should be rejected. But, Sir, I make no difference between an Indian or a European Judge. In the first place, however, I must say that the provisions of this Act have so degenerated that the power is in certain parts of India in the hands of the Assistant Superintendents of Police, and I am justified in this remark by this note in the Criminal Procedure Code :

"The law in sanctioning the power under this section is careful to provide that it shall be committed only to Magistrates whose discretion is presumably guaranteed by their responsible position or by selection."

Then how has it been whittled down ? The note proceeds :

"In the Punjab and in Upper Burma all Magistrates of the first and second class have been empowered to act under this section. In Bombay these powers have been conferred upon Assistant District Superintendents of Police."

This is how the Act is being used. Then I have my own experience on this point, how young Civilians use this provision and how they are invested with these powers. A young Civilian comes out from England and remains an apprentice under a Sub-Divisional Magistrate for six months and within these six months he also passes the departmental examination

Mr. J. F. Dyer : That is not a fact. No Magistrate can become even a first class Magistrate under one year's service.

Mr. Lalchand Navarai : What I am submitting is that the new Magistrates that come are placed under a Sub-Divisional Magistrate for six months. Before that time they may have remained in some obscure corner of India ; but after undergoing this six months' training and passing the examination, they are full-fledged Sub-Divisional Magistrates and these youngsters pass the orders under section 144, Criminal Procedure Code, in the way we know.

Mr. K. Ahmed : But now-a-days, you have got your Indian Magistrates at least 80 per cent. What is the use then ?

Mr. Lalchand Navalrai : So long as he is under this present constitution he is no better than an European Judge. Better times will come and there will then only be improvement in both.

Mr. A. H. A. Todd : In your account of the progress of the young Civilian, are you speaking of a particular province or of all India ?

Mr. Lalchand Navalrai : I have certainly personal experience of my own province.

Mr. A. H. A. Todd : I do not think that can be applied to all provinces.

Mr. Lalchand Navalrai : Why should it not ? I do not think the material is different in other provinces.

Mr. H. Montgomery (Bombay : Nominated Official) : The Honourable gentleman is certainly wrong in the case of his province and the sub-province of Sind.

Mr. Lalchand Navalrai : I do not think my portion of the province, as I should call it, is different in this respect from Bombay ; the youngsters recruited in Bombay are similar to those recruited in Sind.

Mr. H. Montgomery : The Honourable gentleman is wrong as regards the province of Sind.

Mr. Lalchand Navalrai : Anyway I have got experience of Bombay too. To continue, I submit it cannot be denied in the least that this section 144, Criminal Procedure Code, is being misused. As I understood the Honourable Member opposite said that there are several laws being misused and what if this is misused ? I think if his argument is that, then I ask what is the use of amendments and corrections being made in law ? If it is found that any Act is being misused, correct it in the proper manner. That is the responsibility of the Legislature.

Mr. J. F. Dyer : I did not say that ; what I said was that even Judges were liable to make mistakes.

Mr. Lalchand Navalrai : Not you, Sir, it is the Honourable Member on your right. In this respect, this section is being misused and this opinion is supported again by the opinion I read in paper No. I. The Honourable the Home Member said that I was reading only portions of the opinion, so I shall read the whole :

“ The proposed amendment manifestly, though I do not of course say intentionally, deprives the Magistrates of power where promptness in many cases is essential in the public interest.” (“ Hear, hear ” *from the Government Benches.*)

There will be a reply to that “ Hear, hear ” also. The learned Judge proceeds to say :

“ The section as it stands is open to abuse and the instances quoted indicated that it has been sometimes improperly used, but the number of those instances is probably negligible.” (“ Hear, hear ” *from Government Benches.*)

It is really not negligible from my point of view and from the experience we have had of it. The aforesaid opinion cannot be said to be the last word on that point. My point at present is to draw attention.....

Mr. F. B. Leach : I thought the Honourable Member said he was going to read the whole of the Honourable Judge's opinion ; he has not done so.

An Honourable Member : What is the use ?

