

Thursday, 24th March 1932

THE
LEGISLATIVE ASSEMBLY DEBATES

(OFFICIAL REPORT)

VOLUME III, 1932

(14th March to 6th April, 1932)

THIRD SESSION

OF THE

**FOURTH LEGISLATIVE ASSEMBLY,
1932**



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Legislative Assembly

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LEGISLATIVE ASSEMBLY.

Thursday, 24th March, 1932.

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

QUESTIONS AND ANSWERS.

DELHI MOVE ALLOWANCE AND SIMLA HOUSE RENT ALLOWANCE.

915. *Sardar G. N. Mujumdar: (a) Is it a fact that the Army Headquarters staff receive an allowance of 33 per cent. as Delhi move allowance?

(b) Has this allowance been reduced by 10 per cent. and, if so, since when?

(c) Are Government aware that the Delhi move and the Simla house rent allowances are not utilised for identical purposes?

(d) Is it a fact that Government intend to reduce the Simla house rent allowance of their Secretariat staff by ten per cent.?

(e) Are Government aware that most of the Simla Banks and landlords, have refused to reduce rents?

(f) Is it also a fact that Government are not prepared to renew the House Accommodation Act?

(g) Are Government prepared to leave the Simla house rent allowance untouched? If not, why not?

The Honourable Sir James Orerar: (a) No. The Delhi moving allowance is given on a graduated scale and varies with pay. The Honourable Member will find the actual rates stated in my reply to Pandit Nilakantha Das' unstarred question No. 272 of the 21st March, 1930.

(b) Yes, with effect from the beginning of the current Delhi season.

(c) Yes.

(d) to (g). I would invite the Honourable Member's attention to the reply I gave on the 23rd to Mr. Gunjal's starred question No. 895.

COMPLAINT BY MR. P. D. SHARMA OF ASSAULT AT A MEETING OF THE CITIZENS' LEAGUE, DELHI.

916. *Mr. Bhuput Singh: (a) Is it a fact that a meeting of the Citizens' League was held at the Queen's Garden, Delhi and that villagers from outside Delhi and the staff of municipal schools and boy scouts were brought to the meeting?

(b) Are Government aware that Mr. P. D. Sharma, News Editor of the Hindustan Times was not allowed to move an amendment to a resolution moved at the meeting?

(c) Are Government aware that when Mr. Sharma insisted on his right to move the amendment prominent conveners of the meeting assaulted and insulted Mr. Sharma?

(d) Is it a fact that the City Magistrate, the City Kotwal and other police officers were present at the meeting and are Government aware that they did not intervene in spite of Mr. Sharma's appeal to them?

(e) Is it a fact that the Citizens' League is patronised by the Chief Commissioner of Delhi?

(f) Is it a fact that Mr. Sharma lodged a complaint under sections 323 and 504 of the Indian Penal Code against Rao Bahadur Dr. Hari Ram, President of the meeting, Khan Sahib S. B. Abdullah, Senior President of the Delhi Municipality and convener of the meeting, Haji Rashid-uddin, Secretary of the Citizens' League, for assault and insult in the Court of the Additional District Magistrate, Delhi?

(g) Is it a fact that the Magistrate held that the complaint related to a "trifling affair" and that he dismissed it as he did not want to encourage "frivolous and unreasonable complaints of this nature"?

The Honourable Sir James Crerar: Government understand that the Magistrate's decision to which reference is apparently made has formed the subject of an appeal to the Sessions Judge. It would therefore be improper on my part to express any opinion on the facts of the case at this stage.

COMPETITION OF JAILS WITH INDUSTRIAL CONCERNS.

917. ***Mr. J. Ramsay Scott:** (a) Is it a fact that there has been a recent protest from the Associated Chambers of Commerce with reference to jails competing with private enterprise?

(b) Will Government please state the number of cases in which such competition has occurred in the last year in respect of jails in the following Provinces:—(1) Madras, (2) Bengal, (3) Burma, (4) Bihar and Orissa, and (5) the United Provinces?

(c) Is it a fact that in Government's Resolution of December 23rd, 1922 the Governor General in Council was disposed to think that the apprehension of possible competition of jails with established industries is more imaginative than real?

(d) Is it a fact that during the last year several large orders for blankets have gone to jails, and do Government propose to reconsider the question?

(e) If the answer to part (d) be in the affirmative, what do they propose doing?

The Honourable Sir James Crerar: (a) The Secretary to the Associated Chamber of Commerce, India and Ceylon, communicated to the Government of India a copy of a resolution passed by the Associated Chambers on the subject on the 14th and 15th December, 1931. This resolution took the form of a request that Government would again lay down their policy on this question for the guidance of local Governments.

(b) I am unable to state the number of cases in which orders have been given to jails during the last year.

(c) Yes.

(d) A small portion of an order for 96,300 blankets for the Army was placed with a jail in Bihar and Orissa after tenders had been called for.

(e) The policy of the Government of India is clearly stated in the Resolution referred to by the Honourable Member, and they do not consider it necessary to take further action. I may inform the Honourable Member, however, that in view of a resolution passed by the Associated Chamber of Commerce in 1929 the Government of India enquired from all Local Governments whether this policy was being in some instances disregarded. All replies were in the negative.

PRICES OF JAIL-MADE ARTICLES.

918. ***Mr. J. Ramsay Scott:** Are the prices quoted by jails below the market rates and with reference to the following statement by Government in their Resolution of 23rd December, 1922, "In view of the necessity for fixing the price of jail-made articles according to the ordinary market rate for such articles co-operation between the Jail and the Industries Department should therefore include consultation of the latter by the former on the prices to be fixed for jail products", has the above procedure been carried out? If not, why not?

The Honourable Sir James Crerar: The answer to the first part of the question is in the negative. As regards the second part, I understand that this procedure is followed.

PRICES OF JAIL-MADE ARTICLES.

919. ***Mr. J. Ramsay Scott:** If the rates quoted by jails in tenders are below those quoted by private firms,

(a) what is the maximum amount of loss a jail is allowed to make; and

(b) is it a fact that the procedure laid down is designed to prevent jails underquoting private firms?

The Honourable Sir James Crerar: My information is that as a rule the prices of jail manufactures are if anything slightly above the market rate, and that difficulty is sometimes found in disposing of them.

INSTALLATION OF MACHINERY IN JAILS.

920. ***Mr. J. Ramsay Scott:** In view of overproduction everywhere, will Government state,

(i) whether it is their policy to countenance the spending of public money on equipping jails with power machinery; and

(ii) what steps they will take to prevent the further installation of new machinery?

The Honourable Sir James Crerar: (i) The Government's policy is enunciated in their Resolution of the 19th December, 1922. They have no reason to believe, as I have explained in answer to a previous question, that there is any deviation on the part of the Local Governments.

(ii) The Honourable Member is, doubtless, aware that "Jails", under the Devolution Rules, is a Provincial Reserved subject, subject only to central legislation. The further installation of new machinery in jails is thus the concern of local Governments who are fully alive to the present financial and industrial situation.

SAVING ON THE ROYAL AIR FORCE AS IT AFFECTS INDIA.

921. ***Mr. Gaya Prasad Singh:** (a) Are Government aware that a cut of £700,000 has been effected in the amount of expenditure on the Royal Air Force in England?

(b) If so, will Government please state whether it will mean any saving on the Indian expenditure so far as the Royal Air Force in India is concerned?

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

(b) No, Sir; Indian revenues do not benefit directly from the reduction in the Air Force Estimates in England but the proportionate reduction made in the Estimates in England is very small compared with that made in the Royal Air Force Budget in India.

WITHHOLDING OF A CABLE SENT BY PANDIT MADAN MOHAN MALAVIYA.

922. ***Mr. Gaya Prasad Singh:** (a) Are Government aware that in response to requests from England for information for the purpose of the impending debate on Indian affairs in the House of Commons, Pandit Madan Mohan Malaviya wanted to send a cable to the *India Review*, the *Daily Herald*, and the *Spectator*, from Benares; and that the messages were accepted for which charges amounting to Rs. 230 were paid; but subsequently the messages were not despatched on some pretext or other, and Pandit Malaviya's request to send the cable as a deferred private message to Mr. George Lansbury, and Mr. Tom Williams, for which he offered to pay additional charges, was refused?

(b) Do Government propose to make an inquiry into this, and make a statement on the subject as to why the message was withheld?

Mr. T. Ryan: (a) and (b). An investigation into the case has been made, and it transpires that the message in question was wrongly accepted by the Benares Telegraph Office at press rates as the sender was not a registered correspondent in India for the despatch of foreign press telegram (which registration has to be arranged in consultation with the foreign administrations). In the course of handling the message, for the rapid transmission of which to Bombay special line arrangements had been made, the mistake was detected and efforts were made to ascertain whether the sender would pay for the message at appropriate rates. It appears that a prolonged discussion ensued and that the sender's representative was unable to agree to the proposal. The transmission of the message was accordingly stopped. It is reported that no request was made for the transmission of the message at deferred rates.

DISPERSAL OF A MEETING IN THE QUEEN'S GARDEN, DELHI, AND ARREST OF MUFTI KIFAYATULLAH.

923. ***Mr. Gaya Prasad Singh:** (a) Is it a fact that a severe *lathi* charge was made on an assemblage of unarmed Mussalmans in the Queen's

Garden, Delhi, on Friday, the 11th March, 1932, who wanted to hold a meeting protesting against the promulgation of Ordinances?

(b) Is it a fact that "Sub-Inspector Abdul Wahid communicated to the people assembled that if in the meeting anything was said against the Ordinances, the meeting would be declared unlawful. The conveners had hardly time to reply, when some among the audience replied that they would speak against the Ordinances. This was the signal for a severe lathi charge on the audience"?

(c) Why was Mufti Kifayatullah arrested, and his house searched?

(d) Are Government aware that Mufti Kifayatullah is the President of the All-India *Jamiat-ul-Ulema*; and is held in high esteem by his people?

(e) Will Government kindly make a statement on the subject, and state under what law or Ordinance, a meeting designed to protest against the promulgation of Ordinances, could be declared an unlawful body?

The Honourable Sir James Crerar: (a), (b) and (e). I would refer the Honourable Member to the statements made by me in the course of the debate on the adjournment motion on the 14th March.

(c) and (d). A reference is invited to parts (a) and (b) of the answer I gave yesterday to the Honourable Member's question No. 896.

RETRENCHMENT OF CERTAIN JUNIOR INSPECTORS OF ACCOUNTS ON THE NORTH WESTERN RAILWAY.

924. ***Mr. Muhammad Anwar-ul-Azim:** (a) Is it a fact that some junior Inspectors of Accounts on the North Western Railway were permanent on 31st March, 1929, but were declared temporary? If so, why?

(b) Were the Railway Board informed by the Chief Accounts Officer that they were actually permanent, but were declared temporary arbitrarily? If so, did the Railway Board consider the question of withdrawing the retrenchment of those junior Inspectors?

(c) Will Government please state as to what action was taken on that letter from the Chief Accounts Officer?

(d) Was it not the order of the Railway Board not to reduce those, who had put in more than one year's service?

Mr. P. B. Rau: (a) On separation of Audit from Accounts the number of permanent posts of Inspector of Station Accounts was reduced from 47 to 38 as expected to follow from certain reforms then contemplated and pending the introduction of these reforms nine temporary additional posts were sanctioned. With the completion of these reforms it has been found possible to reduce the number of Station Inspectors by more than nine and final orders are expected shortly to issue.

(b) and (c). I am informed by the Controller of Railway Accounts that he has not been able to trace the letter to which the Honourable Member refers.

(d) No. The orders were that temporary men with over one year's service should be considered as having equal rights with permanent men.

Mr. Gaya Prasad Singh: When these posts of Inspectors of Accounts were declared temporary, were they served with notices of discharge? If not, why not?

Mr. P. R. Rau: I must ask for notice of that question.

Dr. Ziauddin Ahmad: At the time of separation of audit from accounts, we were given to understand that that would mean reduction of expenditure. So from the reply is it not clear that officers were reduced from 47 to 38, but soon afterwards their number was again increased by nine. May I ask whether the people dismissed at the time were reinstated when the new posts were created?

Mr. P. R. Rau: The temporary posts were created immediately. Nobody was discharged at the time.

Dr. Ziauddin Ahmad: There was really no reduction of expenditure then, because you first reduce and then immediately you create new posts?

Mr. P. R. Rau: Not with regard to these particular posts.

RETRENCHMENT OF CERTAIN JUNIOR INSPECTORS OF ACCOUNTS ON THE NORTH WESTERN RAILWAY.

925. ***Mr. Muhammad Anwar-ul-Azim:** (a) Is it a fact that in spite of the pay, allowances and grades of the junior Inspectors of Accounts on the North Western Railway, having all been reduced since the separation of audit from accounts, the question of their retrenchment is still being considered? If so, why?

(b) Is it a fact that only one Inspector of Station Accounts was retrenched on the East Indian Railway? Is it a fact that they are mostly Europeans and Anglo-Indians?

Mr. P. R. Rau: (a) The question of retrenchment has nothing to do with the revised scales of pay introduced for freshly employed staff on the separation of audit from accounts. I understand that by certain changes in procedure, it is expected that a reduction in staff is possible.

(b) The answer to both parts of the question is in the negative.

Dr. Ziauddin Ahmad: May I know whether the question is still under consideration?

Mr. P. R. Rau: Yes.

CAMBRIDGE UNIVERSITY EXAMINATIONS.

926. ***Mr. Muhammad Anwar-ul-Azim:** (a) Is it a fact that Junior and School Certificate Examinations of the Cambridge University are held in India?

(b) Will Government kindly state the difference between the qualifications of persons, who pass the School Certificate Examination of Cambridge University from centres situated in the British Isles and of those who pass the same from Indian Centres?

(c) Will Government kindly state what is the position of the School Certificate Examination of Cambridge University for Government service in India?

Sir Frank Noyce: (a) Yes.

(b) I am not sure what the Honourable Member means by his references to qualifications. The only difference in the conditions applicable to candidates appearing for the examinations is that candidates from India who appear for the School Certificate Examination and are not of European descent are permitted to substitute certain oriental languages for Latin or Greek for the purpose of securing exemption from the Previous Examination of Cambridge University. Students who avail themselves of this concession are not allowed to offer themselves as candidates for the Oriental Languages Tripos.

(c) The School Certificate Examination is ordinarily considered to be equivalent to the Matriculation Examination of an Indian University for purposes of admission to Government service.

QUALIFICATIONS OF ENGINEERS OF THE SUPPLEMENTARY RESERVE AND TERRITORIAL ARMY.

927. ***Mr. Muhammad Anwar-ul-Azim:** Is it a fact that the Army Council decided last year that Associate Membership of the Institution of Structural Engineers is now to be regarded as qualifying Royal Engineer Officer of the Supplementary Reserve and Territorial Army for Engineer pay? Have the necessary instructions giving effect to this decision been issued as amendments to paragraphs 194 (b) and 645 (b) of the Regulations for the Supplementary Reserve and the Territorial Army respectively?

Mr. G. M. Young: Paragraph 194 (b) of the Regulations for the Supplementary Reserve has been amended in the sense indicated by the Honourable Member. I have not seen a recent copy of paragraph 645 (b) of the Regulations for the Territorial Army; but I am prepared to take it from the Honourable Member that it has been similarly amended.

QUALIFICATIONS AND COMMUNITIES OF ENGINEERS IN THE MILITARY ENGINEERING SERVICE.

928. ***Mr. Muhammad Anwar-ul-Azim:** Will Government kindly state the number of Associate Members of the Institution of Structural Engineers, London, serving as Assistant Engineers or Sub-Divisional Officers in the Military Engineering Service in India? How many of them are Muslims, Hindus and Sikhs?

Mr. G. M. Young: The information is being collected, and a reply will be laid on the table.

QUALIFICATIONS AND COMMUNITIES OF ENGINEERS IN STATE RAILWAYS.

929. ***Mr. Muhammad Anwar-ul-Azim:** Will Government kindly state the respective number of graduates and Associate Members of the Institution of Structural Engineers, serving on Indian State Railways in the grade of Executive Engineers, Bridge Engineers, and Assistant Engineers? How many of them are Muslims, Hindus and Sikhs?

Mr. P. B. Rau: Government have no information.

COMMUNITIES OF ENGINEERS IN STATE RAILWAYS.

930. ***Mr. Muhammad Anwar-ul-Azim:** Will Government kindly state the respective number of Muslim, Christian, Hindu and Sikh Engineers and Inspectors of Works, serving on each of the State Railways in India with the percentage of the total in each case?

Mr. P. R. Rau: The available information is given in the Classified List of State Railway Establishment and in the Classified List of subordinate staff on State Railways, copies of which are in the Library.

QUALIFICATIONS AND COMMUNITIES OF ENGINEERS IN EACH PROVINCE.

931. ***Mr. Muhammad Anwar-ul-Azim:** Will Government kindly state Province by Province, the respective number of graduates and Associate Members of the Institution of Structural Engineers, London, serving as Engineers? How many of them are Muslims, Hindus and Sikhs?

The Honourable Sir Joseph Bhore: It is presumed that the question refers to the Engineers employed in the Public Works Department. The information available will be found in the Government of India, Department of Industries and Labour, Public Works Branch, Classified list of establishment corrected up to the 30th June, 1931, a copy of which is in the Library. The Government of India have no information beyond what is contained in this list.

ENGINEERING EXAMINATIONS HELD IN ^{India}~~INDIA~~

932. ***Mr. Muhammad Anwar-ul-Azim:** (a) Are Government aware that the Associate Membership Examination of the Institution of Structural Engineers, London, is held in India at the Bombay centre and conducted by Mr. R. V. Sabnis of the University of Bombay?

(b) Are Government aware that the Associate Membership Examination of the Institution of Civil Engineers, London, is held in India and took place last year at Delhi and was conducted by Mr. Sykes, M.L.A.?

(c) Will Government kindly state whether they are aware that the School Certificate Examination of Cambridge University, Associate Membership Examination of the Institution of Structural Engineers, London and Associate Membership Examination of the Institution of Civil Engineers, London, which are held in India, are called Correspondence Examinations?

The Honourable Sir Joseph Bhore: (a), (b) and (c). Government have no information.

STANDARD OF QUALIFICATIONS OF ENGINEERING EXAMINATIONS IN LONDON AND INDIA.

933. ***Mr. Muhammad Anwar-ul-Azim:** Will Government kindly state the difference between the qualifications of persons who pass the Associate Membership Examination of Structural Engineers, London, or of the Institution of Civil Engineers, London, from centres situated in

the British Isles and of those who pass the same examinations from Indian Centres?

The Honourable Sir Joseph Bhoré: Government have no information.

COMMUNITIES OF ENGINEERS IN THE TELEGRAPH ENGINEERING SERVICE.

934. ***Mr. Muhammad Anwar-ul-Azim:** Will Government kindly state the number of Engineers in the Telegraph Engineering Service of India? How many of them are Muslims, Hindus and Sikhs?

The Honourable Sir Joseph Bhoré: It is understood that the Honourable Member refers to the superior Telegraph Engineering Service. There are 57 officers in this service of whom one is a Muslim, twenty-one are Hindus and three are Sikhs.

APPOINTMENT OF COMPUTOR FOR CALCULATION AND DESIGN OF STRUCTURES IN THE PUBLIC WORKS DEPARTMENT, DELHI.

935. ***Mr. Muhammad Anwar-ul-Azim:** (a) Is it a fact that in the Delhi Public Works Department the post of Computor for calculation and design of structures was held in abeyance in May, 1931?

(b) Is it a fact that in the Delhi Public Works Department, the post of Computor for calculation and design of structures is now again extended? If so, will Government kindly state:

- (i) what the duties of the post are; and
- (ii) what the works are for which the post is extended?

The Honourable Sir Joseph Bhoré: (a) Yes.

(b) The post has since been abolished.

REDUCTIONS OF APPOINTMENTS OF ASSISTANT DIRECTORS GENERAL, POSTS AND TELEGRAPHS.

936. ***Mr. H. B. Fox:** (a) Will Government please state whether it is a fact that the Posts and Telegraphs Sub-Committee of the Retrenchment Advisory Committee in paragraph 106 of their Report in dealing with the appointment of Assistant Directors General stated "In our opinion the emoluments are higher than the kind of work and responsibilities entrusted to these officers demand" and recommended their replacement by lower paid officers designated "Assistant Deputy Directors General"?

(b) Is it a fact that Government have accepted these recommendations and have given effect to them?

Mr. T. Ryan: (a) Yes.

(b) Government have accepted the specific recommendation.

APPOINTMENT OF DEPUTY DIRECTORS GENERAL, POSTS AND TELEGRAPHS.

937. ***Mr. H. B. Fox:** (a) Will Government please state the principles which guide them in selecting officers to fill the posts of Deputy Director General, Posts and Telegraphs?

(b) In view of the acceptance by the Government of the recommendations of the Posts and Telegraphs Sub-Committee of the Retrenchment Advisory Committee, have Government considered the advisability of selecting officers other than Assistant Directors General for promotion to Deputy Director Generalship?

Mr. T. Ryan: (a) Promotion to the posts of Deputy Director General, Posts and Telegraphs, is made by selecting those officers in the Post and Telegraph Branches, respectively, of the Department who are considered to be best fitted for the discharge of the duties connected with such posts.

(b) The selection of officers for promotion to Deputy Director Generalship was not confined to officers holding the posts of Assistant Directors General. The latter cadre has, now, however, been abolished.

APPOINTMENT OF DEPUTY DIRECTORS GENERAL, POSTS AND TELEGRAPHS.

938. ***Mr. H. B. Fox:** (a) Is it a fact that recently an Assistant Director General of the Posts and Telegraphs has been promoted to officiate as Deputy Director General?

(b) If the answer to part (a) be in the affirmative, will Government please state why a Deputy Postmaster General was not selected instead of an Assistant Director General?

Mr. T. Ryan: (a) Yes, he has been officiating since the 16th January, 1931.

(b) For the reason given in the reply to part (a) of question No. 937.

ACCOMMODATION OF WOMEN PRISONERS IN THE DELHI JAIL.

939. ***Mr. S. C. Mitra:** (a) Are Government aware that A and B class women-prisoners are being accommodated in an overcrowded insanitary mud plastered barrack in Delhi Jail?

(b) Is it a fact that these prisoners last year were accommodated in a *pukka kothi* fitted with fans which is called the European Ward?

(c) Is it a fact that approvers in the Delhi Conspiracy Case are now being accommodated in the said European Ward?

(d) Do Government propose either to provide better accommodation for women-prisoners or shift the approvers from the European Ward to make it available to the former?

The Honourable Sir James Ormer: (a) "A" and "B" class women prisoners are accommodated in a barrack with a spacious courtyard. The walls, though mud-plastered, are also whitewashed. The barrack is neither insanitary nor overcrowded.

(b) Yes.

(c) Yes.

(d) Women prisoners are being transferred to other jails where suitable accommodation is available.

DISCRIMINATION IN THE PROVISION OF FANS IN JAILS.

940. ***Mr. S. C. Mitra:** (a) Is it a fact that fans are provided in the European Ward, Delhi, as well as in the European Ward, Central Jail, Lahore?

(b) Do Government propose to remove any discrimination that may be existing between European convicts and Indian A and B class prisoners in Indian Jails?

The Honourable Sir James Orerar: (a) Yes.

(b) The policy of Government is clearly stated in the communiqué issued on the 19th February, 1930, and is, I believe, being scrupulously followed.

POLITICAL PRISONERS ARRESTED AND RELEASED IN DELHI.

941. *Mr. S. C. Mitra: (a) Will Government please state the names of such political prisoners as were arrested in Delhi under the Emergency Power Ordinance and subsequently released?

(b) What were the charges brought against them and under whose orders were they detained?

(c) Why were they let off?

(d) If the evidence justifying their detention was not enough, do Government propose to take action against the authority responsible for the detention?

The Honourable Sir James Orerar: (a) One such case has occurred up to date, that of Nand Lal, son of Matwala Ram of New Delhi.

(b) There were good grounds for believing that he was engaged in objectionable activities within the meaning of section 3 of the Emergency Powers Ordinance. The arrest was made with the knowledge of the Local Government.

(c) He was released on promising to take no part in objectionable activities and to devote himself to his studies.

(d) Does not arise.

PAUCITY OF MUSLIMS IN THE MILITARY ENGINEERING SERVICE, PRESIDENCY AND ASSAM DISTRICT.

942. *Seth Haji Abdool Haroon: (a) Has the attention of Government been drawn to an article under the heading "Muslims in all-India Service", which was published in the *Mussalman* of Calcutta, dated 23rd February, 1932?

(b) Is it a fact that as alleged therein (i) there are 26 Accountants, of whom none is a Mussalman, (ii) out of 211 permanent clerks, there are only seven Muslims and (iii) out of 32 temporary hands, there is only one Muslim in the Accounts Section of the Military Engineering Service Presidency and Assam District? If not, will Government be pleased to lay on the table a statement showing correct figures?

(c) Are Government satisfied that the above proportion of Mussalmans in the above Branch is adequate? If not, what action do they propose to take in the matter so as to increase the number of Muslim employees sufficiently?

(d) Is it correct that three Mussalmans out of eight as shown in the article above-mentioned are going to be discharged whereas only 14 non-Muslim clerks out of 243 have been served with discharge notices?

(e) Are Government prepared to instruct the authorities concerned to cancel the discharge order of three Mussalmans in view of the above facts, as also, for the future, to appoint more Muslims?

The Honourable Sir George Schuster: (a) Yes.

(b) From the figures quoted it appears that the reference is to the total establishment of the Controller of Military Accounts, Presidency and Assam District, and not only to the portions of that establishment attached to Military Engineer Service formations. This office ceased to exist as a separate entity from the 1st January, 1932, but I lay on the table a statement of the total establishment prior to that date and the numbers employed on Military Engineer Service work, with the number of Muslims in each category.

(c) The Military Accounts Department is an all-India Department; the personnel are recruited on an all-India basis and are liable to transfer to any part of India. The proportions of the various communities are therefore regulated on an all-India basis and not on the basis of individual sub-offices, the composition of which varies from time to time. For the Department, as a whole, recruitment is being carried out in accordance with the principles laid down for the redress of communal inequalities.

(d) The reply is in the affirmative so far as Muslims are concerned. The correct number of non-Muslims served with notices of discharge is 21 out of 227.

(e) Government see no need to issue any further orders. The general orders were that in selecting personnel for discharge the proportions of the various communities as they stood before retrenchment should be maintained to the nearest practicable figure. I am satisfied that in the Military Accounts Department, as a whole, effect has been given to those orders.

Statement showing the total establishment, employed in the office of the late Controller of Military Accounts, Presidency and Assam District, on 1st December, 1931, and the number of Muslims included therein.

Category.	Total No.	No. of Muslims.
Accountants	20	..
Permanent clerks	205	7
Temporary clerks	30	1
Total	255	8

Statement showing the Military Accounts Establishment employed in the Accounts Sections attached to the Military Engineer Service formations in the Presidency and Assam District on 1st January, 1932, and the number of Muslims included therein.

Category.	Total No.	No. of Muslims.
Accountants	3	..
Permanent clerks	29	3
Temporary clerks	10	1
Total	42	4

ABOLITION OF THE ECCLESIASTICAL DEPARTMENT.

943. *Seth Haji Abdoola Haroon: (a) Is it a fact that the Retrenchment Committee has reported in favour of the total abolition of the Ecclesiastical Department of Government, and, if so, what action do Government propose to take to give effect to the recommendation?

(b) In view of the financial stringency in the country, have Government considered the question of the total abolition or considerable reduction in the strength of the Ecclesiastical Department, and if so, what decision have Government arrived at on the question?

The Honourable Sir George Rainy: (a) and (b). I would refer the Honourable Member to my reply to a similar question No. 866 by Mr. Gaya Prasad Singh on the 23rd March, 1932.

REDUCTIONS OF SALARIES AND ALLOWANCES, ETC. OF IMPERIAL SERVICES.

944. *Seth Haji Abdoola Haroon: In view of the financial stringency in the country, have Government considered the question of the permanent reduction in the salary, allowances, leave rules and pensions of the Imperial services, and if so, what decisions have been reached on the question?

The Honourable Sir George Schuster: In regard to present incumbents of the Services I would refer the Honourable Member to the statements I have already made upon this question in this House. In regard to future entrants to the various Services, the question of revision of terms of service is now under consideration, but it must take some time before final conclusions can be reached.

STATUS OF HEADMASTERS IN RAILWAY SCHOOLS.

945. *Mr. M. Maswood Ahmad: (a) Is it a fact that both the Principal and the Headmaster of the Oakgrove School are in the Railway officers' grade and are treated as gazetted officers in the matter of all privileges?

(b) Is it a fact that not a single Headmaster of the East Indian Railway Indian High Schools has the status of a gazetted Railway officer?

(c) In what cadre of the Railway service are the Headmasters of the East Indian Railway Indian High Schools included?

(d) Is it a fact that some two years ago these Headmasters were given the pay and status of Provincial Service officers?

(e) Is it a fact that in the East Indian Railway, employees having the same pay and grade as these Headmasters now have, are not treated as gazetted officers but only as upper subordinates?

(f) Are Government prepared to remove this anomaly and treat the Headmasters of the Indian High Schools as Railway gazetted officers in all respects except pay?

Mr. P. B. Rau: (a) The post of Principal, Oakgrove School, is in the superior service, but not the post of Headmaster.

(b) Yes.

- (c) These posts are in the subordinate grade.
- (d) Their pay was brought into line with the rates of pay of teachers in Provincial Government Schools of equivalent standard.
- (e) Yes.
- (f) No. Government do not think there are sufficient grounds for making the change suggested.

Dr. Ziauddin Ahmad: May I ask what, in the case of High Schools, is the difference between the duties of a Principal and of a Headmaster?

Mr. P. E. Rau: I am not sure what exactly is the difference in the duties: probably the Principal attends to the administrative side.

Dr. Ziauddin Ahmad: In the case of High Schools, you have got the post of Principal for administrative work and the post of Headmaster for teaching work in these days of retrenchment when the Railway Budget is in a frightfully bad condition, and may I ask why there should be two posts? I want to know whether it is not an expensive luxury to have two officers for a High School, one a Principal for administrative work and another a Headmaster for teaching work?

Mr. P. E. Rau: I will have that point considered Sir, but as I have already told the House, I am not aware what are the specific duties of the Principal and of the Headmaster.

PROMOTION OF ROUTINE CLERKS IN THE SECRETARIAT.

946. ***Mr. K. Ahmed:** Will Government be pleased to state:

- (a) whether in the Imperial Secretariat Departments clerks are promoted from the Third (Routine) to Second Division and Second to special grade and First Division; if so, how; if not, why not;
- (b) whether men are recruited direct in the Second and First Divisions or promoted from Third Division; if the former, why; if the latter, what special merit and capacity are required for such promotions;
- (c) whether a clerk in the Third (Routine) Division performing the duties of diarising, despatching and typing can be promoted to the higher or special grades; if so, how do they get the opportunity to qualify themselves for such promotions; if not, why not;
- (d) whether the duties referred to at (c) above are of less importance and do not establish one's claim for promotion to the higher or special grades; if so, how and why;
- (e) how many such promotions came into effect in each Department since 1928;
- (f) how many clerks in the Third and Second Divisions in each Department are drawing the maximum pay of their grade and have not been promoted to the next higher grades and for what reasons;

- (g) how the orders contained in Home Department, Office Memo. No. F-80/27-Est., dated 8th August, 1927—regulating promotions—have been applied to in cases of those referred to above;
- (h) why clerks in the Second Division drawing the maximum pay of their grade having less than 25 years' permanent service at their credit should not be promoted to the special or higher grades as a matter of course; and
- (i) what is the object of fixing 25 years' permanent service limit for promotion to the special grade of the Second Division?

The Honourable Sir James Orerar: (a) to (d). Under the rules for recruitment to the clerical staff of the Government of India Secretariat, appointments to the First and Second Divisions are made partly by direct recruitment and partly by departmental promotion. Routine Division men who are promoted to the Second Division under these rules are eligible for promotion to the Special Grade of that Division if they fulfil the conditions laid down for such promotion and are also eligible for promotion to the First Division if they are considered fit to perform its duties. The test for such promotion is their ability to do more important work, than that allotted to the routine division. I am not prepared to undertake a general definition of merit and capacity but in practice it is not difficult to decide whether a Third Division clerk is or is not fit for promotion to a higher Division.

(e) to (g) The information is not readily available and in view of the time and labour involved in collection I feel unable to impose this labour on Departments.

(h) and (i). The Special Grade in the Second Division is intended to reward men who have rendered long and meritorious service but have no chances of promotion to the First Division. The object would be defeated if the Honourable Member's suggestions were accepted.

CONFLICTING INTERPRETATIONS UNDER THE COURT FEES ACT.

947. ***Diwan Bahadur Harbilas Sarda** (on behalf of Mr. Jagan Nath Aggarwal): (a) Are Government aware that contradictory and conflicting interpretations have been put by the different High Courts in India, on Articles 4-5, Schedule 1, of the Court Fees Act, 1870?

(b) Are Government aware that while the Bombay and Madras High Courts' interpretation of the said articles (*vide* I. L. R. 4, Bombay, page 26 and I. L. R. 50, Mad. 488), is liberal and favourable to the subject, that of the Allahabad and Calcutta High Courts (*vide* I. L. R. 81 All. 294 and I. L. R. 57, Calcutta 679) has made the filing of a review petition more expensive than an appeal or a plaint for the identical relief in some cases?

(c) If the reply to the above be in the affirmative, what steps do Government propose to take to remove this conflict and make the application of this provision of the Court Fees Act uniform throughout British India?

The Honourable Sir James Orerar: (a) and (b). Government are aware of the conflict of judicial opinion disclosed in the cases to which Honourable Member refers.

(c) The matter is primarily one for local Legislatures, and I would refer the Honourable Member to the answers given in this House to questions Nos. 757—761 on the 23rd September, 1931, by Pandit Ram Krishna Jha. As pointed out therein "Judicial Stamps" is, under the Devolution Rules, a provincial subject, only subject to legislation by the Indian Legislature as regards the amount of court fees levied in relation to suits and proceedings in the High Courts under their original jurisdiction, and certain local Legislatures have passed Acts amending the Schedules to the Court Fees Act, 1870. For the reasons explained in my reply to question No. 761 referred to above Government do not propose to undertake legislation for prescribing a uniform scale of court fees for the whole of India.

ESTABLISHMENT OF A TUBERCULOSIS SANATORIUM AT ABBOTTABAD.

948. *Khan Bahadur Haji Wajihuddin: (a) With reference to the reply given by Government to question No. 410, asked by me, on the 27th March, 1931, will Government be pleased to state if the Local Administration has considered the advisability of establishing a sanatorium like that at Dharampur in a suitable place near Abbottabad for accommodating and treating tuberculosis patients who frequent Abbottabad in the summer and who, it is proposed, are to be prevented from coming to Abbottabad in future and taking advantage of the cold climate?

(b) Do Government propose to consider the desirability of:

- (i) meeting the expenditure required for a sanatorium by obtaining an adequate share of contributions from the funds of the Municipalities of the five Districts of the Province,
- (ii) arranging in the meantime for a temporary camp for the use of the patients in the next summer at a selected place,
- (iii) avoiding the legitimate complaints of people of the country against the Government orders banning the visits of the patients to Abbottabad, and
- (iv) deputing a selected experienced I.M.S. Muslim officer to hold charge of the sanatorium?

Sir Frank Noyce: (a) Government have considered the question of establishing a sanatorium at Haripur, but have not been able to give effect to the scheme owing to financial stringency.

(b) No; in view of the impending constitution of the North-West Frontier Province as a Governor's province.

PROVISION OF AN ELECTED BOARD FOR PESHAWAR CANTONMENT.

949. *Khan Bahadur Haji Wajihuddin: With reference to the reply given by Government to unstarred question No. 227 asked by me on the 23rd February, 1931, will Government be pleased to state if they have considered the report received from the Local Administration and, if so, whether they propose to give Peshawar Cantonment an elected Board especially on the province becoming a Governor's Province with a Provincial Council working with effect from the 15th April, 1932?

Mr. G. M. Young: The attention of the Honourable Member is invited as regards both points in his question, to the reply which I gave on the 15th September, 1931, to his starred question No. 307.

INCORRECT LISTS OF VOTERS IN THE NORTH-WEST FRONTIER PROVINCE.

950. ***Knan Bahadur Haji Wajihuddin:** (a) Will Government be pleased to state if they are aware that:

- (i) the inhabitants of the North-West Frontier Province, bitterly complain that thousands of names of voters have been left out when their lists were prepared; and
- (ii) it was absolutely impossible for them to know the omission in time, leave their zamindari work and have the lists of their constituencies corrected in the inadequate number of days allowed for the purpose?

(b) If the replies to the above questions be in the affirmative, do Government propose to give them more time to have the lists corrected and avoid their complaints?

The Honourable Sir George Rainy: (a) and (b). Government have received no complaints and are not aware of any popular dissatisfaction or of any desire to postpone the inauguration of the provincial Legislature in order to revise the electoral registers.

The elections in the North-West Frontier Province are being conducted by the Local Government according to rules and regulations under section 72A of the Government of India Act, a section at present in force in that province. It will be for the local Legislature to raise discussion on matters arising out of the electoral procedure.

Dr. Ziauddin Ahmad: Are Government aware of the fact that in the North-West Frontier Province there had been an abnormally large number of revision applications and much more than in any other province?

The Honourable Sir George Rainy: I am indebted to my Honourable friend for the information.

Maulvi Muhammad Shafee Daoodi: Are the Government aware that there is no method of bringing the complaints of the people to the notice of the Local Government except through this Assembly?

The Honourable Sir George Rainy: I find it very difficult, Sir, to accept that statement. I should have thought that there must be means of communicating complaints to the Local Government. I presume that objections to the electoral rolls are sent in according to the procedure in force.

Mr. N. M. Joshi: May I ask, Sir, whether Government will ascertain whether there is discontent in the North-West Frontier Province amongst those people whose names have not been entered on the electoral role?

The Honourable Sir George Rainy: Government have no information to that effect.

Mr. N. M. Joshi: May I ask whether Government will inquire in the matter?

The Honourable Sir George Rainy: I do not find sufficient reason to institute an inquiry.

Maulvi Muhammad Shafee Daoodi: In view of the questions put in the Assembly, will Government be pleased to recommend to the Local Government to see that the complaints which are now made, say, within a week's time, are heard by the officials?

The Honourable Sir George Rainy: I shall be much indebted to my Honourable friend, if he will communicate to me any information he has as to complaints. In that case I shall be glad to make inquiries and bring the matter to the notice of the Local Government.

SETTLEMENT OF THE COMMUNAL PROBLEM.

951. *Maulvi Muhammad Shafee Daoodi: (a) Has the attention of Government been drawn to the proceedings of the Consultative Committee held on the 22nd February, 1932, and the conclusion to which the Chairman of the Committee came in regard to the immediate decision of the communal question?

(b) Are Government aware that the speech of the Secretary of State made in the House of Commons on February 29th, 1932, relating to the communal problem has not satisfied the Mussalmans of India?

(c) Are Government aware that a session of the All-India Muslim Conference was held at Lahore on the 20th March, 1932, and that therein the Muslim leaders who were at the Round Table Conference were expected to justify their policy so far?

(d) Are Government aware that an overwhelming majority of the politically-minded Mussalmans of India are exasperated at the attitude of Government in the matter and are anxiously considering how best they might demonstrate their anxiety for immediate decision of the communal problem?

(e) Do Government propose immediately to allay the apprehensions of the Mussalmans of India by announcing their decision of the communal problem?

The Honourable Sir George Rainy: I would invite the attention of the Honourable Member to the statement issued by His Majesty's Government on the 19th of March, 1932, a copy of which is laid on the table.

The following communiqué was issued today:

"His Majesty's Government have taken note of the inability of the Consultative Committee of the Round Table Conference to undertake the settlement of the Indian communal problem and of the Committee's request, transmitted by His Excellency the Chairman, that a decision should be given by His Majesty's Government. In his statement, made to the Round Table Conference on December 1, the Prime Minister speaking on behalf of His Majesty's Government, found it necessary to use the following language:

'I desire to warn you that if the Government have to supply, even temporarily, this part of your constitution, which you are unable to supply for yourselves, and though it will be our care to provide the most ample safeguards for the minorities so that none of them need feel that they have been neglected, it will not be a satisfactory way of dealing with the problem'.

'Let me also warn you that if you cannot come to an agreement on this among yourselves, it will add considerably to the difficulties of any Government here which shares our views of an Indian constitution, and it will detract from the place which that constitution will occupy amongst those of other nations'.

"This being the attitude of His Majesty's Government towards this problem, they have naturally received the information just referred to with great regret. They have been informed that the absence of a communal agreement is now impeding progress with the programme indicated in the Prime Minister's statement of December.

"In these circumstances, His Majesty's Government think it well to reiterate the pledge which the Prime Minister gave in the same statement, that, in the event of the failure of the communities to present a settlement acceptable to all parties as the foundation upon which to build, His Majesty's Government were determined that even this disability should not be permitted to be a bar to the progress, and that they would be compelled to apply a provisional scheme.

"His Majesty's Government desire to make it plain that they realise the responsibilities involved in this undertaking, and will not fail to discharge them. They are engaged in a careful re-examination of the difficult and controversial questions which arise, and it is their firm intention that there shall be no avoidable delay."

Maulvi Muhammad Shafee Daoodi: Are Government aware that the announcement made by His Majesty's Government on the 19th March has also not satisfied the Muslim public?

The Honourable Sir George Rainy: That, Sir, I think is a question of opinion.

Mr. K. P. Thampan: Are Government aware that the politically minded Hindus are considerably excited over the fact that the Government propose to give 33½ per cent. of the seats to the Indian States, 33½ per cent. to Muslims, 10 per cent. to Europeans and other vested interests, 10 per cent. to the minorities and so on and that Hindus come nowhere in the future Constitution?

The Honourable Sir George Rainy: No, Sir, I am not aware of that.

Dr. Ziauddin Ahmad: May I say, Sir, that this division which has just been mentioned is what is known in logic as a cross division

Mr. President: Order, order.

INTRODUCTION OF THE CONTRACT SYSTEM IN THE CASH AND PAY DEPARTMENT OF THE EAST INDIAN RAILWAY.

952. ***Mr. S. C. Mitra:** (a) Will Government please state (i) whether a couple of years ago the question of introducing the contract system in the Cash and Pay Department of the East Indian Railway was considered, but given up, and (ii) whether it is again proposed to hand over the Cash and Pay Department of the East Indian Railway to a Lahore contractor?

(b) If the reply to the above questions be in the affirmative, will Government please state (i) whether public tenders have been called for again and if so, in what newspaper and when, and (ii) whether the contractor to whom it is proposed to hand over the Cash and Pay Department of the East Indian Railway has tendered for the contract along with others?

(c) If the reply to part (b) be in the negative, will Government please state (i) why public tenders have not been invited, and (ii) why it is proposed to give the contract to a particular contractor in preference to others?

Mr. P. R. Ran: (a) (i) The question of introducing the contract system in the Cash and Pay Department of the East Indian Railway has been under consideration for some time. Tenders were invited in 1929, and

the lowest tender was accepted by Government, but at a later stage when details of arrangements were under consideration, the proposal fell through.

(a) (ii) The question is under consideration, but no decision has yet been arrived at.

(b) and (c). Government consider that no useful purpose will be served by inviting fresh tenders.

INTRODUCTION OF THE CONTRACT SYSTEM IN THE CASH AND PAY DEPARTMENT OF THE EAST INDIAN RAILWAY.

953. ***Mr. S. C. Mitra:** Are Government aware that the Royal Commission on Labour have, in their report dealing with the question of Indian State Railways, strongly condemned the system of cash contract on Indian Railways? If so, will Government please state whether the recommendation of this commission is being given effect to in the case of the Cash and Pay office, East Indian Railway? If not, why not?

Mr. P. R. Rau: Government are aware of the opinion of the Royal Commission on Labour, and will give due consideration to it when arriving at a decision.

REPLACEMENT OF THE CONTRACT SYSTEM ON THE BENGAL NAGPUR RAILWAY BY THE DEPARTMENTAL SYSTEM.