Mr. Lalchand Navalrai : I do not think there is any use in it, because on the opposite side, the Honourable Members are determined to assume that the majority of the Judges are against this Bill. It is no use reading the whole ; I am reading only those portions that agree with my arguments. (Laughter from the Government Benches.) I should not be in the least misunderstood ; that I am reading those points only which agree with my arguments but those portions which support my point of view ; they may say that they reject the Bill but the reasons they have given are in my favour ; therefore I am reading the reasons only.

I was submitting that this section has been abused. What is asked in this Bill is nothing more and nothing less than the sound principle of law, that evidence should be admitted before an order is made, should be introduced into the Criminal Procedure Code by amending this section. This Bill, as drafted, does not require that section 144, Criminal Procedure Code, should be done away with or abolished altogether. It only requires that in certain cases precautionary measures should be taken for allowing evidence to be recorded. I have already shown that there will be no difficulty in taking down that evidence ; but if Honourable Members think that in certain cases of emergency there would be difficulty and that the Magistrate would have no time to take evidence, then that is a matter of detail and can be urged in the Select Committee and some provision made on that point. What is asked here is that in certain cases where it is going to apply to a public or political meeting or association or procession or other demonstration, unless the Magistrate finds on evidence duly recorded that such direction is necessary, an order should not be passed. Now, the word " duly recorded " is also found fault with. I submit that is also a matter for the Select Committee. But evidence should be taken to make the order judicial ; and it will mean two things ; that there will be confidence in the public mind that this order has not been made on a mere fanciful report or a fanciful rumour. And secondly, that the revisional court, if not the appellate court, will also find material for passing just orders. Why should not that be done ? I think if an amendment like this is opposed, it means that the Government Benches only want that there should be a rule by executive orders only in India and not by judicial orders.

The second part of the Bill asks that an *ex parte* order in such cases should not be passed without any evidence and that no such order if made *ex parte* shall remain in force for a longer period than 48 hours. If Members on the opposite side think that 48 hours is too little a time, it can be extended by another 48 hours ; and an order may be passed if the danger still continues. Why should you find fault with this ? But if any more time is needed, as my Honourable friends on this side have said, that can also be extended in the Select Committee.

Coming to the question of appeal, what is being asked is that an appeal should be allowed on such matters as are contained in this Bill. Formerly there was no provision even for revision. In 1923 a Bill was introduced and revision by the High Court was allowed. But the High

[Mr. Lalchand Navalrai.]

Court Judges themselves said, as I read the judgment of one of the Judges, that they have no materials to decide the matter upon. If an appeal is allowed, the Magistrates will be more careful to see that all the materials are made available, and therefore this principle of appeal is a very sound one. I therefore feel, Sir, that the Honourable the Mover of this motion is not trifling with the provisions of the Criminal Procedure Code as hinted by one of the Honourable Members opposite but he wants that justice should be done and the Magistrates should decide matters in a proper and judicial manner.

Some Honourable Members : The question may now be put.

Mr. H. Montgomery : Sir, I rise to oppose the measure. It is no doubt quite natural that the politically minded elements of the Indian people should desire some safeguard against the abuse of this section. My chief objection to the less impracticable portion of this Bill is that it is not well adapted to its object. It provides that, in connection with political activities, orders under this section should be passed "on evidence duly recorded", and that requirement, I would observe, applies also to the *ex parte* order, a point which I think one of the Honourable speakers on the other side did not realise. Now, such orders are almost of necessity passed *ex parte* in the first instance. The evidence intended would therefore presumably be the evidence of those persons who believe that the order is necessary. I pass over the obvious practical difficulties of recording such evidence in cases in which the *immediate* issue of the order may be of vital necessity. That point has been fully dealt with by other Honourable speakers on this side of the House. But apart from this consideration, who will those persons in actual practice be—the persons whose evidence has to be recorded in the first instance? Officers of the Police Department; subordinate officers of the Magistrate himself—those, probably, upon whose reports the Magistrate will already have formed his opinion that the order is necessary. Possibly a few non-officials who are sufficiently independent to withstand the force of social pressure and excited popular opinion.

Mr. A. Hoon : Fourth class of the tale carriers.