954. ***Mr. S. C. Mitra:** Is it a fact that till recently a contract system was enforced on the Bengal Nagpur Railway but has since been replaced by the departmental system? Will Government please state why the departmental system has been introduced on the Bengal Nagpur Railway in place of the contract system?

Mr. P. R. Rau: A departmental system was I believe introduced in the Cash and Pay Department of the Bengal Nagpur Railway in 1928 as a result of certain frauds discovered there.

INTRODUCTION OF THE CONTRACT SYSTEM IN THE CASH AND PAY DEPARTMENT OF THE EAST INDIAN RAILWAY.

955. ***Mr. S. C. Mitra:** Will Government please state what will become of the hundreds of employees at present employed in the Cash and Pay Department of the East Indian Railway, if and when the department is handed over to a contractor and what special advantages are likely to result from the introduction of the contract system in place of the departmental system, which has been in existence on the East Indian Railway ever since the Railway was constructed?

Mr. P. R. Rau: As I have already informed the House, no decision has yet been arrived at on the question, but if it is finally decided to adopt the contract system, the question of finding employment for the existing staff will be one of the questions that will receive most careful consideration from Government.

VISIT TO KALIMPONG OF MR. STRONG, COMMISSIONER OF INCOME-TAX, BENGAL.

956. ***Mr. S. C. Mitra:** (a) Will Government please refer to the answer given by the Honourable Sir George Schuster to parts (a), (b) and (c) of unstarred question No. 15, dated 3rd February, 1932, in which it

has been asserted that it is "an erroneous assumption" that Mr. Strong, Commissioner of Income-Tax, Bengal, visited Kalimpong on recess, and reconcile the same with the answers given in the Council of State on 21st September, 1931, by the Honourable Mr. A. H. Lloyd to questions 109 and 110, and particularly to parts (b) and (d) of question 110 which amounts to a positive admission of the fact that Mr. Strong visited Kalimpong on recess?

(b) Do the Government agree that the statements made by the Honourable Mr. A. H. Lloyd and the Honourable Sir George Schuster as referred to above are contradictory? If so, will they please state which of them is correct, and who is responsible for the other incorrect statement? If the former's statement is correct, will Government please now give an answer to parts (a), (b), (c) and (e) of Assembly unstarred question No. 15, dated 3rd February, 1932? If, on the other hand, the latter's statement is correct, will Government please state the circumstances under which Mr. Strong was away from his Headquarters and stayed for about a month at the hill station of Kalimpong where he proceeded direct from his inspection at Jalpaiguri, as admitted by the Honourable Mr. A. H. Lloyd in his answer to Council of State question No. 109(d), dated 21st September, 1931?

(c) Will Government please further refer to their answer to part (d) of the unstarred Assembly question No. 15, dated 3rd February, 1932, which amounts to an admission of the fact that Mr. Strong recessed at Kalimpong for a month, and reconcile the same with the answers given by them to parts (a), (b) and (c) of the same question in which it has been asserted that Mr. Strong did not visit Kalimpong on recess?

The Honourable Sir George Schuster: (a) and (b). The statement that I made in reply to the Honourable Member's previous question amounts to a partial correction of the reply given by Mr. Lloyd in the Council of State in which by inadvertence "recess" was referred to. To this extent the replies may be said to be contradictory. The statement that I gave was correct. Mr. Strong visited Kalimpong in May on casual leave after making an inspection at Jalpaiguri. Owing to ill-health, he had to remain at Kalimpong for 28 days in all, of which 19 days were working days. After the first ten days, which was the period for which he had originally intended to take casual leave, he disposed of official work.

(c) I cannot understand how the Honourable Member can construe my reply to part (d) of his question as involving an admission that Mr. Strong visited Kalimpong on recess seeing that I had stated categorically my reply to parts (a), (b) and (c) of the question that the visit to Kalimpong in May was not made on recess.

SANITARY AMENITIES FOR KAROL BAGH, DELHI.

957. ***Mr. S. O. Mitra:** (a) Will Government be pleased to give reasons as to why ordinary amenities of life, viz., drainage, filtered water, metalling and levelling of roads and lanes, name boards on them, indication boards, etc., have not been provided in Karol Bagh (a part of Western extension)? Is it a fact that the people of that place are paying ground rent (now to Nazul Department from the 1st October, 1925), and all the other municipal

taxes, *viz.*, house tax, octroi tax, wheel tax, etc., according to the laws of the city since 1914? How do Government propose to compensate the inhabitants of that place who have passed their 18 years out of the ninety years lease granted by Government?

(b) Is it a fact that the Delhi Municipality dump night soil, refuse of the city, etc., and bury dead animals in the vicinity of this area, and if so, are Government aware that this results in a foul and unhealthy atmosphere for the people of that place? What action has been taken by Government in this connection?

Mr. G. S. Bajpai: (a) Drainage and water supply schemes for Karol Bagh have been worked out, but are held in abeyance on account of financial stringency. Meanwhile everything that can be done with available resources is being done to ameliorate the conditions of life there. The income from direct taxation from that area does not exceed Rs. 8,000 a year, while the Municipal Committee is spending about Rs. 38,000 a year on the maintenance of essential services. The question of granting compensation scarcely arises as the improvements referred to by the Honourable Member are held up for causes over which the authorities concerned have no control.

(b) Government are informed that night soil and refuse of the city are not being dumped in Karol Bagh. Only the local product I understand is dumped close by. The number of dead animals, which are buried at a distance of three quarters of a mile from the locality, is small and the Health Officer states that the inhabitants of the area are in no way being inconvenienced.

NUMBER OF MUSLIMS AND SIKHS IN THE ROYAL AIR FORCE HEADQUARTERS.

958. ***Maulvi Sayyid Murtuza Saheb Bahadur:** (a) Will Government kindly state:

- (i) the total number of permanent Superintendents, assistants and clerks in the Royal Air Force Headquarters;
- (ii) the number of members of the minority communities among them; and
- (iii) the number of Muslims and Sikhs among those referred to above?

(b) Is it a fact that the number of Sikhs in the Royal Air Force Headquarters ministerial establishment is greater than that of Muslims? If so, will Government please explain their reasons for keeping the number of Muslims below that of Sikhs?

Mr G. M. Young: (a) (i) Superintendents 4, assistants 11, and clerks 43. Twelve appointments are intended for, and held by, airmen and ex-airmen.

(ii) Superintendents, none, assistants 2 and clerks 15.

(iii) Superintendents—Muslims and Sikhs, none, assistants, Muslim 1 and Sikh 1, clerks, Muslims 7 and Sikhs 5.

(b) The answer to the first part of the question is in the negative. The second part, therefore, does not arise.

CRITERIA FOR APPOINTMENT OF VARIOUS COMMUNITIES TO GOVERNMENT SERVICES.

959. ***Maulvi Sayyid Murtuza Saheb Bahadur:** Do Government take into consideration the total numerical strength of the various communities in the population of the country in making allotments to the various services? If not, will they state what are their criteria for making appointments and how they make up communal inequalities?

The Honourable Sir James Crerar: The numerical strength of communities whose representation in the services is desired under the orders of February, 1926 is taken into general consideration in broadly deciding whether a community is under-represented or not, but as has been stated on many occasions no definite percentage has been fixed for the representation of any minority community. The second part of the question does not therefore arise.

DISCHARGE OF A MUSLIM CLERK FROM THE ROYAL AIR FORCE HEADQUARTERS.

960. ***Maulvi Sayyid Murtuza Saheb Bahadur:** (a) Is it a fact that a Muslim clerk was recently discharged by the Royal Air Force Headquarters on the plea of his not having been able to pass the examination of the Public Service Commission, and that the vacancy held by him had been filled by a non-Muslim?

(b) If the reply to the above is in the affirmative, will Government please state:

- (i) whether the Muslims are at present adequately represented in the ministerial establishment of the Royal Air Force Headquarters;
- (ii) if not, why a temporary unpassed Muslim clerk has been discharged without being given an opportunity to qualify himself or without being replaced by a qualified Muslim; and
- (iii) what steps Government have taken during the last 12 months in connexion with the recruitment of Muslims in the Royal Air Force Headquarters to remove the inadequacy in their representation and what steps in this direction they propose to take hereafter?

Mr. G. M. Young: (a) The clerk was discharged because he was unqualified and was employed temporarily in a post not intended for a member of his community.

(b). (i) Yes. There are 8 Muslims in a total establishment of 46 Indians.

(ii) and (iii). Do not arise.

ELECTION TO THE STANDING FINANCE COMMITTEE.

Mr. President: I have to inform the Assembly that the following fourteen Members have been elected to the Standing Finance Committee for the financial year 1932-33, namely :

1. Mr. G. Morgan.
 2. Mr. B. Sitaramaraju.
 3. Mr. N. N. Anklesaria.
 4. Rai Bahadur S. C. Mukherjee.
 5. Sardar G. N. Mujumdar.
 6. Mr. J. Ramsay Scott.
 7. Dr. Ziauddin Ahmad.
 8. Major Nawab Ahmed Nawaz Khan.
 9. Mr. Muhammad Muazzam Saheb Bahadur.
 10. Dewan Bahadur Harbilas Sarda.
 11. Mr. Gaya Prasad Singh.
 12. Sirdar Harbans Singh Brar.
 13. Lala Rameshwar Prasad Bagla.
 14. Mr. S. G. Jog.
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ELECTION TO THE STANDING COMMITTEE ON EMIGRATION.

Mr. President: I have to inform the Assembly that the following eight non-official Members have been elected to sit on the Standing Committee on Emigration, namely :

1. Rao Bahadur B. L. Patil.
 2. Sir Abdullah Suhrawardy.
 3. Mr. H. B. Fox.
 4. Mr. N. M. Joshi.
 5. Bhai Parma Nand.
 6. Khan Bahadur Maulvi Rafiuddin Ahmad.
 7. Rao Bahadur M. C. Rajah.
 8. Lieutenant-Colonel Sir Henry Gidney.
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STATEMENTS LAID ON THE TABLE.

RECRUITMENT OF MUSLIMS IN THE OFFICE OF THE DEPUTY ACCOUNTANT-GENERAL, POSTS AND TELEGRAPHS, DELHI.

The Honourable Sir George Schuster (Finance Member): I lay on the table the information promised in reply to starred question No. 749, asked

by Mr. M. Maswood Ahmad on the 14th March, 1932, regarding recruitment of Muslims in the office of the Deputy Accountant-General, Posts and Telegraphs, Delhi.

(a) 37 appointments to temporary posts in the lower division and six appointments to the Sorters' cadre have recently been made in the office of the Deputy Accountant-General, Posts and Telegraphs, Delhi.

(b) No. The correct number of minority community men appointed to posts in the lower division is 11. Out of these, 8 are Muslims, 2 Sikhs and one Christian. One more post was offered to a Muslim but he failed to join immediately. The post has, however, been reserved for a Muslim and will be filled up shortly. In the Sorters' cadre, both the posts open to the minority community were filled up by Muslims.

(c) Does not arise as the communal proportion has been maintained in accordance with the orders of Government.

PLATFORMS, THE ERECTION OF WHICH HAS BEEN CONDONED IN AMBALA CANTONMENT.

Mr. G. M. Young (Army Secretary): I lay on the table the information promised in reply to parts (a) and (d) of starred question No. 368, asked by Sirdar Sohan Singh on the 15th February, 1932, regarding platforms the erection of which has been condoned in the Ambala Cantonment.

(a) Yes.

(d) As complete records of all platforms condoned under the orders of 1926 are now available in the General Land Register of the Cantonment, Government do not propose to take any action in the matter.

THE HINDU-MUHAMMADAN HIGH SCHOOL, AMBALA CANTONMENT.

Mr. G. M. Young: I lay on the table the information promised in reply to starred questions Nos. 555 and 557, asked by Bhai Parma Nand on the 29th February, 1932, about the Hindu-Muhammadan High School, Ambala Cantonment.

Question No. 555.

(a) Yes.

(b) I am informed that the estimated liabilities of the school amount to about Rs. 11,400.

(c) Yes.

Question No. 557.

(a) The maintenance of a high school by a Cantonment Authority is discretionary under section 117 (d) of the Cantonments Act, 1924.

(b) I am informed that the Cantonment Authority have nothing on record to this effect; a memorial received by them protesting against the enhancement of the present house scavenging tax contained a reference to the School.

GOVERNMENT SERVANTS MURDERED IN COMMUNAL AND POLITICAL DISTURBANCES.

The Honourable Sir James Orerar (Home Member): I lay on the table the information promised in reply to starred question No. 1059, asked by Kunwar Haji Ismail Ali Khan on the 29th September, 1931, regarding Government servants murdered during communal and political disturbances during the last five years.

Government servants murdered during communal and political disturbances.

Name of the servant.	Scale of his salary.	Period of his service.	What compensation or other facilities have been given to his family.	Remarks.
1	2	3	4	5
	Rs.	Y. M. D.		
*Lt.-Col. H. T. Morshead, D.S.O., R.E.	Was officiating in Rs. 2,200—50—2,400 plus overseas pay at £13-6-8.	29 5 0	Under consideration by the Government of India.	
Narain, porter "F" Division, Railway Mail Service, Nagpur.	18	2 0 0	The question of granting a compassionate gratuity to the mother of the deceased is under consideration.	
Said Ahmad Ab-basi, clerk, Lucknow P. O.	45—5—145	2 6 20	None. (The official was killed while he was out on private business.)	
B. Madan Behari Lal, Head Clerk, Nawabganj (Cawnpore).	45—5—145	19 9 8	The question of granting an extraordinary pension to the widow of the deceased is under consideration.	
Chhotey Lal, postman, Cawnpore Head Office.	23—1—43	19 1 3	Do.	
Keshav Hirba Parab, postman.	30—1—50	7 4 25	No compensation was granted.	
Mahamdoo, peon .	15—1—20	About 21 years.	Compassionate gratuity of Rs. 84 was granted.	

*This case has been closed by the Police and C. I. D. as undetected.

Name of the servant.	Scale of his salary.	Period of his service.	What compensation or other facilities have been given to his family.	Remarks.
1	2	3	4	5
Oudhbehari Singh, Sorting postman.	Rs. 22—40	Y. M. D. 4 11 4	Extraordinary pension of Rs. 10 a month to the widow was given.	
Rikhi Ram, postman, Lahore Head Office.	23—1—43	3 1 0	The question of granting the dependents of the deceased a compassionate gratuity is under examination.	
Mr. D. B. Murphy.	650 <i>plus</i> £15 Special Overseas Pay.	6 6 6	An extraordinary pension of £150 per annum and a gratuity of £200 was granted to the widow mother of the deceased.	
Sepoy Khan Mohd., 2/15 Punjab Regiment.	16 p. m.	1 9 1	Father granted a family pension of Rs. 8 p. m.	Died of gunshot wounds received in action against rebels at Taungnyogale on 13th May, 1931.
Subedar Labya Tang, 3/20th Burma Rifles.	160 p. m.	16 0 0	Family pension of Rs. 50 p. m.	Killed. Shot through the heart by rebels on 21st May, 1931, in Chuchaung, while employed with the Battalion in aid of the civil power.
Rifleman Hyaukan La, 3/20th Burma Rifles.	18 p. m.	6 0 0	Family pension of Rs. 8 p. m.	Died of gunshot on 17th May, 1931, during night alarm at Thayotmyo while employed with the Battalion in aid of civil power.
Regimental Sergeant-Major J. W. Farrell.	410-9-0 p. m. (31 days).	21 8 3	Family pension of 27 shillings a week.	Murdered by revolutionaries who attacked and burnt the Assam Bengal Railway Battalion A. F. (I.) Armoury at Chittagong on the night of 18th April, 1930.

Name of the servant.	Scale of his salary.	Period of his service.	What compensation or other facilities have been given to his family.	Remarks.
	2	3	4	5
Watcher Ghulam Jilani.	Rs. 31 p. m. <i>plus</i> pension of Rs. 5 p. m.	Y. M. D. 10 years in Indian Army. 2 months in Corps of Watchers.	Rs. 6 p. m. to father.	Murdered by revolutionaries who attacked and burnt the Assam Bengal Railway Battalion A. F. (I.) Armoury at Chittagong on the night of 18th April, 1930.
Watcher Buksh. Miron	31 p. m. <i>plus</i> pension of Rs. 8 p. m.	10 years and 8 months in Indian Army. 2 years in Corps of Watchers.	Family pension of Rs. 10 p. m.	Do.
Captain F. Ashcroft, 6/13th F. F. Rifles.	840 p. m.	10 6 26	Nil (was unmarried).	Killed in action near Domel, Bannu District, on 24th August, 1930, whilst in aid of the civil power.
Naik Mohamed Yar, 6/13th F. F. Rifles.	24 p. m.	12 1 7	Family pension of Rs. 6 p. m. Children's allowance for 2 children at Rs. 2 p. m. each.	Do.
Lance Naik Jalal Khan, 6/13th F. F. Rifles.	21 p. m.	9 11 27	Do.	Do.
Lance Naik Sulaman Ali, 6/13th F. F. Rifles.	21 p. m.	10 0 21	Do.	Do.
Lance Naik Sajawal Khan, 6/13th F. F. Rifles.	21 p. m.	14 2 8	Family pension of Rs. 8 p. m.	Do.
Sepoy Wali Mohammed, 6/13th F. F. Rifles.	19 p. m.	9 9 28	Do.	Do.
Sepoy Abdul Aziz, 6/13th F. F. Rifles.	18-8-0 p. m.	3 3 12	Do.	Do.
Sepoy Yakub Khan, 6/13th F. F. Rifles.	18-8-0 p. m.	3 7 22	Do.	Do.

Name of the servant.	Scale of his salary.	Period of his service.	What compensation or other facilities have been given to his family.	Remarks.
1	2	3	4	5
	Rs.	Y. M. D.		
Sepoy Raja Khan, 6/13th F. F. Rifles.	18-8-0 p. m.	9 11 26	Family pension Rs. 8 p. m. Children's allowance for one child at Rs. 2 p. m.	Killed in action near Domel, Bannu District, on 24th August, 1930, whilst in aid of the civil power.
Havildar Roshan Khan, 4/12th F. F. Regiment.	30-5-0 p. m.	14 10 15	Family pension Rs. 8 p. m. Children's allowance Rs. 2 p. m.	Killed in action in Waziristan on 12th July, 1930. Disturbance with Mahsuds.
Lance Naik Hazara Singh, 4/12th F. F. Regiment.	22-6-0 p. m.	10 7 0	Family pension Rs. 8 p. m. Children's allowance Rs. 2 p. m.	Killed in action in Waziristan on 12th July, 1930. Disturbance with Mahsuds.
Lieutenant G. E. H. Hawkes.	680 p. m. .	8 0 0	Nil (was unmarried).	Murdered at Landi Kotal on night of 24/25th February, 1930, probably by robbers, but the motive is actually unknown.
Private H. Bryant, Royal Tank Corps.	5s. per day	6 0 24	Joint pension of 10s. 6d. a week to mother and father.	Killed in Peshawar City on 23rd April, 1930, whilst in aid of civil power.
Trooper T. F. Stone, 15/19th Hussars.	2s. 3d. a day.	3 2 20	Nil . .	Killed in action against Afridis south-west of Peshawar on 5th June, 1930.
Jemadar Rahim Bux Khan, The Poona Horse.	110 p. m. .	23 8 0	Pension of Rs. 25 p. m. to widow, children's allowance for two children at Rs. 4 p. m.; gratuity of Rs. 600.	Killed in action against Afridis on 9th August, 1930.
Sowar Nur Mohammad Khan, The Poona Horse.	21 p. m. .	9 8 29	Family pension of Rs. 8 p. m. Children's allowance for two children at Rs. 2 p. m. each.	Do.
Daffadar Abdul Karim Khan, The Poona Horse.	37 p. m. .	16 6 16	Family pension of Rs. 8 p. m. Children's allowance for 4 children at Rs. 2 p. m. each.	Do.

Name of the servant.	Scale of his salary.	Period of his service.	What compensation or other facilities have been given to his family.	Remarks.
1	2	3	4	5
	Rs.	Y. M. D.		
Sowar Chittar Singh, The Poona Horse.	20 p. m. .	4 10 19	Family pension of Rs. 8 p. m. to mother.	Killed in action against Afridis on 9th August, 1930.
Work Munshi (Mason), M.E.S.	70 p. m. .	Not known	Nil	{ Names and period of service not known. They were shot by tribesmen in March, 1928, on Serweki-Wana Road, while making a culvert.
Two coolies, M.E.S.	30 p. m. .	Do. .	Nil	
Mr. Balwant Singh, Assistant Store-keeper, M. E. S.	80 p. m. .	0 3 14	Family pension of Rs. 15 p. m. and Rs. 1,500 as blood money.	Shot by tribesmen whilst on duty at Saratauide on night of 19/20th June, 1928.
Lieutenant M. Stephen, Royal Artillery.	650 p. m. .	8 6 0	Nil	Shot by a Khassadar (who had a political grievance), while travelling on duty by car from Manzai to Razmak on 14th June, 1929.
Assistant Surgeon J. H. Gabral, I.M.D.	450 p. m. .	24 3 0	Family pension of Rs. 104 p. m. and Rs. 5,000 blood money.	Do."
Lieutenant G. R. Hext, 2/8th Punjab Regiment.	510 p. m. .	3 0 0	Nil	Murdered in the Punjab Mail Train near Bhusaval when proceeding to Army Signalling School, Poona, on 23rd July, 1931.
Lieutenant T. M. Synge, O.B.E., Royal Tank Corps.	..	Not yet ascertained.	..	Shot by a Khassadar while travelling on duty by lorry from Wana to Jandola.
Private Whawell .	..	Do. .	..	Do."

CASUALTIES AMONG THE POLICE AND PUBLIC ARISING OUT OF MEASURES TAKEN AGAINST THE CIVIL DISOBEDIENCE MOVEMENT.

The Honourable Sir James Crerar: I lay on the table the information promised in reply to starred question No. 119, asked by Mr. S. C. Mitra on the 3rd February, 1932, regarding casualties among the public due to firing.

Statement showing casualties by Provinces (a) among Government servants and (b) members of the public as a result of firing since the resumption of the Civil Disobedience Movement up to 31st January 1932.