Mr. H. Montgomery : Is there any Honourable Member of this House who really believes that the formal recording of such evidence will afford any substantial safeguard against the possible abuse of this section? Will it afford any safeguard.....

Mr. Lalchand Navalrai : Yes.

Mr. H. Montgomery : Will it afford any safeguard more ample than that provided by the existing law, which requires that the Magistrate shall express in the order itself the reasons upon which he has formed his opinion?

But, it may be said, the intention is that the evidence must necessarily be recorded on *both* sides. No, it does not appear that this can be the intention, since the Bill clearly contemplates the issue of an *ex parte* order, though it limits the period of such an order's validity. I would, therefore, submit, Sir, that the formal recording of evidence at this stage affords no safeguard at all, that it will be a mere formality, that the provision is ill-adapted to its object and totally unnecessary.

Well, at any rate, it will be urged, when the stage is reached for hearing objections to the order, then at any rate it is necessary that evidence should be formally recorded. Personally, I can appreciate the value of *argument* at that stage; by *reasoning* the Magistrate may no doubt be led to change his mind. But I can see no value or utility whatsoever in recording the opinions of a number of persons that, "such a situation does not exist", "such developments are not likely to supervene". In these matters, as has already been pointed out, the Magistrate has a responsibility to the whole of the public; it is not a question of weighing negative against positive opinions in a pair of scales.

However, I cannot see how, in the eventuality of this Bill becoming law, that stage can ever be reached. And this point brings me, Sir, to the discussion of what I consider the impracticable part of this Bill,—namely, proviso (B). Is it really the proposal of the framer of this Bill that the validity of orders under section 144 should be limited to 48 hours? I anticipated some protest from my Honourable friend. What he expressly proposes, of course, is to limit the validity of *ex parte* orders only. And in whose power does it lie to ensure that an *ex parte* order shall not remain *ex parte*? So far as I can see, it does not lie within the power of the Magistrate. The existing law provides, indeed, for the appearance of objectors before the court and the hearing of their objections; but such appearance would seem to depend solely on *their* volition.

Oh well, it may be rejoined, the intention obviously is—I wish to consider the Bill "sympathetically",—the intention obviously is that the Magistrate should, when he issues his *ex parte* order (after formal recording of the evidence of his subordinates), issue a notice to objectors, or the parties concerned, to appear and urge their objections within a stated period. Incidentally, it may be observed, where the order is addressed to the public in general, he may find it a little awkward to have such a notice served upon the public. A general notice to the public in general is a notice to nobody. However, there is no provision to this effect contained in the Bill. But even if we suppose that the Magistrate follows this suggested procedure, who is going to comply with his notice? Is there any probability that any one will comply with his notice (save and except in that limited class of cases in which the order applies to a single definite occasion having its occurrence within the ensuing 48 hours)? Apart from that contingency, why *should* any one comply with a notice to lodge objections against an order which, in case the notice is simply ignored, will automatically lapse at the end of 48 hours? One is tempted, Sir, to suspect that the Honourable and learned gentleman, when he framed this Bill, allowed himself to be carried away by a cynical humour! In my view, Sir, this Bill is comprised of an unnecessary provision, an impracticable provision, and a misprint.....

Mr. Gaya Prasad Singh : Which one ?

Mr. H. Montgomery : The provision underlying the misprint has already been dealt with by the Honourable Member who spoke first against this motion. It seems to me, Sir, that the Bill is hastily concocted and ill-digested. It has been greeted with a sympathy of condemnation from the provinces and it is not worthy to exercise the serious consideration of this House. (Applause.)

Mr. K. Ahmed : Sir, on the floor of this House an internecine warfare is being carried on between the Treasury Benches and my Honour-

[Mr. K. Ahmed.]

able friends opposite over the Bill of my Honourable friend Mr. Gaya Prasad Singh, who has been impelled by political reasons to bring forward an amendment of section 144 of the Criminal Procedure Code. That section has been in vogue since 1898. The Criminal Procedure Code, of which this section forms a part, was revised as recently as 1923, and the predecessor of my Honourable friend Mr. Lalchand Navalrai in this Assembly, I mean the late Mr. Harchandrai Vishindas, took part in the passing of that measure.

Mr. Lalchand Navalrai : How many years have passed since then ?

Mr. K. Ahmed : After his death, his successor did not move any amendment of this section, and the late Principal Shahani, who came to this House later, did not move either, and my Honourable friend Mr. Lalchand Navalrai came to this Assembly only about ten days ago.

Mr. Lalchand Navalrai : I have been in this House for three years before.

Mr. K. Ahmed : And in those three years my Honourable friend never thought of any amendment of that section, till his political mind has been recently prejudiced. That being the position, I submit that this suggested amendment is due to the poisoned mind of my Honourable friends on account of political reasons.

My Honourable friend Mr. Gaya Prasad Singh, who has been a Member of this House since 1924, has been misled into bringing a piece of legislation like this.

First of all, I should like to impress on the House what is section 144. That section is applied only by Magistrates of the first class and not by any Honorary or Sub-Deputy Magistrates of the 2nd or 3rd class. Magistrates with a ripe experience and knowledge of law, such as a Sub-Divisional Magistrate, a Presidency Magistrate, or a Magistrate of the first class, are only allowed to apply this section. I ask my friend Mr. Azhar Ali, who was responsible for the Aminabad Park affair ? If a disorder takes place wherein the heads of my Muhammadan friends are smashed, people will have to run to their representatives in the Legislature and say, "Look here, our heads have been smashed for political reasons, and what will you do in the absence of a provision like section 144 ?". Will my Honourable friend take the brief from them and appear for them without any remuneration and argue the case before the Magistrate ? Come to Cawnpore again. Look at the old massacre, and think also of its present history. Sir, this section is not a punitive law ; it is a preventive measure. When your head is going to be smashed and your properties are going to be looted by your neighbours, or when your granary or your iron chest is being taken possession of forcibly, would you say that that must take place and this section should not be utilised ? (*An Honourable Member :* "Who says so ?") Supposing the Pir of Pigaró is taking possession of your wealth forcibly, will my Honourable friend Mr. Lalchand Navalrai come and say that evidence ought to be taken whether the action of the Pir is really against the law ?

Mr. Lalchand Navalrai : It will take no time.

Mr. K. Ahmed : Then my Honourable friend will come forward, examine, cross-examine, and re-examine. (Laughter.) After that the other side pleader, say Mr. Hoon who comes from Cawnpore, will say, "I have got a cogent case. This land on which this House is standing, on which there is this iron chest, does not belong to my friend's client". You want evidence to be taken and the question of legality or illegality of the order decided. Now, my Honourable friend Mr. Gaya Prasad Singh wants this amendment for political reasons. Politics is not the only thing that matters in the life of a nation. There is business and trade and other things and Government must keep peace and order in the country. If you go on taking evidence after evidence and moving the High Court, the beneficial effect of this section 144 will be gone. This section has been on the Statute-book from time immemorial. Now, my learned friend Mr. Azhar Ali supported the Bill. He was supporting this Bill simply because his name has been put on the Select Committee. His colleague took part in the discussion of the Criminal Procedure Code in 1923 and no objection was taken then to this section. I see that Diwan Bahadur Rangachariar is not here. I am sure if he were here he would have opposed it. Mr. Navalrai has already spoken on this measure and I trust that my friend Syed Murtuza Saheb Bahadur will follow me. I see, Sir, it is already getting on to 4 o'clock. What is the use of wasting the time of the House and that of the Government Members on the Treasury Benches? What is the use of my friend wanting to proceed with this measure when so many opinions are against his Bill? All the Magistrates and heads of provinces have opposed this measure unanimously. Mr. Navalrai quoted only those opinions which were in his support and left out the opinions which went against him. Now, Sir, this Bill says :

"Notwithstanding anything hereinbefore contained, no order under this section shall be made by a Magistrate so as to restrict the right of any person or persons to convene, attend or take part in any public or political meeting." and so on.