	Casualties among the Police.		Casualties among public as a result of firing.	
	Killed.	Wounded.	Killed.	Wounded.
Madras	Nil	Nil	1	2
Bombay	Nil	18	2	16
United Provinces	Nil	83	7	75
Bihar and Orissa	1*	Nil	2	Nil
North-West Frontier Province		6	15	23
Delhi	3

BOOKS PROSCRIBED BY THE CHIEF COMMISSIONER, AJMER-MERWARA.

Sir Evelyn Howell (Foreign Secretary): I lay on the table the information promised in reply to starred question No. 34, asked by Mr. Gaya Prasad Singh on the 26th January, 1932, regarding certain books which were proscribed by the Chief Commissioner, Ajmer-Merwara.

(a), (b) and (d). Yes. Both books contain matter the publication of which is punishable under Section 124-A, Indian Penal Code. A representation in respect of the latter was however received from the Sasta Mandal, Ajmer, and the Chief Commissioner, Ajmer-Merwara, in view of the generally unobjectionable nature of its contents, withdrew the order under Section 99-A, Criminal Procedure Code, in respect of it.

(c) The duty of preparing English translations of vernacular documents is entrusted to qualified officials. Government do not consider that any useful purpose would be served by giving the names of these officials.

(e) I would refer the Honourable Member to the reply I have given to parts (b) and (d) and invite his attention to page 120 of the book "Yug-Dharma" and page 80 of "Aniti-Ki-Raha Par". I have no information as regards the latter part of this question. Every local Government has power to proscribe under Section 99-A, Criminal Procedure Code.

(f) Yes.

*One daffadar.

"CORRESPONDENCE" COLLEGES IN INDIA.

Sir Frank Noyce: I lay on the table the information promised in reply to starred question No. 336, asked by Mr. Goswami M. R. Puri on the 13th February, 1932, regarding 'Correspondence' colleges in India.

(a) and (b). There are no "Correspondence" colleges in India, that is colleges which seek to impart instruction through correspondence.

CLOTH SEIZED FROM THE ALL-INDIA SPINNERS' ASSOCIATION.

The Honourable Sir James Crerar: I lay on the table the information promised in reply to starred question No. 140, asked by Mr. Bhuput Sing on the 3rd February, 1932, regarding the All-India Spinners' Association.

The Gandhi Ashram at Bhagalpur was notified under section 3 of the Unlawful Association Ordinance, 1932. It was found on possession being taken that some rooms were used as a Khaddar Cloth shop and as under section 4 it was necessary to take possession of the moveable property the cloth was also taken possession of and removed to police station for safe custody. Orders were subsequently passed directing the restoration of the cloth, etc., to the All-India Spinners' Association or their representative.

INCOME-TAX APPLICATIONS REJECTED BY THE COMMISSIONER OF INCOME-TAX BOMBAY PRESIDENCY.

The Honourable Sir George Schuster: I lay on the table the information promised in reply to starred question No. 654, asked by Mr. Lalchand Navalrai on the 7th March, 1932, regarding the number of applications for reference to High Court received and rejected by the Commissioner of Income-tax Bombay Presidency.

I regret that I cannot undertake to supply the information for which the Honourable Member has asked. In order to compile the figures it would be necessary to examine the files relating to between 4,000 and 5,000 revision petitions. This would involve an amount of labour that I am not prepared to impose on a staff that has been kept down to the bare minimum strength necessary on account of the need for economy.

With reference to the heading of the third and last column of the Honourable Member's statement I invite his attention to the reply that I gave to the starred question No. 655 that he asked on March 7th, 1932.

PICKETING OF LIQUOR SHOPS IN THE NORTH-WEST FRONTIER PROVINCE.

Sir Evelyn Howell: I lay on the table the information promised in reply to starred question No. 456, asked by Kunwar Haji Ismail Ali Khan on the 22nd February, 1932, regarding picketing in the North-West Frontier Province.

(a) Yes.

(b) Picketers were arrested and sentenced for breaches of the law and where it was necessary to do so were forcibly dispersed under section 31 of the Police Act and Chapter IX of the Criminal Procedure Code.

(c) Yes.

(d) Does not arise.

SUSPENSION OR REDUCTION OF RECRUITMENT BY THE PUBLIC SERVICE
COMMISSION.

The Honourable Sir James Crerar: I lay on the table the information promised in reply to starred question No. 133, asked by Mr. Nabakumar Sing Dudhoria on the 3rd February, 1932, regarding suspension or reduction of recruitment by the Public Service Commission.

Statement of the position referred to in the reply given to Mr. Nabakumar Sing Dudhoria's question No. 133 on the 3rd February, 1932.

Services for which recruitment by the Public Service Commission has been suspended.	Remarks.
Indian Audit and Accounts Service, Military Accounts Department, Imperial Customs Service, Indian Railway Accounts Service.	No examination was held in 1931 and none will be held in 1932. It is not possible to say at present how long suspension will continue.
Indian Forest Service	No examination was held in 1931. It is proposed to suspend recruitment in 1932 also for the present.
Indian Service of Engineers	Recruitment has been suspended pending a final decision on the question whether the Irrigation Branch of the Indian Service of Engineers should be provincialised.
Superior Railway Services (other than the Indian Railway Accounts Service).	Recruitment not suspended altogether but will be made on a very restricted scale till the return of normal conditions.
Ministerial services	It is not possible to say when the next examination will be held until the position resulting from retrenchments is clear.

REDUCTION OF CERTAIN APPOINTMENTS ON STATE RAILWAYS.

Mr. P. R. Rau (Financial Commissioner, Railways): I lay on the table the information promised in reply to part (c) of starred question No. 259 asked by Rai Bahadur Lala Brij Kishore on the 12th February, 1932.

(c) One post of Executive Engineer (Senior scale) was abolished and one post of Deputy Chief Engineer and one post of Senior scale officer (Power) were held in abeyance.

ELECTION OF MEMBERS TO THE PUBLIC ACCOUNTS COMMITTEE.

Mr. President: Non-official Members will now proceed to elect four Members to the Committee on Public Accounts. There are 6 candidates whose names are printed on the ballot papers which will now be supplied to Honourable Members in the order in which I call them.

(The Ballot was then taken.)

ELECTION OF MEMBERS TO THE STANDING FINANCE COMMITTEE FOR RAILWAYS.

Mr. President: Honourable Members will now proceed to elect 11 Members to the Standing Finance Committee for Railways. There are 28 candidates whose names are printed on the ballot papers which will now be supplied to Honourable Members in the order in which I call them.

(The Ballot was then taken.)

THE BENGAL CRIMINAL LAW AMENDMENT (SUPPLEMENTARY) BILL—*contd.*

Mr. President: Further consideration of the Bill to supplement the Bengal Criminal Law Amendment Act, 1930, as reported by the Select Committee.

Mr. E. F. Sykes (Bombay: European): Sir, I very nearly finished last night when I was pulled up by the hands of the clock pointing to four. I am afraid I must go back a little over what I said yesterday, so as to connect the main part of my speech with the end which we were so near to.

Further one or two Members have expressed a desire to see, even at a distance, the map which I had prepared to illustrate what I had to say. The House will observe in the centre a large blob here. I may mention that this map represents an area something like 250 miles square. I mention that so that Members may get an idea of the distances. (The Honourable Member then proceeded to explain with reference to the map in his hand the position of the various places he referred to.) This on the banks of the Benas which runs right across the map is Deoli. This is Nasirabad; that is Ajmer; that is Jaipur; and this is Bhawani Mandi. These are the markets of this area, Deoli being in the centre. The scale is one-millionth or 1.014 inches to 16 miles. A further point that this map will illustrate is this: if Members will look at this central spot, they will see from the colouring the number of states there are in this neighbourhood. They will also observe that on the right bank of the Benas this is the solitary patch of British territory: going down in this direction (South) you find no more until you come to the Nerbudda or beyond. I mention this to illustrate that this is British territory purely in a technical sense.

Yesterday I began by saying that the errors of Governments generally arose from one of two sources and sometimes from both. One, the lack of information, and the other, reluctance to recede from a position if it becomes untenable. I hoped to be able to supply the information that was lacking in this particular case and asked the House to see that the other error was not committed. I then proceeded to explain the position of Deoli in two respects, first its salubrity and second its remoteness. I do not wish to detain the House very long by repeating what I said about the salubrity, because I think it is fairly well known. The remoteness is much better illustrated by this map, because you see, Sir, Deoli stands at the junction of these two main roads which after uniting proceed to Kotah and here branching again the main branch goes to Jhalrapatan whence two separate branches lead in different directions into Malwa. After that, I think the House will agree with me that the remoteness of Deoli has been exaggerated.

I would like to refer to a comment in the papers that I saw this morning. It remarked that Mr. Sykes endeavoured to defend his beloved Rajputana from the Bengal terrorists, which is exactly what every one else is trying to do. It is what the Americans call "passing the buck". Bengal wants to get rid of these detenus and nobody wants to accept them; we are all in the same position. But after the demonstration that I have given to the House, it is impossible to accept Deoli as a sufficiently remote place for people who are universally agreed to be most disagreeable neighbours.

Now, Sir, I will come to the amendment that I have put down. I think that when I was interrupted last night, what I said was that, as far as the amendment was concerned, I was not particularly insistent on the exact wording of it; I was quite prepared to accept any modification that the Government were prepared to offer provided they would choose a more suitable location for these gentlemen, and I am quite willing to withdraw it on those terms or to accept any modification that will have the same effect, but I am not quite certain really that any great change is required. If the Governor's provinces in India with their enormous area and diversity of conditions cannot find a suitable place for these people, I consider the matter is a very serious one. Further, Sir, if all the Governor's provinces are so constituted in their temperaments that they are unwilling to come to the assistance of Bengal in its distress, the outlook for a Federated India is not a very bright one. We have not yet had any explanation of the reason why the Bengal Government is totally unable to provide for these people themselves. An examination of the map of Bengal shows that there are quite a large number of sites where remoteness could be had in combination with the Bengal life which is considered to be so desirable and so unlikely to be obtained in Rajputana. Sir, I have detained the House quite enough. I hope that the information I have given is quite sufficient to show to the Government and to the House that the present proposals for the execution of this Bill, when it becomes an Act, are far from being suitable, and I hope the House will prevent the Government from maintaining their position out of sheer obstinacy.

Mr. S. C. Mitra (Chittagong and Rajshahi Divisions: Non-Muham-madan Rural): Sir, I have great pleasure in supporting the motion of my friend Mr. Sykes. Though I could not closely follow either the speech or his arguments yet I am in full sympathy with his amendment.

[Mr. S. C. Mitra.]

because it restricts the transfer of the detenus only to Governor's provinces. I do not know if this amendment is made on behalf of the whole of the European Group (*Several Members from the European Group*: "No, no"); if that is so, I think the Honourable Members of the European Group are anxious to amend this obnoxious measure to a certain extent. One of my principal grounds is this, that in section 4 of this Bill it is contemplated that these detenus will be brought beyond the purview of section 491 of the Criminal Procedure Code, though the Honourable the Law Member in one of his earlier speeches said that though these prisoners cannot get any assistance from section 491, the general principles of *habeas corpus* will not be denied to them; because the High Courts have their plenary power and their inherent jurisdiction to deal with cases if anybody is detained illegally

The Honourable Sir Brojendra Mitter (Law Member): Might I explain the position, Sir. That is not what I said; I dispute the proposition that beyond 491 the High Court has got any other power. This is a matter on which there are differences of opinion in the different High Courts. The Calcutta High Court has taken the view that 491 is exhaustive, whereas Madras and Bombay have taken a different view.

Mr. S. C. Mitra: Then I stand corrected. I think that now that the Honourable the Law Member thinks that the High Courts have no inherent or plenary power beyond the four corners of section 491

The Honourable Sir Brojendra Mitter: When I used the expression plenary power, I meant that the High Court has got the power which 491 gives it. If a detention is not in accordance with any Act, then the High Court can intervene, because the detention is not legal. That was my contention.

Mr. S. C. Mitra: Unfortunately, if these detenus are transferred to provinces directly under the Central Government, they will have no protection from any High Court. Even though there will be a Judicial Commissioner whose powers though allied to those of the High Court in certain matters are not exactly identical in all respects to the powers of the High Courts. So I think if we accept the amendment of Mr. Sykes, at least these prisoners will have some chance to go to a High Court in case of any illegality. We also find, Sir, that in these centrally administered areas the rules are in some cases different. I know for example in Bengal jails non-official visitors are permitted to see the prisoners and report about them, though the Government in their wisdom select a separate class of non-official visitors to see political prisoners. To report about ordinary prisoners they select anybody and everybody who they think would be suitable, but as regards the political prisoners, they make a special selection of people who might perhaps be helpful to Government even in reporting about these detenus. But unfortunately I know from my friend Diwan Bahadur Harbilas Sarda that in Ajmer Jail there is no provision even for non-official visitors. Even in this respect, if the detenus are transferred to Governor's provinces, they will have non-official visitors to report if the rules promulgated by the Government are observed. As a matter of fact, there are occasions when these rules and regulations are seemingly good, but where the people

to see that they are enforced properly in the places of detention? The Honourable the Home Member may stand up and ask me for specific cases. But how is it possible for me or for anybody else, because if one goes within 100 yards of the jail he will be arrested, and how can we give specific instances? What comes out of the jail is by rumours, and then there is the provision of selected jail visitors. Government take care to choose as visitors titled non-entities, who are afraid even to speak the truth which may be unpleasant to Government. If they are sent out to these outlying districts like Deoli, about which I merely read in the Imperial Gazetteer as follows:

"Deoli lies on an open plain, 57 miles South-East of Nasirabad."

—I think that is the nearest railway station, that is 14 miles from Ajmer—

"The station was laid out by Major Thom, commanding the late Kotah Contingent. Lines exist for a regiment of Native infantry and a squadron of Native cavalry. The station is garrisoned by the 42nd Deoli Regiment, which up to 1903 was known as the Deoli Irregular Force. Deoli is situated on the triple boundary of Ajmer, Jaipur, and Mewar, and is the headquarters of the Haraoti and Tonk Political Agency."

So, it was no exaggeration when we said that it was 70 miles from Ajmer and 57 miles away from the nearest railway station. Sir, I find that there is enough sense in my Honourable friend Mr. Sykes' amendment which only says that these people may be transferred to Governor's provinces, and I support his motion.

The Honourable Sir James Orerar (Home Member): Mr. President, in the elaborate and somewhat involved disquisition of the Honourable gentleman who moved this amendment, there were two sentences which I think I understood. The first was that in which he dilated upon the art of tilting at windmills as a somewhat unprofitable occupation. That, Sir, is a proposition which seems to me quite unimpeachable. And the second one which interested me even more was when he summed up his estimate of the opinions which had been received on this Bill as being that every one had approved heartily of the idea but had raised every obstacle to carrying it out. The Honourable gentleman was kind enough to put a few red flags on behalf of the Government on the ground which he regards as a little bit sticky. I wonder whether he himself has not been in some danger of falling precisely into those errors himself. The Honourable Member seemed to attach a very great deal of importance as a ground against the selection of Deoli as a possible site for a detention camp, to the fact that it has a good market. I think that that particular aspect of the question may bear a totally different construction to Honourable Members who take a different view of the Bill from his own, because if he is quite clear that there is a very good market there, which is perfectly true, in matters of diet and the like arrangements can more easily be made for the health and comfort of the detenus. Surely that is a commendation rather than otherwise. He quoted also the opinion of a Local Government on the first circulation of the Bill for opinion. But I should like to inform the House that the selection of Deoli for this purpose was made with the greatest care. It was inspected and explored from all points of view by an officer of the Government of India, by a specially qualified officer of the Government of Bengal, and by the head

[Sir James Crerar.]

of the Local Administration, and they all concurred that for the requirements of the Act Deoli seemed to comply with every reasonable requirement in a very satisfactory way. Therefore I am somewhat at a loss to understand why the Honourable gentleman is so solicitous for Deoli. I do not know whether it is some question of local patriotism; I am not quite sure whether it may not be some question of local interest. But I must say quite frankly that, when I am dealing with a matter of public interest and importance, one which both the Local Government principally concerned and the Government of India consider as of very great public interest and public importance, I cannot possibly allow parochial and perhaps pecuniary interests of that kind to affect my judgment. And as an illustration of the utility of the kind of assistance with which the Honourable gentleman proposes to encumber me, I would point out that he put forward two constructive and practical ideas of his own. He approved, he said, of the principle of the Bill. It had been passed by the House and by the Select Committee, and the principle of the Bill could not therefore now be impugned. But he had two useful and practical suggestions, two constructive suggestions to make. One was that the detenus should be interned in Fort William in Bengal

Mr. E. F. Sykes: May I interrupt the Honourable Member? I said that under certain conditions they might be.

The Honourable Sir James Crerar: I think the words which the Honourable Member used were:

"Either they (detenus) are a nuisance to the neighbourhood or they are not. If not then a convenient detention camp would be either in Fort William under the eyes of the Government of Bengal, or in the Purana Qila under the eyes of the Government of India."

Mr. E. F. Sykes: Exactly.

The Honourable Sir James Crerar: Exactly, and what I propose to point out is that the Honourable Member, having given his assent to one of the principles of the Bill, which is to remove detenus from Bengal, makes the constructive suggestion that they should not be removed from Bengal (Laughter); or in the alternative, they should be detained in the Purana Qila. The Honourable Member failed to observe or was never aware that the Purana Qila is situated in a centrally administered territory and is not in a Governor's Province. Therefore, if the amendment which he is good enough to propose for my assistance were accepted by the House, his own valuable suggestion would be explicitly ruled out, and that, as far as I can see, is the extent of the value and utility of the Honourable Member's suggestions. I trust that the House will not accept the amendment.

Mr. President: The question I have now to put is:

"That in clause 2, after the word 'jail' where it occurs for the second time, the words 'in any Governor's Province' be inserted."

The Assembly divided:

AYES—34.

Abdul Matin Chaudhury, Mr.
Aggarwal, Mr. Jagan Nath.
Azhar Ali, Mr. Muhammad.
Badi-uz-Zaman, Maulvi.
Bagla, Lala Rameshwar Prasad.
Bhuput Sing, Mr.
Chandi Mal Gola, Bhagat.
Das, Mr. B.
Dutt, Mr. Amar Nath.
Fox, Mr. H. B.
Gurial, Mr. N. R.
Harbans Singh Brar, Sirdar.
Hari Raj Swarup, Lala.
Isra, Chaudhri.
Jog, Mr. S. G.
Kyaw Myint, U.
Lahiri Chaudhury, Mr. D. K.
Lalchand Navalrai, Mr.

Liladhar Chaudhury, Seth.
Maswood Ahmad, Mr. M.
Misra, Mr. B. N.
Mitra, Mr. S. C.
Murtuza Saheb Bahadur, Maulvi
Sayyid.
Neogy, Mr. K. C.
Parma Nand, Bhai.
Ranga Iyer, Mr. C. S.
Reddi, Mr. T. N. Ramakrishna.
Sant Singh, Sardar.
Sen, Mr. S. C.
Sen, Pandit Satyendra Nath.
Sykes, Mr. E. F.
Thampan, Mr. K. P.
Uppi Saheb Bahadur, Mr.
Wood, Sir Edgar.

NOES—58.

Acott, Mr. A. S. V.
Ahmad Nawaz Khan, Major Nawab.
Ahmed, Mr. K.
Allah Baksh Khan Tiwana, Khan
Bahadur Malik.
Anklesaria, Mr. N. N.
Azizuddin Ahmad Bilgrami, Qazi.
Bajpai, Mr. G. S.
Bajpai, Mr. R. S.
Banerji, Mr. Rajnarayan
Bhargava, Rai Bahadur Pandit T. N.
Bhore, The Honourable Sir Joseph.
Brown, Mr. R. R.
Clow, Mr. A. G.
Cocke, Sir Hugh
Cosgrave, Mr. W. A.
Crerar, The Honourable Sir James.
Dalal, Dr. R. D.
DeSuzza, Dr. F. X.
Dudhoria, Mr. Nabakumar Sing.
Fazal Haq Piracha, Shaikh.
French, Mr. J. C.
Ghuznavi, Mr. A. H.
Gidney, Lieut.-Colonel Sir Henry.
Graham, Sir Lancelot.
Gwynne, Mr. C. W.
Heathcote, Mr. L. V.
Howell, Sir Evelyn.
Ibrahim Ali, Khan, Lt. Nawab
Muhammad.
Ishwarsingji, Nawab Naharsingji.
Ismail Ali Khan, Kunwar Hajee.

Jawahar Singh, Sardar Bahadur
Sardar.
Lal Chand, Hony. Captain Rao Baha-
dur Chaudhri.
Macqueen, Mr. P.
Moore, Mr. Arthur.
Morgan, Mr. G.
Mujumdar, Sardar G. N.
Mukherjee, Rai Bahadur S. C.
Nixon, Mr. J. C.
Noyce, Sir Frank.
Pandit, Rao Bahadur S. R.
Rafiuddin Ahmad, Khan Bahadur
Maulvi.
Rainy, The Honourable Sir George.
Rajah, Rao Bahadur M. C.
Rajan Bakhsh Shah, Khan Bahadur
Makhdum Syed.
Rama Rao, Diwan Bahadur U.
Rau, Mr. P. R.
Ryan, Mr. T.
Sahi, Mr. Ram Prashad Narayan.
Sarma, Mr. R. S.
Schuster, The Honourable Sir George.
Scott, Mr. J. Ramsay.
Shah Nawaz, Mian Muhammad.
Sher Muhammad Khan Gakhar,
Captain.
Studd, Mr. E.
Tin Tüt, Mr.
Wajihuddin, Khan Bahadur Haji.
Yamin Khan, Mr. Muhammad
Young, Mr. G. M.

The motion was negatived.

Mr. S. C. Mitra: I move:

"That to clause 2 the following be added at the end:

'and the rules shall include provision for grant of travelling allowances to the relations of the detenus, twice a year, for interview and shall also provide for reproduction, as far as practicable, of Bengal conditions, specially as regards diet and the manner of cooking the food.'

[Mr. S. C. Mitra.]