Now the object of my friend is political in bringing forward this motion. Now, the application of this measure is made for many other reasons than for merely political meetings, processions and demonstrations. This is also intended to secure the safety of person and property. Now a young boy stands up in a debating club and makes a beautiful political speech. And that will be the essential

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object for which this amendment is to take place?

Certainly not; because there are so many beneficial objects stated in the section and if these objects are not achieved, is my Honourable friend doing any service by moving this legislation to amend section 144? Certainly not. Now, Sir, I do not want to weary the Members of this Assembly. I vehemently oppose the measure, and for the reasons brought forward for his consideration, I hope he will stand up and withdraw this measure, because he already, I think, knows that he will not get any support; so what is the use of spending and squandering the valuable time of Honourable Members? Sir, life is too short, and we ought to make room for more precious measures. Sir, in these circumstances I oppose the Bill.

Some Honourable Members : The question may now be put.

Mr. C. Brooke Elliott (Madras : European) : Sir, I have been reading lately in a certain book, "Let thy words be short",—and they

[Mr. C. Brooke Elliott.]

will. Sir, I am not quite sure that I am entitled to speak and vote on this Bill, (*Several Honourable Members* : "Why not?") because, Sir, I have a direct pecuniary interest in it like every other member of the Bar. Sir, if I spoke as a cynical lawyer, I should say that section 144 has prevented a number of riots which would have brought considerable grist to the legal mill. Logically, therefore, in self-interest, I should vote for the amendment. But, Sir, as a practical man, in actual practice I know that, though theoretically the Opposition are right, practically, they are wrong. Every lawyer naturally wants evidence recorded, "duly recorded", and a long string of authorities spring up as to what the word "duly" means and the word "recorded" means; but, to us as practical men, this section has stood the test of time and has not been worn threadbare. Sir, I remember one or two cases in which it has not been wisely used; it might even be said it has been abused; But, Sir, what is the High Court for, except to correct occasional abuses? And I speak here with some knowledge and certainty of the operation of this section in Madras, and I can tell the House that our High Court has in proper cases interfered. I cannot say personally for one moment how a Magistrate is to act. I have never filled that honourable office, and probably never will; but what is a Magistrate to do in an emergency? He has not got a prophetic instinct, highly developed. Sometimes when the Magistrate has issued an order, people say, "What was the good of that order? You see nothing happened". But they should remember that very possibly because the Magistrate made the order, it prevented anything happening, so that he might have been right; (*Cries of "Hear, hear."*) and it seems to me, as I say, that you cannot gamble with the safety, order, and tranquillity of His Majesty's Indian Dominions and with the life of the public. I quite agree, as I said before, I agree wholeheartedly, with Honourable Members opposite in theory, but I am equally wholeheartedly opposed to them in actual practice (Laughter). But though it does go against the legal grain in my fibre, after 37 years in the East, I can only say that it is better that the Magistrate should really exercise his administrative functions by the kind of common sense which he has acquired by actual practice, than that he should be compelled to comply with the subtleties and niceties of some particular form of words.

But, Sir, I come to a more serious point still. God forbid that India should ever have martial law! I think the saddest thing in my life was when in Ceylon in 1915 terrible riots broke out, and I believe that, if then full administrative powers had been possessed and used by the magistracy of Ceylon, things might well have been far happier. Sir, let me tell Honourable Members opposite that if the provisions of this section sometimes are stings, the provisions of martial law are scorpions. There is nothing, Sir, more horrible, more terrible! I have had personal experience; as a humble corporal in the Town Guard, I went right through it all for five weeks and I know what happens when this kind of thing starts sporadically and then infects all within its neighbourhood. And, Sir, it seems to me section 144 is necessary at the present time when political feeling runs high—and I welcome political feeling, Sir, for I am an Englishman who is an Irishman.

(Laughter.) (Applause.) My grandfather in Ceylon once when a crowd of people were approaching the Governor about, I think, the house-tax in the fifties of last century heard that they were coming. He ran out, he stood up on a table, he spoke to these men in Singhalese, and he told them, "do not take steps like these. You will have the soldiery here shooting at you in an hour. Represent your grievances constitutionally, not by a meeting of this kind that might develop into a riot". Then, Sir, the men went away peaceably. But it is only fair to add, Sir, that my grandfather was threatened with a prosecution for sedition (Laughter), and I still treasure among many other valuable family papers a letter containing an opinion given by an eminent counsel in England as to whether, if a prosecution were launched, my grandfather would have been transferred from the Civil Medical Department to another Department of the civil administration. (Laughter.) So, Sir, may I make an appeal to my Honourable friends opposite, those who are honourably learned and learnedly honourable? This law has worked pretty well,—I think you will all agree. Who amongst us is not open to abuse, much less a provision of law? And, having aired these matters, and having ventilated various ferments around us, is it not wiser, is it not better, is it not kinder to our fellowmen, especially the men in the villages and so on who are easily excited—and do not forget, Sir, that in all these cases of riot, not only the guilty are charged but always a number of perfectly innocent men are brought in—is it not wiser to leave the section as it is?

Sir, lately it has come home to me with some force that the payment of fees in some criminal cases is a terrible hardship in these times of depression; and I do think that at the present time—and I do look at this matter with great sympathy, from the point of view of the Opposition too,—on the whole what we have got to remember, what we have got to watch and see, is the general situation. If the matter were very evenly contested perhaps I might give my vote in a slightly different sense; but I do believe that the sense of the House is really, at bottom, against altering this Bill at this time. Sir, Lord Birkenhead, who was a fellow student with me many years ago, once made a remark with which I cordially agree. I do not always agree with all the sentiments of my quondam fellow student, but, Sir, he made a very sound remark, amongst many others. He said, "You never let a bucket down into the well of English public opinion without bringing it up again full of common sense". Sir, India has many wells; and I would like to think, and I do think, that on the whole, if one fairly and squarely tries to see what there is to be said on both sides of the Bill, the bucket let down into the Indian well comes up just as full of sound common sense; and, Sir, if we let a bucket down to-day (Mr. K. Ahmed: "Hear, hear."), and bring it up again—I am glad of the affirmation of my learned friend over there—if we let that bucket down to-day into the well of the minds of our friends, I think you will find that the bucket will come up full of common sense. Sir, in these things you want to get two things, the H. C. F., that is, the highest common factor of agreement, and you also want to get the H. C. S., that is, the highest common sense. I believe, Sir, that, in that light, the House will be wise not to press this Bill further, for I should be sorry to have to go to a division on this issue.

The Honourable Sir James Crerar : Mr. Deputy President, I did not seek to intervene in this debate until at this late stage for several reasons. In the first place, when this measure was under the consideration of this House during the course of the last session, it became my duty to recite with a considerable amount of elaboration the views which the Government of India had held upon the subject and I did not wish merely to repeat them. I did not intervene at an earlier stage for another reason, and that was that a considerable number of Honourable Members on these Benches were here to give to the House the invaluable fruits of their immediate personal experience of the administration of this section. I think that the House, whether they agree with those Honourable Members or not, will nevertheless join with me in congratulating the House on the accession to their numbers of so many new, able and accomplished speakers. (Hear, hear.) Now, Sir, having said so much, I must hasten to add that, though I do intervene, my intervention will be very brief. The practical arguments against this Bill have been put forward with an ability and a comprehensiveness which I do not need to amplify. I shall only endeavour to summarise a few of the more general points which appear to me to emerge from the discussion. The Honourable gentleman who moved this Bill in the last session was, I frankly admit, not himself the immediate advocate of obtaining more extended opinions upon his measure. In that he showed, I think, a very remarkable measure of prudence. But I think the House showed a still greater prudence in deciding that the Bill should go out for the collection of a more extensive range of opinion than was then available, and what, Sir, has been the result? Those Honourable Members who supported him did, indeed, try to make the best of the bad job. They tried to extract from the large body of opinion that has been obtained—very good opinions—a few disconnected passages which seemed more pertinent to their own purpose. But what has the result been? Mr. Gaya Prasad endeavoured to make a very strictly selected anthology of all these opinions as a garland for his infant measure. He complained that the net for these opinions has not been cast sufficiently wide and the views obtained were predominantly official opinions. On that, I have only two things to say. The Honourable Member will recognise that the Local Governments have consulted, besides executive officials, High Courts and Judges, such bodies as Bar Associations, Chambers of Commerce, Planters' Associations and others. But it is nevertheless not unnatural that the great body of opinion should come from executive and judicial officers because I think that, in a matter of this kind, they are what lawyers sometimes call the natural witnesses in such an issue. And what has the result been? I will not emphasise the views which have been expressed by Magistrates and other executive officials. They are before us and I hope the House has read them. We have had the invaluable benefit of the direct expression of those views, the direct recital of arguments, warnings of illustrations, drawn from immediate practical experience, and I think it will be by opinions of that kind that the House will elect to be guided. But it is significant that the great body of judicial opinion is entirely unfavourable to the Bill.