In support of my motion, I find that my Honourable friend Mr. Abdul Matin Chaudhury has added this note of dissent, in the Select Committee's Report:

"In view of the fact that the detenus will be transferred far away from their own province, I would suggest that the Government of Bengal should pay travelling allowances to their near relatives to enable them to visit and interview the transferred prisoners once in three months in order to mitigate hardship incidental to such transfer."

Though my friend suggested once in three months, I have suggested in my own amendment twice in a year to make it more acceptable to the Honourable the Home Member. But I have not very much hope because, as there is a Hindi proverb: '*Jami Jumbat, Na Jumbat Gul Mohammad*' which means: "The earth may shake, but Gul Mohammad will not move." I can prophesy that the Gul Mohammad of the Assembly, Sir James Crerar, will not move an inch. Yet it is not the Honourable the Home Member alone to whom I am speaking now, but I am appealing to the whole House; and here I shall quote a few lines from the speech of my Honourable friend, Mr. C. C. Biswas, where he made that point very clear in his able speech on the last occasion. Mr. Biswas said:

"The question is this, whether or not we should require some assurance, either to be embodied in the Bill itself or in rules to be framed under the Bill, to ensure that where such detenus are removed from Bengal to another province, certain things should be done to reproduce as far as possible the conditions of detention in Bengal—conditions as regards food, health, comfort, and so on."

Later on, he says:

"As my Honourable friend, Sir Abdur Rahim, has said, we hope that when the Bill goes before the Select Committee, that Committee would try to insert some clause in the Bill which would make it obligatory on the Local Government to provide for these things; in other words, to minimise discomfort and risk to health as far as practicable. I say as far as practicable, because so far as the climatic conditions go, nobody can control that. But subject to that, I say, it should be possible to reproduce the conditions of detention in Bengal in the provinces to which these men may be removed."

As a matter of fact I have almost reproduced the words of Mr. Biswas, and I shall wait and see if it is acceptable to the Government or to the House. As regards these difficulties, I find my Honourable friend, Sir Muhammad Yakub and my Honourable friend, Sir Abdulla Suhrawardy also supported these views. I do not like to take the time of the House in going through all these views, because I think there is unanimity on this side of the House that in the rules to be framed by Government there should be provision for reproduction of Bengal conditions as far as practicable. It might be asked why I insist on these things being in the rules themselves. My main point is this. It was insisted on, particularly by my Honourable friend, Mr. Mody himself, that these rules that are now obtaining in Bengal should be circulated, but Government are persisting in not circulating them because they consider them to be confidential. So that is the main point, that even the rules are not circulated to Members of the Honourable House. That being so, I ask, how other people then can judge for themselves whether these rules are in force. That is the specific reason why I want that in the rules it should be specifically stated that there should be provision for the grant of travelling allowances to poor relations twice a

year, and for other conditions as regards clothing, food, diet, manner of cooking food, etc. Now even if these rules are there, I am not really certain whether they will be enforced, because the past experience is very sad. In these days there are elaborate laws and rules, but at the time of enforcement of those rules they are enforced in such a way that, in spite of all necessary provisions, there is no guarantee of proper treatment on the part of the officers. As a matter of fact, I gave notice of a few questions as to what is happening even at Deoli at present, but I have not yet received any answers. One question I shall quote here :

2. "Is it a fact that these detenus are assaulted by the staff on the slightest pretext and the Superintendent recommends kicks when they ask for medicine?"

3. Is Government aware of the fact that one Bengali gentleman who happened to pass by the camp was brutally assaulted to the point of unconsciousness and that people passing by the camp are generally maltreated and molested?"

The Honourable Sir James Crerar: May I interrupt the Honourable Member? It may perhaps conduce to our estimating the value of the instances he has brought before the House if I say that at Deoli none of these incidents could possibly have taken place, as there are no detenus there.

Mr. S. C. Mitra: May I take it that the Honourable Member says that there are no detenus at Deoli at present?

The Honourable Sir James Crerar: I do.

Mr. S. C. Mitra: There are no detenus in Deoli? Since when? There may be some legal jugglery involved in the answer, and it may be that prisoners are not under the Bengal Criminal Law Amendment Act, because they cannot yet be transferred, but under Regulation III some State prisoners have been transferred, and the same Commandant who was serving in Hijli has been transferred to Deoli; that is my information, also that there are prisoners in the Deoli camp; I should like to know if that is contradicted.

The Honourable Sir James Crerar: There are no detenus in Deoli of any description whatsoever.

Mr. S. C. Mitra: Then I must accept that statement. Then as regards these rules, my Honourable friend, Sardar Sant Singh, yesterday was arguing that there are rules for the treatment of female prisoners, but the whole House was informed yesterday how they are treated, but in the case of detenus there are no rules which are known to the public. I would like to be assured that in the rules there must be a specific provision for these things and at the same time that methods should be devised to check whether these rules are actually observed. Sir, I move.

Mr. C. S. Ranga Iyer (Rohilkund and Kumaon Divisions: Non-Muhammadan Rural): Sir, this is an amendment which I wish had been accepted by the gentlemen of the Select Committee unanimously, and I wish there had been no necessity to move this amendment on the floor

[Mr. C. S. Ranga Iyer.]

of this House. I wish the Government had given a definite assurance that under the rules they would provide for the travelling allowances of detenus. Sir, the House will remember that when the Honourable the Home Member was speaking the other day replying to the debate, I put him a definite question whether he would consider granting travelling allowances to the relations of every detenu. I think perhaps I should not have interrupted him then lest I should be considered as having tried to embarrass him. Perhaps it was not quite a proper way to elicit an answer in the course of a speech. But in view of the opposition that this measure has met with both in this House and in the newspapers of the country, I wish the Government had gone so far as to meet what is a legitimate, a reasonable and a very moderate demand, for the detenus are neither anarchists nor revolutionaries nor terrorists. They are men who have been deprived of their freedom, because the Government consider, from the evidence in their possession, that they are prejudicial to public peace. That being the case, it is but proper that the Government should not make conditions very difficult for the detenus by removing them from one province and depriving them of the opportunity of seeing their relations. I think, Sir, though the Government are not actually depriving the detenus of the right of interviews by transferring them from one province to another, they are, in effect, depriving them of the opportunity of interviews. The detenus may be bachelors, they may be married people, they may be fathers, they may be husbands, but their mothers and sisters would like to see them; their wives and children would like to see them and the Government, by taking them from Bengal to some other province, are doing, in my opinion, a double injustice. The first injustice is the transfer of the detenus themselves. I have been opposed to their transfer. I have not reconciled myself even today, notwithstanding the recommendation of a large number of Members in the Select Committee, to the principle underlying this Bill. I refused to serve on the Select Committee because I could not accept the principle of the Bill. They could at least mitigate the hardship. Why punish their relations, I ask, for what they consider to be a wrong of the detenus themselves, a wrong which I refuse to accept as a wrong until that wrong is proved in a court of law? That being the case, for one alleged wrong, here is a Government which is punishing the relations of the detenus. I do hope, Sir, that the Honourable the Home Member will consider this proposition very carefully. I am grateful to Mr. Abdul Matin Chaudhury for having incorporated his views in the Select Committee. I wish Sir Hari Singh Gour and Diwan Bahadur Harbilas Sarda, both of whom are not in their seats, and every other Member on the Select Committee had endorsed Mr. Abdul Matin Chaudhury's suggestion. I am however grateful to Mr. Abdul Matin Chaudhury for having placed before this House, and for having exercised his responsibility by so placing before this House, a matter of paramount importance. I may assure the Honourable the Home Member that if the Government are not going to consider this proposition reasonably, they will be breaking the hearts of many good people in Bengal because, supposing a detenu is what the Government consider him to be, they have no right to punish his relations. On the reply to that question will depend the attitude that this side of the House will adopt towards the career of this Bill at the remaining stages of this measure.

Sir Abdur Rahim (Calcutta and Suburbs: Muhammadan Urban): Mr. President, on a former occasion I made the position quite clear as to the necessity for providing for the relations of detained persons an opportunity and facility to visit them. I then pointed out that especially having regard to the distance from Bengal of the place where these men will be detained and also having regard to the fact that many of these persons are likely to belong to poor families, it was only right that Government should make certain provisions allowing a certain reasonable number of relations, say, two or three, to visit them occasionally, say, twice a year. That is not making too much of a demand. In this way let them be satisfied and their relations that they are treated properly. I think, Sir, this is a very reasonable demand, and I do hope the Honourable the Home Member will see his way to accept it. I know it has been stated that there are rules which have been framed for a similar purpose, but those rules have been hitherto kept confidential, though, as I pointed out on the last occasion, there seemed to me no justification for treating these rules, which are framed under the enactments of the Legislature, as confidential. I pointed out that these rules ought to be placed on the table of the House if necessary or, at any rate, the Members of this House should be allowed access to these rules so that any misapprehension that may have arisen on the point may be removed. It does strike me that the amendment proposed by my friend Mr. Mitra is a perfectly harmless and reasonable one and I hope the Government will see their way to accept it.

Mr. Amar Nath Dutt (Purdwan Division: Non-Muhammadan Rural): Sir, at the outset I must say that I do not like the provisions of this clause. I am opposed to it. Be that as it may, when my friend moved his amendment, and knowing the hopelessness of our position here, I would like to have an amendment like this rather than the whole clause. My friend has asked for some travelling allowance for the relations of the detenus only twice a year and also for the production of Bengal conditions, especially as regards diet and the manner of cooking the food. Of course, it is qualified by the word "especially" and so I have no quarrel with him, because Honourable Members here may know that even the worst criminals in the European wards in the Punjab are supplied with fans. And I would like to know from the Honourable the Home Member whether the detenus who will be transferred from Bengal to this extreme climate, which the people of Bengal can hardly bear, will also be supplied with electric fans or not. I pause for a reply from the Honourable the Home Member. I am not getting it now. Probably Sir James Crerar will take time to think whether these detenus should be given fans or not. He himself is sitting under a fan all right at this time.

Then, Sir, as regards diet and other Bengal conditions, I may point out that the diet of the Bengalis differs very much from the diet of all other people living in India. I see, Sir, that my Honourable friend Mr. Gaya Prasad Singh has laughed on this remark of mine. He himself comes from a province which till very recently was linked to my province, and whose pride it was to imitate our food and our culture. Sir, I am not here holding any brief for Bengali diet, but this much I may say that that diet is absolutely necessary for a Bengali. I may tell the House that the wife of a gentleman, who holds a very high position, indeed the highest that an Indian can attain in life, after having resorted to the European mode of diet and living became blind. Sir, that is the fate awaiting those who change their methods of life and their diet at a very late hour in their life.

[Mr. Amar Nath Dutt.]

That being so, I think it will not be difficult for him to understand the difficulties of a Bengali if he is asked to take one or two *chapatis* and probably one or two onions and some *har har dhal*. Is that the food to which a Bengali is accustomed? Further I may inform the House that Bengalis do not take *chapatis* during summer. They take rice and *dhal* twice a day and not *chapatis*. They take *puris* only during winter, because they are hardly palatable during the summer. It is only the Bengalis who can appreciate the difficulties in the matter of food. If ever I had the power and if I could get the Honourable Sir James Crerar under my clutches and make him live in a Bengali village with rice and *dhal* and tamarind and fish, I do not know how he would like it. A few vegetables, one or two brinjals fried will not satisfy his appetite. With this diet, he will not survive for more than six months. My Honourable friend is leaving India, and this Bill is perhaps his parting kick, and I really would have been glad if the Honourable Sir James Crerar had not taken the trouble of introducing this Bill at the fag end of his career. In fact I would once more appeal to him, when he is leaving India for good, to be a little more kind to us and see this small amendment of my friend Mr. Mitra is accepted by him. There is nothing revolutionary, no terrorism in this amendment. There is nothing of the kind in the amendment, and the Honourable Sir James Crerar need not be afraid of it. I hope if he has a little sense of humanity still left in him, he will, just eight or ten days before he leaves the shores of India, do this little act of kindness to the people whom he has ruled. He believes they are inveterate terrorists. Whatever may be his ideas, reserving my right to oppose the whole clause later on, I wholeheartedly give my support to the amendment and I appeal once more to the Honourable the Home Member to accept it.

Mr. O. C. Biswas (Calcutta: Non-Muhammadan Urban): The amendment of my Honourable friend Mr. Mitra falls into two parts, the first part relates to the payment of travelling allowance to the relations of the detenus twice a year, for interviews, and the second part deals with the question of diet and the manner of cooking food, etc. So far as the second part is concerned, I believe I am correct in saying that there is no difference between this side of the House and the other side. The Honourable Sir James Crerar has more than once assured the House that it will be the duty of Government to make every possible provision for the comfort of the detenus who may be transferred out of Bengal. They will try to reproduce, as far as possible and practicable, the conditions of Bengal in the other provinces to which these people may be removed. The question with which we are now concerned is whether or not the Bill itself should embody some provision in this regard: in other words, whether or not we should content ourselves with accepting the assurance which has been given on the floor of the House on behalf of Government, or whether we should insist on some statutory safeguards, so that it may not be possible for Sir James Crerar's successors to act otherwise. There is one preliminary difficulty, however, that I find in the way of the amendment of my friend Mr. Mitra, unfortunately when sending in notice of this amendment, he did not have before him the provisions of the Bengal Criminal Law Amendment Act. If you look at the clauses of the Bill, you will see that the proviso to clause 2 refers in specific terms to section 11 and section 13 of the Bengal Act, and lays down that the powers exercisable by the Local

Government under section 11 and the powers exercisable by the Local Government under section 13 regarding the manner of custody of these detenues shall be exercised by the Local Government of the province to which these persons may be transferred for custody. What are the powers under sections 11 and 13?

Sir Cowasji Jehangir (Bombay City: Non-Muhammadan Urban): They apply to Bengal.

Mr. C. C. Biswas: I am just explaining my point. If you look at section 11 of the Bengal Act, you will find that it provides for the appointment of Visiting Committees, and further lays down that the rules which may be framed under that section shall provide for periodical visits to the persons under restraint. That means visits by members of the Visiting Committee to these persons. What the proviso to this Bill contemplates is this, that the powers which in Bengal can be exercised by the Local Government there under section 11 shall be exercisable as well by the Local Government in the Province to which these persons may be removed. In other words, when these detenues are removed outside Bengal, it will be open to the Local Government of that other province to appoint Visiting Committees, and to frame rules providing for periodical visits by members of the Visiting Committees to these persons. These rules, therefore, will not and cannot include rules for the grant of travelling allowance to any relations of the detenues, or for any of the other matters which my friend Mr. Mitra has in view. That is the difficulty I am feeling.

Then, again, if you turn to section 13 of the Bengal Act, you will find that that section authorises the Local Government in Bengal to make rules providing for the procedure to be followed regarding the notification of residence and report to the police by persons in respect of whom orders have been passed under section 2, and for the place and manner of custody of all persons arrested or committed to or detained in custody under this Act. Now, the effect of the proviso in the present Bill is to give powers to the Local Government in the other province to which these people may be taken to frame rules *only for the manner of custody* of these persons. In other words, only one part of section 13 of the Bengal Act is reproduced by virtue of the proviso to this clause, and the Local Government there is empowered, if this clause is adopted here, merely to make rules providing for the *manner of custody* of such persons. The question, again, is, whether the objects which my Honourable friend Mr. Mitra seeks to secure by this amendment do come properly within the purview of the rules which it is possible to frame under section 13. I repeat, Sir, that section 11 and

section 13 contemplate rules of a definite kind. Section 11 **1 P.M.** contemplates rules for the purpose of regulating visits by members of the Visiting Committees to these detenues. And section 13, so far as it is going to be made applicable under this clause, deals only with rules regulating the "manner of custody" of these detenues. I ask, is it possible to say that the amendment of which my Honourable friend Mr. Mitra has given notice comes within the ambit of either of these sections?

Sir, it is not open in this House to suggest amendments here and now. I am sorry I had not studied the actual wording of the amendment until this morning, as I had to go away to Calcutta and came up only yesterday morning. But I took it for granted, and I had a right to take it for granted, that my friend who took the responsibility for moving an amendment, would see that the amendment did satisfy the requirements of the Act.

Mr. S. C. Mitra: He has seen it; it is all right.

Mr. C. C. Biswas: If it is all right in my friend's opinion, then he need not quarrel with me. But I am pointing out what I do consider a real difficulty in the way. On the merits I have already stated that I am at one with him, but there is this technical difficulty arising from the *form* of the amendment, and I was going to suggest to my friends opposite that they might so alter the wording of this amendment as to make it clear that it is not merely sections 11 and 13 of the local Act which may be reproduced in the other provinces outside Bengal, but that it should be possible to provide for the other matters as well, which cannot properly come within the rule making powers of sections 11 and 13. I am quite definite, Sir, that so far at any rate as the first part of this amendment is concerned, the payment of travelling allowances cannot possibly be brought under section 11 or section 13. As a matter of fact, I will remind my friend Mr. Mitra that there is a provision in the Bengal Act for the payment of certain allowances to the families of these detenus. That is dealt with in a separate section, and is not left to be covered by rules that may be framed either under section 11 or under section 13. So, if it is a question of the payment of any allowances, that must be the subject-matter of a specific provision to that effect. Mr. Mitra wants to add at the end of clause 2 the words, "and the rules shall include provision", etc. The phrase "the rules" necessarily means rules which are referred to in the proviso, and they are rules under section 11 and section 13.

Sir Cowasji Jehangir: But section 11 provides for periodical visits.

Mr. C. C. Biswas: My Honourable friend will kindly look at section 11:

"The Local Government shall, by order in writing, appoint such persons as it thinks fit to constitute Visiting Committees for the purposes of this Act and shall by rules prescribe the functions which these Committees shall exercise."

So this sub-section speaks of rules prescribing the functions which these Visiting Committees are to perform. Then the next sub-section says:

"Such rules shall provide for periodical visits to persons, etc."

That means periodical visits to be paid by members of these Visiting Committees to these persons. They do not contemplate visits by relations of these detenus, and I do not suppose relations of detenus will constitute the Visiting Committees. If the words were simply "rules shall provide" that would be different. But the words are "such rules", and they must mean rules referred to in sub-section (1), and the rules in sub-section (1) can only be rules prescribing the functions which the Visiting Committees shall exercise. That is my interpretation of this section, and I am quite sure my lawyer friends will at once see that I am not far wrong. That is the position. Therefore, if there is no chance of moving an amendment now in such a form as to secure the objects which this amendment has in view, there seems to me no other alternative open to us but to accept an assurance from the Honourable the Home Member in this regard. And there is another practical reason why I suggest that we should be better advised in accepting such assurance. Suppose this amendment is put to the vote and lost. If we on this side of the House can be sure that we shall not be defeated, then I would most certainly say, go to the lobby on this issue and carry it. But if there is a risk of its being defeated, we shall only make our position worse by challenging a

division, because if we take it to the vote and lose it, it will be open to the Government afterwards to point to the record and say that the House did not accept it at all but by its vote turned it down. My friends may not agree with me, but I am taking a practical view of the matter; and therefore I suggest that if there is no practical certainty of our being able to carry it, it is much better to leave the matter there and to accept the assurance of the Home Member. (*A Voice*: "What about interviews?") As regards interviews, we should also ask for a definite assurance in that behalf.

Mr. Gaya Prasad Singh (*Muzaffarpur cum Champaran*: Non-Muhammadan): Sir, the proposition of my Honourable friend, the Mover of this amendment, is so eminently reasonable that I do not think it should have been difficult for the Government to accept it. My Honourable friend **Mr. Biswas** has just said that as a measure of practical politics, we should not press this motion to a division. I do not know whether my Honourable friend the Mover of this motion has any intention of pressing this motion to a division. I have not myself made up my mind whether or not it is better to press it to a division. This is a minor matter. Apart from that, the argument of my Honourable friend **Mr. Biswas** comes to this, that because we lose this motion it will create a bad impression,

Mr. C. C. Biswas: On a point of personal explanation, Sir, that is not what I stated.

Mr. Gaya Prasad Singh: I am glad to have this assurance from my Honourable friend. Those of us who are opposed to the principle of this Bill can on that account say that as this House, constituted as it is, is not likely to accept any amendment which is opposed by the Government, we should therefore not press our motions.

The second part of this motion relates to the reproduction as far as practicable of Bengal conditions especially as regards diet and the manner of cooking the food. I am afraid that in the matter of reproduction of Bengal conditions as regards food, it will not be quite possible to reproduce in that part of the country, I mean, Deoli, the conditions that obtain in Bengal. I have travelled considerably in that part of the country, in Rajputana and in Central India. In fact I have myself motored down from Nasirabad through Deoli on to Bundi and to Kotah. I quite agree with the picturesque description given by my Honourable friend **Mr. Sykes** with regard to the situation of Deoli. But there is one difficulty in the way. There is an absence in that part of the country of large sheets of water, tanks and big rivers. That makes it impossible for a plentiful supply of fish which is an indispensable item of diet for a Bengali. This is an impediment in the way of the reproduction of Bengal conditions if the detenus are transferred to Deoli.

With regard to the first part of the proposition, that travelling allowances should be paid to the near relations of the detenus, I think the proposition is extremely fair and reasonable. If these detenus had not been transferred to a distant part of the country, cut off from their provincial and family associations, the near relatives of these detenus would have had easy facility to visit these detenus; but since they are being torn off from their province, and taken to a distant part of the country, and the punishment of deportation is being added to the punishment of incarceration, so far as these detenus are concerned, it is only fair and

[Mr. Gaya Prasad Singh.]

reasonable that the travelling allowances of their near relatives should be borne by the Government. We have not seen the rules which my Honourable friend the Home Member has already prepared. I do not know whether a provision like that exists in any of the rules; but I would not like to trust either the Government of India or the Local Government of Bengal or any other authority in the matter of framing rules suitable to the requirements of the situation. I am therefore of opinion that provision for the grant of travelling allowance to the near relations of the detenus, and the reproduction, as far as possible, of the conditions which obtain in Bengal in the place, Deoli, or any other place where they may be transferred, must be incorporated in this measure. With these few words I support the proposition.

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

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

Sir Cowasji Jehangir: Mr. President, my friend Mr. Biswas was, as far as I could understand him, clearly in favour of the principle of the amendment moved by my friend Mr. Mitra. He realised that the detenus who were removed to other provinces for the convenience of the Government of Bengal, should be treated, as far as possible, in the same way as they would have been treated in Bengal with regard to food and other amenities of life, but he appeared to me to have some legal difficulty, and since he is a lawyer and I am a layman, I am in some difficulty

Mr. K. Ahmed (Rajshahi Division: Muhammadan Rural): What is the meaning of reproduction? What do you mean by amenities of life?