More than one Honourable Member opposite began his remarks with a preamble, with which we are not unfamiliar, to the effect that they had no desire whatever to thwart the Government in any way from discharging their responsibility to maintain law and order, and that they had no desire whatever to restrict or weaken in any way the means which Government

and their officers have for performing this duty. But having made that preamble, I regret to say that the succeeding part of the speeches was not quite of the constructive character which the preamble promised. Indeed, Sir, if I may use a somewhat childish simile, it reminded me of that expression in a book familiar to us in our nursery days, the promise of jam yesterday and jam to-morrow and never, never jam to-day. (Laughter.)

Another argument which was frequently employed and which I only wish to mention in order to bring it to the attention of the House, because I do not think it will persuade or weigh with the House. It was this. Honourable Members opposite very naturally, and I think very reasonably, felt that if they proposed anything in the nature of abolition of these powers, it would not receive the suffrage of this House. They therefore argued somewhat subtly that what they proposed was really a question of method. Now, Sir, I submit to the House that it is idle to say that you are not depriving Government and its officers of powers. What you propose to do is to place upon those powers such qualifications, such restrictions and such trammels as completely negative them in practice. For my own part, rather than be called upon to deal with a measure which imposed qualifications and restrictions which rendered the power completely inert, useless and without any applicability to the conditions in which it is revised, I would rather be called upon to deal with a measure which negatived it and without any qualification urged its repeal. That, in point of fact, is really the case in regard to the vast majority of cases in which this section is invoked. That, in point of fact, would be the result of this measure and I am confident that the House will not approve of it.

Mr. Gaya Prasad Singh : Sir, I do not propose to prolong the agony of the House by making a lengthy speech by way of reply, at this fag end of the day. At the outset I must remind Honourable Members that notice of a similar Bill was given by a number of Members of this House some years back, including, Sir, yourself, now sitting in the Presidential Chair, and my friend, Mr. A. Rangaswami Iyengar, a lawyer of no mean repute, who has now been invited to take a seat in the Round Table Conference. I have been sought to be hanged, drawn and quartered for my modest proposal. I would therefore most respectfully invite you, Sir, also to share with me the abuses which have been heaped upon me from the official quarters.

The points which have been made by my Honourable friends opposite have, I think, been sufficiently answered by my Honourable friends who have spoken on this side of the House. There are, however, just a few points to which I should like to reply very briefly. It has been said that my amendment is somewhat loosely worded in some respects ; for instance, it has been said that the phrase " public or political meeting " has not been clearly defined, and that its scope is very comprehensive. In this connection, Sir, I should like to remind my Honourable friends on the other side of the comprehensive provision which is embodied in the Press Bill which is coming up to-morrow. I hope my Honourable friends who have criticised my Bill as being comprehensive will remember the point of their criticism when they are called upon to support the Press Bill.

Another point that has been made is this, that the phrase " evidence duly recorded " is a very elastic phrase ; and an Honourable friend on the other side, who I understand is a Sessions Judge of fairly long experience, has asserted that he does not find that phrase anywhere in the Criminal

[Mr. Gaya Prasad Singh.]

Procedure Code. I will only refer him to one section of the Criminal Procedure Code, section 288, in which it is stated that :

"The evidence of witnesses duly recorded in the presence of the accused under chapter.....", etc.