Sir Cowasji Jehangir: There is another lawyer interrupting. Perhaps he will give his opinion to this Honourable House on the legal point raised. I am not a lawyer, and we look forward to his legal assistance and opinion.

Mr. B. Das (Orissa Division: Non-Muhammadan): We will hear him later.

Sir Cowasji Jehangir: There are two principles raised in the amendment: one is that the detenus should get the same food as they get in Bengal, and the other is that Government should give facilities for their relations to visit the detenus, in whatever part of India they may be, by giving these relatives train fares. With regard to food, I think the Honourable the Home Member on the last occasion gave us clearly to understand that Government were prepared to meet this side of the House with regard to such amenities as this side of the House thought necessary, and so far

as I remember now,—I have not got his speech before me—he actually read out some draft rules in which it was provided that Bengali cooks would be provided, and that the supervision of the prison would be under a gentleman who was accustomed to Bengal conditions. But with regard to railway fares, the Honourable the Home Member seemed to have some difficulties. Well, Sir, I will, therefore, confine my remarks to this point. After all, these detenus are being removed from Bengal for the convenience of the Government of Bengal, and if that is so, I do not see why the Bengal Government should not be made to pay the railway fare to a reasonable number of relatives of the detenus specially because these detenus may be sent hundreds and hundreds of miles away from Bengal. It would be a cheeseparing policy on the part of the Bengal Government to object to it. When they ask the Government of India to approach this House to assist them and their administration, I cannot help thinking that this demand on the part of Honourable Members on this side of the House is more than justified, and I do not think that either the Government of India or the Government of Bengal should raise any objection to the expenditure

Mr. K. Ahmed: What about your Retrenchment Committee?

Sir Cowasji Jehangir: There is always a limit for retrenchment, and if my friend is so very keen about retrenchment, perhaps he will look a little nearer home for retrenchment than for a purpose of this sort.

Mr. K. Ahmed: That is exactly the point.

Sir Cowasji Jehangir: At any rate, Sir, I think we are all agreed that it is a reasonable demand to make.

Then, with regard to the legal point raised by my friend, Mr. Biswas, that the amendment ought to have been in some other clause of the Bill

Mr. C. C. Biswas: Some other form.

Sir Cowasji Jehangir: or in some other form. Well, trying to look into it from a layman's point of view, I find that section 13 of the local Act reads as follows:

"The Local Government may make rules providing for the procedure to be followed regarding the notification of residence and report to the police by persons in respect of whom orders have been made under section 2 and for the place and manner of custody of all persons."

Now, the words, "manner of custody of all persons" would cover everything that my friend Mr. Mitra has provided for in the amendment; and even if section 13 is to be carried out by the Provincial Government or the Government of India according to wherever the detenus are sent, they could frame rules even under section 13 in virtue of the expression "manner of custody" so as to provide for railway fares and other amenities of life required by my friend Mr. Mitra. But not being a lawyer, I would naturally depend upon the advice and the opinion of the Honourable the Law Member. Perhaps, he will be able to show us some way out of any legal difficulty that may arise.

[Sir Cowasji Jehangir.]

Another point, Mr. President. Under clause 2 of the Bill, the Local Government has to make such rules and take such action as the Government of Bengal are empowered to take under sections 11 and 13 of their Local Act, but this House has a right, when considering this Bill, to add any other provisions, or to make any other stipulations with regard to what the Local Government should do, or how they should act with regard to these detenus; and I, personally, not having the keen and practised intellect of a lawyer, cannot see how the amendment moved by my friend to a Bill,—not to rules,—to a Bill before the Legislature can be out of order. Mr. President, therefore I do hope that Government will accept this amendment. It only means the addition of railway fares to the undertaking already given by the Honourable the Home Member and Government should put it into the Act itself. It is safer: it gives more satisfaction not only to this side of the House but also to the much wider public who watch our proceedings; it will not do any harm; on the other hand it will help both the Government of India and the Bengal Government in the future, because—we do not know—it may happen that the Government of India may have to bring a similar Bill before this House at a later stage.

Then, Sir, there is another amendment to be moved by my friend Mr. Mitra which empowers the Government of India and not the Provincial Governments to make these rules and regulations. If that is accepted, and I don't see why they should not accept it because it is they who will take the responsibility of sanctioning the removal of these detenus from Bengal to some other province, and surely they should take the responsibility for framing rules. If they frame rules, then it will be for this Honourable House to see that those rules are carried out to the satisfaction of both this Honourable House and the Government.

Mr. K. Ahmed: What was the Central Jail Committee's report of 1920?

Sir Cowasji Jehangir: I trust that Government will accept both the amendments—this one and the one that Government should make rules,—and if they are accepted, I can see no legal difficulty in the matter at all. It will give complete satisfaction, and it will also help this Bill to pass to-day, let us hope, before you, Mr. President, adjourn this House.

Pandit Satyendra Nath Sen (Presidency Division: Non-Muhammadan Rural): Although I am opposed to the principle of the Bill in any form, I rise to support the amendment moved by my Honourable friend Mr. Mitra on the principle that something is better than nothing. Knowing as we do the attitude of the Government, we can say that the Government will try to have the Bill passed with the least possible modifications, although the Bill was opposed by almost all the elected Members who spoke on the last occasion except one or two who only lent their half-hearted support to this Bill. Sir Cowasji Jehangir on the last occasion and also in his speech which he delivered just now, has made it clear that the Bill may be passed only on condition that the Government will comply with the legitimate demands of this House. The Honourable the Law Member gave us an assurance, and the Honourable the Home Member also gave that assurance on the last occasion as well as this morning, but,

Sir, we are no believers in assurances, because the Honourable Members may not be here, and also they may change their views at any time. If they mean that these assurances will be observed, then it is best that they should clearly put them into writing in the Statute-book. My Honourable friend Mr. Biswas has raised a legal issue that there are legal difficulties in the way of making provision for the interviews.

Mr. C. C. Biswas: On a point of personal explanation, Sir. That is not what I had stated. I did not suggest that there was any legal difficulty in making a provision of that kind; what I did suggest was that the form in which Mr. Mitra had framed his amendment would not permit of its being done.

Pandit Satyendra Nath Sen: However, there is some difficulty according to your view. My Honourable friend Sir Cowasji Jehangir has met that issue in an admirable manner, because the words "manner of custody" are there, which are wide enough for making all these provisions. If these interviews and provision for diet and other requirements are held to be legitimate and proper, then there cannot be any objection to passing this amendment. It is the Government who have, at their sweet will, thought fit to snatch away these unfortunate young men from their homes, and it is only reasonable that the Government should pay for the travelling expenses of the relations of these men. There is no doubt about the fact that such interviews are necessary, because a prolonged separation from their nearest and dearest relations will certainly tell upon their mental condition. This is only a rational view, and this has been recorded by one of the gentlemen who has given their opinions on this Bill. As to the legal point that has been raised, I understand that my Honourable friend Mr. S. C. Sen will argue that point. I am not a lawyer, but I shall give you only a layman's point of view. I would cite only the proverb, "Where there is a will there is a way," and if you cannot devise ways and means for making such a legitimate provision, it is all the more reason why this Bill should be thrown out. If you cannot do that, there is no reason why you should pass it at any cost. We should always remember that there are some brilliant men among these unfortunate detenus, and they must not be thrown to the dogs. They certainly deserve some consideration from this House. With these words, I support the amendment.

Mr. S. C. Sen (Bengal National Chamber of Commerce: Indian Commerce): I also support the amendment. We have had some academic discussion about the legality and construction of the amendment moved by my Honourable friend Mr. Mitra. What is the amendment? The amendment is simply this, that in exercising the powers conferred by sections 11 and 13 of the local Act, the Local Government should do some further acts in the light of the amendment suggested by Mr. Mitra. Is it contended that if these detenus had not been transferred outside Bengal, the Bengal Government could not have, under sections 11 and 13 of the Act, made provision similar to that which Mr. Mitra now seeks to embody in the Bill? I do not think that that would ever be the contention raised by my Honourable friend Mr. Biswas. His contention is that under sections 11 and 13 of the local Act you cannot provide for this matter the same being in his opinion outside the scope of those sections. I do not agree with him there. Section 13, as has been pointed out by

[Mr. S. C. Sen.]

Sir Cowasji Jehangir, is wide enough to include everything on the face of the earth. As a matter of fact, under the term "manner of custody", everything has been provided for. The detenus have even to *saluam* the superior officers. The detenus are punished under the Jail Code for alleged offences under the Jail Code which do not apply to them at all. And this is a sight which you see every day in Bengal. So, if the words "manner of custody" can include all these things, surely they can also include provision for payment of expenses to the relations of the people who have been detained.

Mr. C. C. Biswas: But which Local Government would pay the expenses in that case?

Mr. S. C. Sen: That is not a matter with which we are concerned. That is for the Imperial Government; it is a matter of arrangement between the Government in whose custody the detenus will be placed and the Bengal Government. That is no concern with us,—who will pay. Does the Bill provide for the payment of cost of these detenus when they are detained in the Deoli jail? Does it provide for that? All we know is that the Bengal Government will have to pay the cost, by arrangement which they will make with the Local Government in whose jurisdiction the people are to be detained. That is a matter of internal arrangement which we have nothing whatever to do with here. All we can say is this, that under the rule-making powers conferred by sections 11 and 13 of the local Act, which will now under the proviso to clause 2 of the Bill be exercised by the Local Government of the province in which the jail is situated—rules should be made—which rules should provide for the various items referred to in the amendment suggested by Mr. Mitra. That is the point. Apart from that, supposing these matters do not come within the purview of sections 11 and 13, surely if the Legislature provides that these matters should be introduced into the rules, such proviso will govern the original sections 11 and 13. That is the ordinary rule of construction of every Statute. Under these circumstances I do not think there is any substance in Mr. Biswas' argument. It is merely an academic discussion which we have had here. As regards the merits of the matter, I fully agree with the views expressed by Sir Cowasji Jehangir and also by Mr. Mitra.

As regards the second portion, there is no dispute between us and Government. The Honourable Sir James Crerar on the last occasion gave his solemn assurance in this House that proper recommendation and proper arrangements for food would be made by him. I do not know whether there will be provision for fans as in the European wards of Delhi and Lahore. These men have not been convicted by a court of law, and if the persons convicted could have these amenities, I do not see why the same concession cannot be extended to these young men in the trying climates of Northern India in the summer. As regards the question of payment of expenses to the relations of the detenus who may come to visit them: on the last occasion the Honourable the Home Member said that this matter required further consideration, as he did not think that public money could be spent on an object like this. When these detenus are transferred, it is done at the public expense, and if the Government of Bengal could have the luxury of sending these men to a

remote part of the country, surely they should also bear the expense of the relations of the detenus. I therefore entreat the Government to consider this matter and I support the amendment.

Major Nawab Ahmad Nawaz Khan (Nominated Non-Official): Sir, I see some Members are pressing the Government for the comforts of the detenus, but when the Army is Indianised, will they not also press the Government to give the same comforts to the Bengali officers and clerks? Will they not also say that the Indian officers should not be sent to such and such parts of the Indian Empire, because the climate does not suit them? (*An Honourable Member*: "But they are not in jail.") In the previous discussion they asked for the removal of discomforts. Now, they want all comforts. Well, there must be some difference between ordinary prisoners and suspects. From my point of view, the chief object is to eradicate revolutionary movements and revolutionary ideas from the country, and it is with that object that the detenus are taken into jail. If the House accepts the principle that revolutionary ideas are not useful to the country, then those who take part in them should not be given so many facilities and comforts as one gives to his guests. If we give all comforts, it would simply indirectly encourage crimes while the object of the Bill is to discourage and eradicate that spirit from the country. The Law Member and the Honourable the Home Member have said that if there are hardships which are inhuman, they should be removed, but we should not entertain these detenus as honoured guests and we should not supply them all the facilities and comforts which Government supplies to Honourable Members of the Legislature. These political detenus are connected with crimes which shake law and order. They are not suspected for ordinary crimes, but of an open treason and revolution. This is one of the worst forms of crime and those Honourable Members who are really against this sort of crime should not give encouragement to the detenus.

Mr. B. Das: Why don't you take them to Peshawar and shoot them?

Major Nawab Ahmad Nawaz Khan: To remove these people from their country is a very good principle. Their relations and supporters must have no means of communicating with them. If these political suspects are in their own country, they have hundreds of means of communication inside and outside the jail. (*Mr. S. C. Mitra*: "Very fine discipline.") The warders are all Indians and the relations and friends of the detenus have a regular means of communication. For instance packets of opium, tobacco and other forbidden things have been found inside the jail with the prisoners, and this is a thing which is not allowed.

Pandit Satyendra Nath Sen: Is that the issue before the House—whether the prisoners should be removed to other jails or not?

Mr. President: The Bill deals with the removal of the detenus to other parts of India.

Major Nawab Ahmad Nawaz Khan: Personally, Sir, I think it would be much better for the Government and for the country at large that several islands should be selected out of India (Laughter) where, according to the climatic conditions of each province, the prisoners may be sent.

Mr. C. C. Biswas: What does my Honourable friend think of our having a session of the Assembly in the Andamans? (Laughter.)

Major Nawab Ahmad Nawaz Khan: The keeping of the prisoners in their own province is more injurious from the political point of view and from the point of view of the real object to be aimed at, namely, to remove and eradicate the spirit of the revolutionary mentality.

Mr. B. Das: Sir, I think my Honourable friend, the Home Member, must have been feeling very uncomfortable in his seat while the last speaker was speaking. Sir, I know my Honourable friend from the North-West Frontier Province has got a subvention of a crore of rupees from the Government of India, and naturally, he must give his support at any time and every time to any measure that the Government of India want to see through in this House. (Laughter.) Now, my friend talks of political detenus as "criminals". I am really surprised at that! If they are criminals, then the Government have failed in their duty in not trying them by the ordinary laws and in detaining them indefinitely; and also if they are criminals, there are certain systems of jail rules under which criminals are governed. The Government of India here are not only punishing these sons of Bengal by removing them from their country, but by compelling them to live under different physical conditions entailing great hardships, so that I should call this double punishment, such as no civilized Government should adopt. My friend described to us the amenities of the Deoli jail. When, however, we heard the Honourable Mr. Sykes last evening and this morning we thought that Deoli was a dangerous place, where the people of Bengal, accustomed to the mild temperate climate of Bengal, would be living under very difficult conditions; and my friend wants that these so-called criminals should be deprived of proper food even at Deoli. Sir, I am surprised; and I think if my friend becomes the Home Member of the North-West Frontier Province, then I pity my friend, Khan Abdul Ghaffar Khan and his friends. They will all be deported probably to Orissa. (Laughter.) But what I want to make clear before the House is that I wholeheartedly support the amendment moved by my friend, Mr. Mitra. When I interrupted my Honourable friend, Mr. Biswas,—and I know my friend is a big lawyer,—he pointed out a legal difficulty, but the amendment which my friend, Mr. Mitra, has brought forward does not violate the principles of the Bill. It suggests the introduction of certain clauses by which better amenities will be available for these prisoners and their relations who would visit them. Why, I ask, should not the Honourable the Home Member accept it? I would like to hear the view of the Honourable the Law Member as to what he thinks of this amendment which my friend, Mr. Mitra, has moved—whether it is not possible, not practicable under the practice and procedure of this House that such an amendment can be introduced into this Bill and also a further amendment in the jail rules could be introduced. Sir, to me it is quite possible, and most of us on this side of the House think it is possible. If the Government, by their majority of supporters, go against all canons of decency and justice, then, even if we are defeated, nevertheless the Government will be in the wrong.

The Honourable Sir James Crear: Mr. President, the questions which have come under review on this amendment have already occupied a very great part of the attention of the House. Indeed it is matters of this kind against which I think at least two-thirds of the whole of the debates during the many days over which they have extended have been directed; and I am very well aware, and I am very fully prepared to recognize, that on these matters many Honourable Members opposite

feel very deeply; and I think I have already, in my previous observations, on this aspect of the question, shown that I do myself very deeply appreciate the current of feeling on these subjects on the Benches opposite, and that I am anxious to go as far as I think is reasonable and practicable to meet them (Applause); and, therefore, when I have to express my regret that I am unable to accept this amendment (Ironical Opposition Cheers), I hope Honourable Members opposite will at the same time recognize that I do not wish to withdraw any of the assurances I have previously given on several points bearing on this amendment in the earlier stages of the debate. But I have a very strong preliminary objection to the amendment, because it is perfectly plain that it does import matter into the Statute which has been hitherto, and ought to be, regulated by rules or by executive instructions. This Bill, Sir, is a supplementary Bill, and in the local Act which it supplements specific provision has been made for rule-making powers, and it is within the ambit of those powers that this supplementary Bill is intended to make supplementary provisions.

Sir Cowasji Jehangir: May I point out, Sir, that the local Act does not contemplate the detenus being sent out of the Presidency? The local Act only contemplates the detenus remaining in Bengal; and therefore the rules contemplated under the local Act can only refer to the detenus remaining in Bengal.

The Honourable Sir James Crerar: I quite appreciate the Honourable gentleman's point. My point was that there are certain specific matters which this amendment would seek to regulate by rule and which *mutatis mutandis* the local Act originally provided for not by Statute but by rule. I think that there is probably a good deal of substance in what my Honourable friend opposite, Mr. Biswas, urged as regards the form of this amendment, and I think it would raise very serious difficulties so far as its correct application and interpretation are concerned. But I do not propose to rely on that particular argument: I rely in the first instance on what I must regard is the impropriety and inconvenience of endeavouring to import into the Statute what normally and on every consideration of convenience and propriety should be enacted by rule.

I pass on now, Sir, to the points of substance involved. As has been pointed out by more than one Honourable gentleman, so far as points of substance and of merits are concerned, attention was concentrated upon two main issues. The first was that proper arrangements ought to be made by rule to ensure that the conditions of detention in the province of transfer should be as little onerous as was consistent with the circumstances. On that point I did give, on a previous occasion, the fullest assurances which were adhered to by the Honourable Member opposite, and more particularly by my Honourable friend from Bombay, Sir Cowasji Jehangir. Lest there should be any doubt on the matter, I should like just briefly to recapitulate what I did say:

"I am asked if we are prepared to give an assurance to the House that if this Bill is passed and detenus are transferred from Bengal to other provinces every endeavour will be made to reproduce as far as may be practicable the conditions obtaining in Bengal in respect of diet and in respect of other conditions of detention. Well, I am perfectly prepared to give that assurance in the most express terms. So far as detention in places which are centrally administered areas is concerned, I give my Honourable friend a perfectly clear assurance that rules will be drawn up, — as a

[Sir James Crerar].

matter of fact they are now in process of being drawn up,—which will give effect to those conditions. Those rules will be notified by the local authority and they will be reproduced in the Gazette of India; and I may say that so far as the proposed camp at Deoli in the Ajmer province is concerned, every step is being taken to see that those conditions will be secured. An officer accustomed to deal with Bengalis will be in charge, assisted by another officer from the province of Bengal. Bengali cooks will be supplied,—that point was specifically brought forward,—and as far as possible the diet to which Bengalis are accustomed will be provided. Adequate medical arrangements are being made as well as arrangements for proper exercise and recreation, indoor and out-door games, a library, reading facilities, and so on. If there is anything in addition to these anything which has arisen in the course of the present discussion, or any suggestion that may hereafter be communicated to me by any Honourable Member, I shall be very glad to consider it in the framing of the rules."

I will add that that offer is still open. If any suggestion is made to me by any Honourable Member with regard to the rules which are now approaching the form of a final draft, I should be very glad to give consideration to it. For example, an Honourable Member spoke about the provision of electric fans. The provision of electric fans at Deoli is not possible, because there is no electric power at that place. But I am quite prepared to make a provision for *punkhas* during the hot weather for these detenus. The other matter that was mentioned was the question of the grant of travelling allowance. On that point on a former occasion I was quite specific.

Sir, it has been suggested that these transfers are made merely for the convenience of the Government of Bengal. I should like to remind the House that it is not merely a question of the convenience of a Provincial Government, but it is a question of making what we regard and what they regard as an important provision in the interests of public security. I have already explained that, so far as interviews are concerned, it has been suggested that the objection was to deny all interviews to the detenus beyond Bengal. That is not the case. But I cannot undertake, as I said before, that the Government of Bengal should be under any statutory obligation to make payments which will have to be defrayed by the tax-payers of Bengal in what is essentially a private interest. Such facilities have never been asked for before, and they were not provided for in the previous Supplementary Act which supplemented a previous Local Act. It is not an obligation which any Government in any part of India has been prepared to accept, and I think that I should not be behaving properly if I accepted that statutory prescription for the Government of Bengal. Apart from that, all my assurances stand good. Therefore, when it is urged upon me that I ought to agree to the inclusion of these provisions in the Statute in order that there may be a security that my assurances in due course will be honoured by my successor, I think that the House and the Honourable gentleman opposite will recognise that that is not an argument which can be expected to weigh very heavily with me. No assurance which has been given in such specific terms as I have given on this occasion has ever been given by the Government of India and not been fulfilled, and this assurance will equally be fulfilled. Therefore, I repeat once more that while I appreciate the feeling which has underlain the speeches of many Honourable Members opposite and I will be willing to go as far as is reasonable for me to do so. I do not think that the amendment moved by the Honourable gentleman is one which I can properly accept, and I regret I must oppose it.

Honourable gentleman is one which I can properly accept, and I regret I must oppose it.

Mr. President: The question is:

"That to clause 2 the following be added at the end :-
'and the rules shall include provision for grant of travelling allowances to the relations of the detenus twice a year, for interview and shall also provide for re-production, as far as practicable, of Bengal conditions, specially as regards diet and the manner of cooking the food'."

The Assembly divided:

AYES—43.

Abdul Matin Chaudhury, Mr.
Abdur Rahim, Sir.
Aggarwal, Mr. Jagan Nath.
Azhar Ali, Mr. Muhammad.
Badi-uz-Zaman, Maulvi.
Bagla, Lala Rameshwar Prasad.
Bhuput Sing, Mr.
Das, Mr. A.
Das, Mr. B.
Dutt, Mr. Amar Nath.
Gunjal, Mr. N. R.
Harbans Singh Brar, Sirdar.
Hari Raj Swarup, Lala.
Jadhav, Mr. B. V.
Jehangir, Sir Cawasji.
Jog, Mr. S. G.
Kyaw Myint, U.
Lahiri Chaudhury, Mr. D. K.
Lalchand Navalrai, Mr.
Maswood Ahmad, Mr. M.
Misra, Mr. B. N.
Mitra, Mr. S. C.
Mody, Mr. H. P.

Muazzam Sahib Bahadur, Mr.
Muhammad.
Mudaliar, Diwan Bahadur A. Rama-
swami.
Munshi, Mr. Jehangir K.
Murtuza Saheb Bahadur, Maulvi
Sayyid.
Neogy, Mr. K. C.
Parma Nand, Bhai.
Patil, Rao Bahadur B. L.
Rajan Bakhsh Shah, Khan Bahadur
Makhdum Syed.
Ranga Iyer, Mr. C. S.
Reddi, Mr. T. N. Ramakrishna.
Sant Singh, Sardar.
Sarda, Diwan Bahadur Harbilas.
Sen, Mr. S. C.
Sen, Pandit Satyendra Nath.
Singh, Mr. Gaya Prasad.
Sitaramaraju, Mr. B.
Suhrawardy, Sir Abdulla.
Thampan, Mr. K. P.
Uppi Saheb Bahadur, Mr.
Ziauddin Ahmad, Dr.

NOES—50.

Acott, Mr. A. S. V.
Ahmad Nawaz Khan, Major Nawab
Ahmed, Mr. K.
Allah Bakhsh Khan Tiwana, Khan
Bahadur Malik.
Anklesaria, Mr. N. N.
Azizuddin Ahmad Bilgrami, Qazi.
Bajpai, Mr. G. S.
Bajpai, Mr. B. S.
Banerji, Mr. Rajnarayan.
Bhore, The Honourable Sir Joseph.
Brown, Mr. R. R.
Clow, Mr. A. G.
Cocke, Sir Hugh.
Cosgrave, Mr. W. A.
Crerar, The Honourable Sir James.
Dalal, Dr. R. D.
DeSouza, Dr. F. X.
Fox, Mr. H. B.
French, Mr. J. C.
Ghuznavi, Mr. A. H.
Gidney, Lieut.-Col. Sir Henry.
Graham, Sir Lancelot.
Gwynne, Mr. C. W.
Heathcote, Mr. L. V.
Howell, Sir Evelyn.
Ishwarsingji, Nawab Naharsingji.

Ismail Ali Khan, Kunwar Hajee.
Jawahar Singh, Sardar Bahadur
Sardar.
Macqueen, Mr. P.
Moore, Mr. Arthur.
Morgan, Mr. G.
Mujumdar, Sardar G. N.
Mukherjee, Rai Bahadur S. C.
Nixon, Mr. J. C.
Noyce, Sir Frank.
Rafiuddin Ahmad, Khan Bahadur
Maulvi.
Rainy, The Honourable Sir George.
Raiah, Rao Bahadur M. C.
Rama Rao, Diwan Bahadur U.
Rau, Mr. P. R.
Ryan, Mr. T.
Sahi, Mr. Ram Prasad Narayan.
Sarma, Mr. R. S.
Schuster, The Honourable Sir George.
Scott, Mr. J. Ramsay.
Studd, Mr. E.
Sykes, Mr. E. F.
Tin Tut, Mr.
Wood, Sir Edgar.
Young, Mr. G. M.

The motion was negatived.

Mr. S. C. Mitra: Sir, I beg to move:

“That in the proviso to clause 2 for the words beginning with the words ‘Local Government of the province’ and ending with the words ‘local official Gazette,’ the following be substituted:

‘Government of India and the rules made by the Government of India in exercise of such powers shall be published in the *Gazette of India*.’”

The purpose of this amendment is that these rules should be made not by Local Governments to whose jurisdiction these detenues will be transferred, as contemplated in this Bill, but that these rules should be framed by the Government of India themselves. If I have heard the Honourable the Home Member correctly, he said that the Government of India were framing the rules. If so, I do not know why they impose upon the Local Government the duty of promulgating and publishing the rules framed by Government of India in their gazette. Some of these Local Governments will really not be in a position to frame rules for the conduct and control of these detenues. They will have to depend, more or less, on the standard rules that obtain in Bengal, and if anybody else is to supervise these rules, it should be the Government of India and not the particular Local Government to whose province these detenues might be transferred. I do not know what the attitude of the Government of India might be, but I think if I have learnt any lesson from the Honourable Sir James Crerar, it is that that immovable gentleman will remain unmoved and he will not accept any reasonable amendment that may be moved by this side of the House. I appeal to the House to consider that in this amendment I merely ask that the rules should be made by the Government of India so that this House may also have some control over those rules. There were so many appeals from this side of the House to the Honourable the Home Member to circulate those rules. I have not heard what objection the Honourable the Home Member has to bring those rules within the purview of criticism of the Members of this House. The statutory rules made under this Act should not remain confidential. I do not understand why these rules should not be criticised by this House. My purpose in moving this amendment is that if these rules are made by the Government of India, this House will have occasion to see how far those rules are reasonable and how far they come up to the assurances given by the Honourable the Home Member. Further, the different Local Governments will not be in a position really to make any rules. They shall have to follow the rules suggested by the Government of Bengal. With these words I commend my amendment for the acceptance of the House.

The Honourable Sir James Crerar: Mr. President, I thought I had already made my position clear with regard to statutory rules. So far as rules made in respect of any place of detention which may be in centrally administered areas, I have already given the House an assurance that those rules will be notified by the local authorities concerned and will be published in the *Gazette of India*. The same description applies to statutory rules made by other Local Governments. Now the Honourable Member argued that the Local Governments, other than the Local Government of Bengal, would not be in a position to frame rules adequately. But I have already given the House an assurance that our general policy in these matters, which I have explained in very great

detail on this and on previous occasions, had already been communicated to the Local Governments; and I gave the further assurance that if and when this Bill is enacted, the attention of the Local Governments will be expressly drawn once more to the policy which the Government of India desire to be adopted in this matter. But a certain latitude must be allowed to Local Governments because local rules may have to provide for local conditions, and when a Local Government accepts or is called upon to accept a responsibility of this kind, which is certainly a grave and serious responsibility, I do submit that they should be given reasonable discretion in the discharge of their responsibility, subject to the main lines of policy which I have explained. I regret, therefore, that I cannot accept the Honourable Member's suggestion.

Mr. President: The question is—

“That in the proviso to clause 2, for the words beginning with the words ‘Local Government of the province’ and ending with the words ‘Local official Gazette,’ the following be substituted :

‘Government of India and the rules made by the Government of India in exercise of such powers shall be published in the *Gazette of India*.’”

The motion was negatived.

Mr. S. C. Mitra: Sir, I move :

“That to clause 2 the following further proviso be added :

‘Provided further that periodical examination of detenues shall be made by a committee of the Indian Legislative Assembly with a view to report on the suitability of the place of detention and the general comfort of detenues to the Governor General in Council.’”

Sir, I move this amendment though I know that I have no chance of carrying it. I cannot complain when gentlemen like my friends Mr. Nabakumar Sing Dudhuria and Mr. C. C. Biswas who are present in the House and represent the city of Calcutta from which the largest number of detenues comes do not even support me by their votes. Yet I think it a public duty for me to move these amendments and press on the House the reasonableness of this amendment. Even in the rules there is a provision for a statutory visiting committee. If Government accept this amendment of mine then this statutory visiting committee may be replaced by a committee of this House. The complaint was that the special visitors that are selected are not the proper men. Even the ordinary non-official jail visitors are not permitted to see these political detenues. The allegation is quite general and persistent that they choose some of the title-holders and such people who are not likely even to represent the true facts of the case. You can avoid all that criticism and the election may be made by the process of single transferable vote by which even nominated Members, Government Members, etc., may even get elected. Yet it will be a committee of this House. My Honourable friend Diwan Bahadur Sarda reminds me that there are no jail visitors in Ajmer. But I understand they are going to select some. But if the Government are themselves willing to have a committee why should they not accept my suggestion which is in this amendment that the visiting committee might be a committee of this House, and thus allay public criticism and discontent?

Sir, I move.

Diwan Bahadur A. Ramaswami Mudaliar (Madras City: Non-Muham-madan Urban): Mr. President, I have taken this early opportunity of rising on this amendment because, being somewhat unaccustomed latterly to the procedure of this House, I have found that there is no right of reply to the Government at all. In other well-regulated constitutional assemblies Government make known their point of view as early as possible. My Honourable friend Sir James Crerar may laugh at the idea, but I can assure him that in no democratic assembly will the idea be tolerated that a Member representing Government sits tight till 20 Members of the House have partaken in the debate and then quietly gets up and puts in the last word. That is not playing the game as I understand constitutional games. Therefore, Sir, it has fallen to my lot to get up at this very early stage to support this amendment. I see from section 11 of the Criminal Law Amendment Act, the powers under which are extended to the Local Governments or authorities which have to deal with these transferred detenues, that:

"The Government shall by order in writing appoint such persons as it thinks fit to constitute Visiting Committees."

The proposal of my friend Mr. Mitra is merely this that such a Visiting Committee shall be, for the purpose of those detenues that are transferred outside the Government of Bengal, a special Committee of this House. He has not, so far as his amendment is concerned, dealt with the manner of the constitution of the Committee, and though he has referred to election by the single transferable vote, the acceptance of this amendment by Government or by any other Member does not bind it or him to that proposal. It may be that the Committee may be a nominated Committee, nominated by the Government from among the Members of this Assembly. Unless therefore my friend Sir James Crerar is prepared to say,—and I should not be surprised if he says it,—that no Member of the Assembly is fit to be a member of the special Visiting Committee under section 11 of the Bengal Criminal Law Amendment Act, and therefore the local authority cannot appoint such a Committee, I feel certain that this amendment is a reasonable one. Sir, one thing is often forgotten in dealing with detenues, that after all what is intended by the Government is to detain them. It is a prohibitive and not a punitive process. You should not punish them and you should not by your rules and by your regulations and the treatment you accord to them try to impose punitive penalties on any of these detenues. If that aspect of the case is remembered, I am certain that some of the replies at least that my Honourable friend Sir James Crerar has given in the course of this debate would have been of a different kind altogether. Sir, what is the good of the administration of Ajmer-Merwara appointing some two persons unknown to anybody in the public world of India, people who may submit reports of their inspection which nobody is going to accept? How will it go down in public opinion? What is the purpose of your appointing Visiting Committees? It is to make people realise that things are all right, that there is no reasonable ground for complaint, that you appoint these Visiting Committees. Having accepted the principle that what you try to do by these Visiting Committees is not to rectify your administration, but to justify your administration, I say fairness, common honesty, demands that that special Committee should not be one which may be termed a whitewashing committee but a committee in which the public have confidence. What better committee can

there be than a committee of this Assembly in which the public can rightly be claimed to have confidence? If anybody attacks the report of that Committee Sir James Crerar or his successor would be quite entitled to get up and say from his place that after all a committee of the Assembly itself has gone into this question, has found that various allegations made in irresponsible newspapers are not correct and that the conditions are as reported by the committee. That would be a conclusive, ample and final reply to any sort of charge that may be made. But so long as you adopt hole and corner methods in appointing these committees, so long as you select some A or some B, who may be estimable people from the point of view of the administrators of these various provinces or administrative areas, but who will not have the confidence of the public, you are merely doing an absolutely futile thing, which does not please you, which does not satisfy public opinion, which imposes merely a monetary charge on the public and does not bring about the results which you have in view. Therefore I venture to appeal, even at this stage, as one who has supported the principle of this Bill and not as one who opposed it, that my friend Sir James Crerar should do everything in his power, even at this final stage, at least by accepting this simple amendment, to see that public opinion is in some way satisfied. If he does not accept it, if he still says that even this modest amendment is repugnant to the purpose of the Bill that he has brought forward, that it will somehow or other destroy the great and complex administrative machinery of which he is in charge, then all that I can say is that he should not expect us to take him too seriously in these matters and he should not expect us to believe that the Government are quite enthusiastic about giving fair treatment to these detenus. Sir, I strongly support this amendment.

Diwan Bahadur Harbilas Sarda (Ajmer-Merwara: General): Sir, I rise to support the amendment moved by my Honourable friend, Mr. Mitra. As the Government proposes to send these detenus to Deoli in Ajmer-Merwara, where I understand a jail has recently been constructed, I see no reason why, as these detenus come not from Ajmer but from Bengal, the Government of India should not make rules to provide facilities. Ajmer-Merwara is under the direct administration of the Government of India. Consequently it is only meet that the Government of India, which authorises through this Assembly the transfer of detenus from other provinces to Ajmer-Merwara, should make these rules, and the Legislative Assembly which gives this power of transfer from Bengal to Ajmer should be able to look after these detenus by making such rules as would provide that their health and comfort are being looked after. The Bengal Government had not itself the power to transfer these detenus to any place outside Bengal. It came to the Legislative Assembly to empower it to send these detenus to provinces outside Bengal. That being the case, as we are giving that power to the Bengal Government, as we are authorising the Bengal Government to transfer these detenus from Bengal to outside stations, it is only proper on our part to insist that we want to see that proper arrangements are made for their detention there and that they are looked after properly. As we are giving the Bengal Government power to send detenus to Ajmer-Merwara, we insist that rules should be made by the Government of India and published in the Gazette of India, and we could then know how things are done. So far as I know, there are no jail visitors in Ajmer; they will now have to be appointed, and as these

[Diwan Bahadur Harbilas Sarda.]

detenus do not belong to Ajmer-Merwara, it is only proper that this Legislative Assembly, which is the Legislature for Ajmer-Merwara, should appoint these visitors.

Mr. C. C. Biswas: Sir, on a previous occasion I pointed out that in 1916 a Resolution was brought forward in the Imperial Legislative Council by the late Sir Surendra Nath Banerjee in connection with the administration of Regulation III of 1818 and other kindred regulations, urging the appointment of an Advisory Committee of the Council to investigate the case of every such Regulation prisoner, and make recommendations regarding his health, allowances, conditions of detention and such other matters. That Resolution was accepted in substance by the then Home Member, and as a matter of fact an advisory committee was appointed and it did useful work. It may be said that that Resolution was necessary, because the regulations did not contain any such provision as you have in the Bengal Criminal Law Amendment Act for the appointment of visiting committees. I recognise that the Bengal Criminal Law Amendment Act, which follows the lines of the Regulations, does contain a provision for the appointment of visiting committees, but I do not think it is adequate; and I think that it is reasonable and necessary that those who are called upon to sanction such wide powers as have now been claimed on behalf of the Government, should have an opportunity of satisfying themselves that things are going on in the way they should. A special responsibility rests on Members of this House, and in the discharge of that responsibility it is up to the Members to see that the powers which they are according to the executive are being duly administered. That can be done only by means of a committee of this House. Such a committee, if appointed, need not clash at all with the visiting committees. The visiting committees will be there to attend to the daily needs of these detenus. But a committee of the Indian Legislative Assembly, if appointed, will be in a position to take a broader view of things. Today, Ajmer-Merwara is the place selected for the transfer of these people. We do not know if some other place may not be selected tomorrow, if the number unhappily goes on increasing; and so there may be several places of detention under this new Act. Then a committee like the one which is now proposed will have a very real function to perform. That committee will be in a position to examine the whole situation, to compare the conditions of one place with those of another, and to make suggestions to the Government of India, so that steps might be taken in the proper direction. After all this committee is not going to interfere with the executive. The committee will perform only advisory functions. The amendment says that the committee should undertake periodical examination of the detenus and report on the suitability of the places of detention and general comfort of the detenus, and make recommendations to the Governor General in Council in regard to such matters. Therefore I say that the Government ought to accept the principle of this amendment; and there need not be any hesitation whatsoever in taking the Assembly into its confidence. There is also a moral and psychological effect likely to be produced by accepting an amendment of this kind. It will show that the Government really mean to take the House into their confidence, it will mark Government's appreciation of the attitude of the non-official Benches. From that point of view I do appeal to my friend the Honourable the Home Member to accept in substance this proposal which has been put forward by Mr. Mitra.

I cannot resume my seat, however, without referring to another matter which I am compelled to refer to, because of the honourable mention which was made of my name by my friend, Mr. Mitra. Mr. Mitra stated that he and his friends were in a position of helplessness, and he added that when a Member from Calcutta, referring to me by name, was not going into the lobby with him, there was not very much to hope for. Sir, I am well able to take care of myself, and I do not mind confessing that I don't consider it a disparagement to myself that I do not worship in the same temple as my friend Mr. Mitra; but I thought that there would be no occasion whatsoever for misunderstanding my attitude in regard to the Criminal Law Amendment Bill. I have spoken on more than one occasion, and I have left my attitude in the matter in no state of uncertainty, and to suggest that I was keeping out of the lobby for some ulterior motive

Mr. President: There was no such suggestion.

Mr. C. C. Biswas: I am glad, Sir, that there was no such suggestion, but what was the point in referring to me in that manner, if it was not to suggest that it was an act of dereliction of duty on my part as a Member from Calcutta? Sir, I do not accept from my friend the definition of my duty as a Member of this House. After all, we are all here to do our duty according to our lights, and I do claim that I have throughout acted in this matter according to my judgment, uninfluenced by any consideration save and except what I deemed to be in the best interests of the public.

Mr. Amar Nath Dutt: Sir, I do not see any reason why the Government should not accept this very reasonable amendment unless their conscience makes them cowards. The amendment asks for a periodical examination of the detenus by a committee of this Assembly. It does not say that it should be a committee composed of elected Members of the Assembly. It may be open to the Honourable the Home Member to nominate men whom he likes, avoiding such undesirables as myself

Sir Abdullah Suhrawardy: Are you not in their confidence?

Mr. Amar Nath Dutt: I am not. Nominated Members command the confidence of the Government and only a few elected Members do so. By that I do not mean that they are to choose Members from those two-classes only. Sir, if my friend cannot accept this amendment of my friend over there, the irresistible conclusion would be that there is really something rotten in the administration of the law relating to these detenus. In fact, we hear wild rumours about the treatment accorded to these detenus. Owing to the strict censorship which is maintained, we do not get the exact news now. You cannot blame us if we try to put greater reliance upon the statements of our own countrymen than the statements of the foreigners who happen to rule over this vast continent. My belief is that it is in their interest to suppress the mischievous activities of some of their officers. Government can carry on the administration with the help of a few self-seekers drawn from this country as is done in every clime, but I would remind them that it is the bedrock of our goodwill and sympathy alone on which depends the stability of their Empire. You have your suspicions no doubt, unnecessary suspicions about the flower of the youth of this country. If you only had imagination, if you had

Some Honourable Members: Please address the Chair.

Mr. Amar Nath Dutt: tried to understand our hopes and aspirations. You have come here for the purpose of exploitation; you have come here

Mr. President: The Honourable Member should address the Chair.

Mr. Amar Nath Dutt: Had Government not rested upon the help of a handful of self-seeking men of this country, I think their administration would have been more popular, and there would have been no occasion to enact such Draconian laws as they are enacting daily

Mr. President: The present amendment is for the appointment of a Committee of this Assembly.

Mr. Amar Nath Dutt: Yes, Sir, but I say that such a Committee is needed because of the outrageous provisions of these laws. Sir, these laws are the relics of medieval ages and need replacement by more civilized laws (*An Honourable Member:* "By civilized men"), by civilized men. So, Sir, I trust that the Honourable the Home Member will, at least to keep up appearances just at the fag end of his career here,—of course he will earn his pension in England and we all wish him well—and I have always appreciated my Honourable friend's fairness, though at times he is not able to appreciate the motives which inspire us to say some of these harsh things,—as I said, at least to keep up appearances my Honourable friend the Home Member will accept this amendment. I remember, Sir, in the early days of the Congress a gentleman who was opposed to the Congress one day told a relation of mine, my uncle, that men like Alan Octavius Hume, Sir William Wedderburn and others were the worst enemies of India, as they wished to introduce British rule with the affection of the people, which would perpetuate our slavery.

Mr. President: I would remind the Honourable Member that the amendment before the House is for the appointment of a Committee.

Mr. Amar Nath Dutt: Yes, Sir; but I am just reminding them of the fact that they should broadbase the British rule upon our affection, and therefore the Congress is not their enemy; their real enemies are those who advise them not to accept amendments of this character. These amendments are necessary in the interests of British rule in India. I do not know whether all that I say here pleases Honourable Members opposite; I am rather a little frank and blunt, but I say what I feel for the good of these unfortunate prisoners, and I hope the Honourable the Home Member will accept this amendment.

An Honourable Member: Never in his life has he accepted such an amendment.