The words "duly recorded" appear in the Criminal Procedure Code, and the method in which evidence is to be duly recorded is also prescribed in chapter XXV of the Code. I will therefore not labour that point any further, but I have merely alluded to it in passing.

Another point was with regard to the provision that in case an *ex parte* order is passed, it should be limited to 24 hours, as my Bill proposes to do. It has been suggested that a period of 24 hours is too short. I shall be quite willing, if this House agrees to send this Bill to a Select Committee, to consider whether a longer period is desirable or necessary. This after all is a matter for the Select Committee. Sir, this section was intended to be used in urgent cases, as the heading of that chapter indicates. But it has been used on most trifling pretexts, and many of my friends on this side of the House have borne testimony to it. I will only refer to one case which is to be found on page 37 of the White Paper. The Deputy Commissioner of Khasia and Jaintia Hills says :

"The application of this section to Messrs. Phukon and Bardoloi in their tour through Assam in 1920 to rouse the province against Government would have prevented some of the disastrous consequences of 1921."

Sir, if this section had been applied to these prominent men of that province, I am afraid things would have taken a more serious turn, and it was very wise on the part of the authorities not to have utilised the provisions of this section against these gentlemen.

Sir, one Honourable friend on the other side has suggested that, under Swaraj, it may be necessary to have a measure of this kind. Sir, things are different at the present time. What we will do under Swaraj is still a matter for the future. At that time there will be no difference between the government and the governed, as their interests will be identical. In England the Government is composed of the representatives of the people elected by themselves, and they carry on the administration of the country. Here under the present circumstances we have no hand or voice in the administration of the country, so that the power which may be necessary when the administration will be in our own hands is quite a different proposition from the present position of things.

Sir, I understand quite well that all laws are liable some times to be misapplied ; but with regard to this section, there is an inherent defect and that is due to the system of administration. So long as the separation of judicial and executive functions is not effected, so long—I am speaking as a whole and with due deference to all Magistrates without making any personal reflection against any one—so long is conscious or unconscious bias apt to colour their minds in dealing with cases of a political complexion.

Sir, one Honourable Member on the other side has read out the opinion of an Indian pleader who has suggested that my Bill has been induced by political considerations. This is quite different from indulging in language which I quoted from the opinion of a Divisional Commissioner in Burma. It has been claimed, Sir, that the application of this

section has prevented many riots. That may be so, but I will bring to the notice of my Honourable friends the fact that in a number of cases recently orders promulgated under this section were disobeyed ; and no riot or affray or any trouble took place. Sir, the points that have been raised in the course of this debate may be more profitably discussed in the Select Committee, and I should beg Honourable Members to allow this Bill to go to the Select Committee. The country outside is watching what we the elected representatives of the people are going to do on this important Bill, and I commend my motion to the House.

Mr. Deputy President : The question is :

“ That the Bill further to amend the Code of Criminal Procedure, 1898 (*Amendment of section 144*), be referred to a Select Committee consisting of the Honourable the Home Member, Diwan Bahadur T. Rangachariar, Sir Hari Singh Gour, Rai Sahib Harbilas Sarda, Mr. B. R. Puri, Mr. Lalchand Navarai, Sir Muhammad Yakub, Maulvi Sayyid Murtuza Sahab Bahadur, Mr. C. B. Elliott, Mr. Muhammad Azhar Ali, and the Mover, and that the number of members whose presence shall be necessary, to constitute a meeting of the Committee shall be five.”

The motion was negatived.

Mr. Deputy President : I had intended that we should sit till five o'clock to-day ; but if I allow the Honourable Member, Sir Hari Singh Gour, to move his motion, there is no chance of the motion being taken to vote this evening. When the order of business on a non-official day is decided by ballot, I do not think it is fair to other Honourable Members, who have drawn in the next ballot, to allow one Honourable Member to move his motion to-day and carry it on to the next day. I therefore adjourn the House.

The Assembly then adjourned till Eleven of the Clock on Wednesday, the 16th. September, 1931.