Mr. K. C. Neogy (Dacca Division: Non-Muhammadan Rural): Sir, I have not so far participated in the debates on these amendments, because as I made it quite clear on another occasion, my attitude towards this Bill is one of undiluted opposition. But when my friends Diwan Bahadur Ramaswami Mudaliar and Mr. Biswas were addressing the House and making their piteous appeals to the Honourable the Home Member, I was reminded of the days in the years gone by when I used to do the same from my seat in the Assembly. But, Sir, I am sure that my Honourable friends will agree with me, after seeing the result of their appeals on this

particular occasion, that it is no use trying to soften the stony hearts of Honourable Members opposite, but that the real opposition should be made in a spirit absolutely undaunted and that there should be an attempt made to throw out this measure at the third reading, and we should not waste our breath in discussing this amendment any further. But, Sir, if I have risen to say a few words, it is because of certain observations that fell from my Honourable friend Mr. Amar Nath Dutt. He referred to the fact that as a result of the strict censorship of the Press that we have at the present moment, it is not possible to have any reliable information with regard to the conditions of life that obtain in the detention camps. A few days ago, when speaking on a motion in regard to this matter, I had occasion to refer to the tragic incidents that happened about the middle of September last in the Hijli detention camp in Bengal, and the Honourable the Home Member in an interruption challenged my statement that the official communiqué issued in that connection soon after the incident was not borne out by the results of the official enquiry that followed. Here I have in my hand both the report of the official enquiry and the official communiqué on the subject, and I should like my Honourable friend to state after going through them, as to whether it is not a fact that in material particulars the two differ. The reason why I am referring to this incident is that the Honourable the Home Member, in speaking on a previous amendment, said that it would be the endeavour of the Government to reproduce the "other conditions of detention as they obtain in Bengal". Now, these are among the "other conditions of detention" that do obtain in Bengal—the incidents that took place in September, in the Hijli detention camp, and if that were a solitary incident, I would not have spoken on this motion merely in order to refer to that. I should like to draw the attention of this House to another incident which occurred in the Hijli detention camp on the 8th March last. As a result of the strict Press censorship, newspapers were not permitted to publish any news in connection with that incident till about a week later when as a result of a short notice question in the Bengal Legislative Council, a halting sort of statement, as far as one is able to judge from the unsatisfactory reports that have so far appeared in the Press, was made on behalf of the Government describing the incident as a sort of a minor disturbance. But the facts, which I have got in my possession from a source which I consider to be satisfactory, point out that there was very serious trouble there on the 8th March in the Hijli Jail. Therefore, when the Honourable the Home Member said that he would not merely try to see that proper food, food to which the Bengalis are accustomed, was supplied to these detenus at Deoli, but that he would also see that "other conditions of detention as they have obtained in Bengal" were reproduced in Deoli,—that made me rather apprehensive. From that point of view, I think my Honourable friends who have yet any faith in their appeals to the Government Benches are perfectly justified in putting forward a plea for the appointment of a committee of this House to make enquiries periodically and report to this House, if necessary, regarding the health or other conditions in which the detenus may have to live in distant Deoli. In this connection, I want to refer to the provisions of Regulation III with regard to periodical inspection of the detenus. There are certain definite requirements in the Regulation for a periodical examination of the conditions of health under which the State prisoners have to live under Regulation III of 1818. It was only the other day that I put a question to the Honourable the Home Member enquiring as to whether he was in a position to place on the table the reports which are statutorily required to be submitted at regular intervals

[Mr. K. C. Neogy.]

to Government regarding the health of the State prisoners, and he plainly gave a blank refusal. I really do not know what State reasons there can be to preclude the statements made by responsible officers of the Government—not non-official visitors—in the case of Regulation III prisoners—what is there to prevent them from the Government point of view from being placed on the table of this House. Those reports relate only to the conditions of health and the nature of the detention, and as to whether the detention is such as may be telling upon the health of the State prisoners. Now, judging from the attitude taken up by the Honourable the Home Member in reply to my questions, I really think that there is every reason for my Honourable friend Mr. Amar Nath Dutt to have his suspicions as to exactly what is going to happen at Deoli when these Bengal prisoners are transferred there.

Now, there is just one word more and I have done. My Honourable friend, speaking on a previous amendment, brought forward a plea that it would not be in the public interest to pay for the travelling expenses of the relations of the detenus who desired to visit them at intervals, and that he could not possibly be a party to saddling the public exchequer with such an item of expenditure. Now, I very much hope that the Honourable the Home Member will not repeat that argument in reply to this amendment. I have great respect for my Honourable friend as a man, though not as the Home Member of the Government of India, and it really pained me when the Honourable the Home Member put forward that argument. I thought that such an argument did not lie in the mouth of a member belonging to a service which has been helping itself liberally to the Lee concessions, and which made the public exchequer pay for the travelling expenses to and fro between England and India, not merely for the members of the service but for their wives, and in the case of those gentlemen who do not believe in birth control, for their children too. I very much hope that the Honourable the Home Member will not repeat that argument in reply to this amendment.

Mr. C. S. Ranga Iyer: The Honourable the Home Member has naturally been faced with one demand after another. We are not, I may make it very clear, making any appeal to the Government from this side of the House. We are rather trying to put the Government in the wrong with the people of this country by putting before them one reasonable amendment after another relating to the detenus and giving the Government an opportunity to accept them if they choose on the floor of this House. My own opinion with regard to the detenus was made perfectly clear when I refused to go into the Select Committee, because I consider that it is a very wrong principle to transfer people from one province to another unless you vouchsafe to them the same conditions of comfort and you vouchsafe to their relations the same opportunities, without unnecessary expense, of interviews. This amendment sums up the whole case. There is no use for the Government of India having come before this House and asked for an opportunity to make this Bill more or less an all-India measure—otherwise they would have introduced this in the Bengal Provincial Council—after having done that, there is no use for them to come and ask us to take up a parochial and provincial view of things. Once they have come before us, I cannot understand why they should shirk the responsibility of making the matter entirely an all-India matter.

It must be the Government of India that should make rules; it should be the Government of India gazette that should publish the rules, and not the Local Government or the local gazette. That being the case, I hope the

4 P.M. Honourable the Home Member will accept this motion and give an opportunity to this House, which is deeply interested in this matter, to examine from time to time in what manner the rules are framed and how the comforts of these people are assured, and that the rules do not make the position of the detenus worse than it would otherwise be. The rule-making power is a most important item, and now that the Bill is before the Assembly, it can hardly be regarded as a provincial or parochial matter.

The Honourable Sir James Crerar: I confess, Mr. President, that it may appear ungracious on my part in being constrained to oppose the third amendment running of the Honourable gentleman from Bengal, but I am somewhat surprised that the anticipated terms of my reply should have generated so much heat in the Benches opposite, particularly as evidenced by the remarks made by the Honourable gentleman from Madras. I was entirely unaware that I was to plunge into deep waters of constitutional policy, still less that I was to show any lack of confidence in the Assembly; and I was surprised to hear his speech and those of one or two Honourable Members who followed him. Apparently they took no notice whatever of the fact that this measure has been referred to a Select Committee by this House without a single dissentient voice and that the motion that the Bill as reported by the Select Committee should be taken into consideration was passed once more without a single dissentient voice. I feel therefore that there is some injustice in the suggestion that I have throughout the whole progress of this Bill been riding roughshod over the Assembly. It is to me a most astonishing thing that this Assembly should be ridden roughshod over but yet there should not have been a single dissentient voice to oppose those steam roller methods. Therefore I cannot agree that that is a fair statement of the case. The Honourable Member who moved this motion to a certain extent anticipated the grounds on which I must take objection. For the purpose of inspection, examination and matters of that kind, specific provision has been made by rules under the Act, and the particular expedient which he advocates is one which, I am bound to say, appears to me to be extremely cumbrous, extremely inconvenient, and, in spite of Mr Neogy's rather ingenious argument to preclude me from the financial argument, which I nevertheless propose to use, very expensive. Because it must be remembered it is not merely a question of an occasional examination of a particular detention camp at Deoli. It involves, to all intents and purposes, the proposition that there shall be a standing committee of this House whose statutory functions it will be to conduct periodical examinations, possibly in every province except Bengal. I do not think that is a reasonable proposition. Sir, though this may be a plea which lies particularly in my mouth to utter, do I think that it is a reasonable thing to ask Honourable Members of this House that they should regard it as the first statutory charge upon their time periodically to examine all detention camps which may be in any province except Bengal. I do really think that the Honourable Member who moved this motion has not quite realised all its practical implications. Therefore on these grounds, and not on the other grounds, which have been quite erroneously imputed to me, I must oppose this amendment.

Mr. President: The question is:

"That to clause 2 the following further proviso be added:

'Provided further that periodical examination of detenues shall be made by a committee of the Indian Legislative Assembly with a view to report on the suitability of the place of detention and the general comfort of detenues to the Governor General in Council'."

The Assembly divided:

AYES—42.

Abdul Matin Chaudhury, Mr.
Abdur Rahim, Sir.
Aggarwal, Mr. Jagan Nath.
Azhar Ali, Mr. Muhammad.
Badi-uz-Zaman, Maulvi.
Bagla, Lala Rameshwar Prasad.
Bhuput Sing, Mr.
Biswas, Mr. C. C.
Das, Mr. A.
Das, Mr. B.
Dutt, Mr. Amar Nath.
Gunjal, Mr. N. R.
Harbans Singh Brar, Sirdar.
Hari Raj Swarup, Lala.
Ibrahim Ali Khan, Lt. Nawab.
Muhammad.
Jadhav, Mr. B. V.
Jehangir, Sir Cowasji.
Jog, Mr. S. G.
Kyaw, Myint U
Lahiri Chaudhury, Mr. D. K.
Lalchand Navalrai, Mr.
Maswood Ahmad, Mr. M.

Mitra, Mr. S. C.
Mody, Mr. H. P.
Musazzam Sahib Bahadur, Mr.
Muhammad.
Mudaliar, Diwan Bahadur A. Ramaswami.
Munshi, Mr. Jehangir K.
Murtuza Saheb Bahadur, Maulvi Sayyid.
Neogy, Mr. K. C.
Parma Nand, Bhai.
Patil, Rao Bahadur B. L.
Ranga Iyer, Mr. C. S.
Reddi, Mr. T. N. Ramakrishna.
Sant Singh, Sardar.
Sarda, Diwan Bahadur Harbilas.
Sen, Mr. S. C.
Sen, Pandit Satyendra Nath.
Singh, Mr. Gaya Prasad.
Sitaramaraju, Mr. B.
Thampan, Mr. K. P.
Uppi Saheb Bahadur, Mr.
Ziauddin Ahmad, Dr.

NOES—53.

Acott, Mr. A. S. V.
Ahmad Nawaz Khan, Major Nawab.
Ahmed, Mr. K.
Allah Bakh Khan Tiwana, Khan Bahadur Malik.
Anklesaria, Mr. N. N.
Azizuddin Ahmad Bilgrami, Qazi.
Bajpai, Mr. G. S.
Bajpai, Mr. R. S.
Banerji, Mr. Rajnarayan.
Bhargava, Rai Bahadur Pandit T. N.
Bhore, The Honourable Sir Joseph.
Brown, Mr. R. R.
Clow, Mr. A. G.
Cocke, Sir Hugh.
Cosgrave, Mr. W. A.
Crerar, The Honourable Sir James.
Dalal, Dr. B. D.
DeSouza, Dr. F. X.
Fox, Mr. H. B.
French, Mr. J. C.
Ghuznavi, Mr. A. H.
Gidney, Lieut.-Col. Sir Henry.
Graham, Sir Lancelot.
Gwynne, Mr. C. W.
Heathcote, Mr. L. V.
Howell, Sir Evelyn.
Ishwarsingji, Nawab Naharsingji.
Jawahar Singh, Sardar Bahadur Sardar.

Lal Chand, Hony. Captain Rao Bahadur Chaudhri.
Macqueen, Mr. P.
Moore, Mr. Arthur.
Morgan, Mr. G.
Mujumdar, Sardar G. N.
Mukherjee, Rai Bahadur S. C.
Nixon, Mr. J. C.
Noyce, Sir Frank.
Rafiuddin Ahmad, Khan Bahadur Maulvi.
Rainy, The Honourable Sir George.
Rajah, Rao Bahadur M. C.
Rajan Bakhsh Shah, Khan Bahadur Mahdum Syed.
Rama Rao, Diwan Bahadur U.
Rau, Mr. P. R.
Ryan, Mr. T.
Sahi, Mr. Ram Prashad Narayan.
Sarma, Mr. R. S.
Schuster, The Honourable Sir George.
Scott, Mr. J. Ramsay.
Sher Muhammad Khan Gakhar, Captain.
Studd, Mr. E.
Sykes, Mr. E. F.
Tin Tut, Mr.
Wood, Eir Edgar.
Young, Mr. G. M.

The motion was negatived.

Mr. President: The question is that clause 2 stand part of the Bill.

The motion was adopted.

Clause 2 was added to the Bill.

Clause 3 was added to the Bill.

Mr. President: The question is that clause 4 stand part of the Bill.

Rao Bahadur B. L. Patil: (Bombay Southern Division: Non-Muhammadan Rural): Sir, I beg to move the amendment that stands in my name which runs as follows:

"That clause 4 be omitted and clause 5 be renumbered as clause 4."

Sir, at the very outset let me make it plain to the House that I am fully alive to all the implications that arise out of the deletion of clause 4. Let me also make it plain to the House that all sections of people in the country and all parties in the country have strongly condemned the terrorist movement prevailing in Bengal, and I do not see why Government should be nervous about the powers of the High Court. That is the reason why I have tabled this amendment. Amongst the grounds which I have to urge in favour of this amendment, the first is that under the local Act the executive have taken very wide powers; they can arrest and detain whosoever is considered a suspect, suspected of committing or being about to commit a crime. No evidence is required; the mere existence of grounds of suspicion will do, and they can arrest and detain them; and even if you look at section 9 of the local Act, you will see that the Judges who test a case have no proof placed before them whatsoever. Their word will not carry any authority. The word of Government and of its officers is the final word. For these reasons, Sir, I think it is highly unjust and unfair to take away the powers of the High Court under section 491. My point is that in many cases you are detaining persons who are innocent. It seems to me that the argument of the Honourable the Law Member comes to this: "Well, there is a dangerous movement in Bengal. You concede to the Government the power of committing these people to prison without trial. If so, why should you not also concede to them the power of taking away the powers of the High Court?" Sir, I cannot agree to this, because you mean to say virtually this, that let a small percentage of innocent people suffer along with the suspects. I say that it is doctrine to which I cannot personally subscribe; and I am sure no self-respecting people in this country will subscribe to that doctrine. Well, Sir, I understood the Honourable the Law Member to say that, if the detention was illegal, of course the High Court has got the power of interference. If it was legal, there is no power. By this I understand that he means that the power of the High Court always remains there, provided the arrest and detention are not properly done under the Act. He further says that this clause has been inserted simply to remove a particular doubt in order to prevent a particular unsound argument being advanced every now and then before the High Court. But I ask the Honourable the Law Member whether it was not his duty also to make the clause still further clear. Had he accepted the modest suggestion made by the leader of this Party, which has been embodied in the amendment tabled by my friend Mr. Sitaramaraju, certainly it would have cleared the doubts and there would not have been any ambiguity, and the High Court would not have been pestered

[Rao Bahadur B. L. Patil.]

with frivolous applications. I say it was the duty of the Honourable the Law Member to make the matter clear. As he has not done so, the only duty of this Honourable House is to reject the clause.

Then, Sir, I come to the stock argument advanced by the Honourable the Law Member. That argument is this, that we have got the Regulations which were passed in the early part of the 19th century and those Regulations have been excepted from the operation of section 491 of the Criminal Procedure Code and we want to place the persons detained under this local Act also in line with those prisoners. Well, Sir, at this stage I wish to bring to the notice of this House the circumstances under which those Regulations in the provinces of Bengal, Bombay and Madras were made. Those circumstances should be compared with the circumstances now obtaining in Bengal. Let me for that purpose read out the preamble to those Regulations:

"Whereas reasons of State, embracing the due maintenance of the alliances formed by the British Government with foreign Powers, the preservation of tranquility in the territories of Native Princes entitled to its protection, and the security of the British dominions from foreign hostility. . . ."

Sir, I emphatically ask the Honourable the Law Member whether we are now living in a state of war, whether any foreign invasion is threatening us. . . .

The Honourable Sir Brojendra Mitter: Please read on the preamble; you have not read the whole of it.

Rao Bahadur B. L. Patil: I am coming to that. I ask him whether we are living amidst rebellions? Is this the state of affairs in Bengal or in any other province in India? If that is so, I say very frankly that you are entitled to place the prisoners detained under the local Act in line with the prisoners detained under those Regulations. But I very respectfully submit that that is not the case and it can never be the case. The British Government have been here for nearly 150 years or more and the roots of the British Government have gone so deep that it is no use now saying that we are living in a dangerous condition. Therefore, the situation is entirely different. We cannot say now that because we want to place these persons in line with those persons, we want this. That argument will not hold water.

Now, Sir, there is also another reason for which I should like to ask the support of the House to my amendment. It is this. We have been told on the floor of this House, and we have been reading the same in the Press as well as in the Law Reports, that the High Courts are in a position to say that after all they are not bound by such a clause which can be passed into law by this Assembly. We have every reason to suppose that the High Courts are likely to fall back upon the powers which they have got under the Letters Patent. Under those circumstances, it is unworthy of this Honourable House to enact such a clause and bring this Honourable House into a sort of undesirable estimation in the eye of the public.

Sir, before I conclude, in support of my first contention, namely, that you are not entitled to detain innocent persons and that it is highly unjust and unfair on your part to detain innocent persons, I should like to

read out a few lines from the speech of Mr. Pipin Chandra Pal from the debates of this House of the year 1925:-

"I asked Government: 'These are matters of ancient history. You cannot plead reasons of State to keep these dossiers in your keeping. Now, bring these dossiers and let us examine these ancient records and see if you had any justification to arrest these honourable gentlemen and take them away from their homes and keep them in detention without formulation of charge or trial or any of the ordinary processes of law. Your present action may be tested by those old records. I thank the Government of Bengal for having accepted that challenge or acceded to that request. The Honourable Sir Hugh Stephenson, in course of his speech in the Bengal Legislative Council, openly confessed that so far as these two gentlemen were concerned, the Government never suspected them of any complicity with murderous crime. Now, how are we to be assured, Sir, then, that in the present case, the men, who have been similarly taken into custody, have not been taken for the same reasons for which Aswini Kumar Datta and Krishna Kumar Mitter had been taken in 1908.'"

Sir, I have already made it clear that I have a conscientious objection to this clause being a part of the statute, which this House is going to place on the Statute-book. For these reasons I commend my amendment for the consideration of this House.

Mr. President: Amendment moved:-

"That clause 4 be omitted and clause 5 be renumbered as clause 4."

Mr. Lalchand Navalrai (Sind: Non-Muhammadan Rural): Sir, I consider that this amendment is the most important amendment that has been put forward by my friend. Sir, I do not mean to say that the other amendments that have been moved with regard to this Bill were not important; they were very sensible and all means, by way of arguments, appeals and pressure were used but none have succeeded. Sir, so far as this amendment is concerned, I must ask the House to beware that if clause 4 is made part of the Bill and this amendment is not accepted, they will be clearly in a wrong position; they will be depriving themselves of the very first and very elementary principle of law, namely, the freedom of person. This clause is divided into two parts. One is with regard to the transfer of the detenus from one place to the other, which has an executive aspect, and the other having a purely legal aspect is with regard to putting a restriction on personal liberty most harmful to humanity; That restriction provides that when any detenu is detained in one jail or the other, he shall have no right to have his case reviewed by the highest court of the land. It can therefore be seen at a moment's glance that what this House is asked to assent to is to deprive mankind of the very fundamental right which is given them under the common law. The first part of the Bill however is such that even if it is maintained there will be certain remedies and certain adjustments which could go to alleviate the difficulties and the harm which this Bill does. With regard to that, Government have come forward to say that they will be minimising the difficulties so involved, though of course they cannot possibly minimise the inconveniences complained of, such as that of the climate. Government cannot change the climate of one place for the other, though other facilities such as giving of plenty of fish and providing Bengali cooks for the Bengali political prisoners and the like have been promised. But apart from that. . . .

Mr. Gaya Prasad Singh: Have they been promised?

Mr. Lalchand Navalrai: Yes, I think they were promised. They can also transport rice from Bengal. My point is this, that these things can be easily adjusted. But if you are going to accept this clause, how are you going to help humanity? Liberty is the first principle for which we have been fighting all along, for which all nations have fought and that freedom of humanity is in danger by introduction of clause 4. What do we ask these better constitutions for? What do we ask these political benefits for? They are all for freedom of humanity, and the meanest individual is entitled to freedom, but here in this Bill the condition imposed is absolutely inhuman. I must only call it by that name and no other. It has the effect of sending a man, without proper trial and without the ordinary law being complied with, to jail. The ordinary principles of law, and the remedies available under the ordinary law are all these the detenus are being deprived of. The very last vestige of hope to them, namely, of having their cases reviewed by the High Court is being taken away from the detenus. Let the House beware therefore that if they accept the clause in the Bill, they will be cutting the ground underneath their feet. I therefore say that this amendment is the most important one.

With regard to this amendment, I will now address myself to the legal aspect, for which the Honourable the Law Member is anxious, by his looking at me, that I should go into. We have heard the Honourable the Law Member giving us some assurances and also interpreting in a particular manner the provisions of the law on that point. Sir, in my humble opinion there are two courses on this point left to the High Court. Formerly they pertained to only particular High Courts, but since some time back the law was changed, and now all the High Courts are given powers under section 491, Criminal Procedure Code. Of course that does not apply to places where there are no High Courts, and I was under the impression that Ajmer-Merwara had no High Court.

The Honourable Sir Brojendra Mitter: I would refer my Honourable friend to the definition of "High Court" in the Code of Criminal Procedure, which means the highest court of criminal appeal or revision for any area.

Mr. Lalchand Navalrai: If that is so, then I think Ajmer-Merwara will also have a High Court to look into these things. The point now is, why is that right going to be refused to the highest court, if any, in Ajmer-Merwara? I will come to the reason presently. At present my submission is that there are two rights within the power of the High Courts. I repeat that the High Court has got two rights, one is under the common law and the other is under a statute. I shall be showing presently that a statute cannot possibly take away the right which the public and humanity have got under the *habeas corpus*. That is common law and that common law applies equally to the whole of the British Empire. I submit there is nothing to show that common law is overridden or abolished by any statutory power.

An Honourable Member: What about the Calcutta High Court?

Mr. Lalchand Navalrai: I will come to that shortly.

The Honourable Sir Brojendra Mitter: This Bill does not purport to take away any power except the power under section 491, Criminal Procedure Code. If there is any other power, that power is left untouched.

Mr. Lalchand Navalrai: I am very thankful to the Honourable the Law Member, and I will ask the Honourable the Law Member to stick to this opinion. There was a specific question put to him today. I was watching keenly when he said on the floor of the House that the *habeas corpus* right to humanity is independent of this statute and it is not overridden. At that time the Honourable the Law Member did not say what he was saying just now. What I mean to emphasise is this. Even if there has been a difference of opinion between the High Courts, I still maintain that that common law right cannot be taken away and if that exists then why are we now trying to make this rule curtailing the provisions of section 491 and taking away a similar right? As soon as you take away this right, if you have the power to do so, then the High Court will claim under the *habeas corpus* the power to call for records. Therefore this provision will be nugatory, this provision will not be operative, and the discussion of this provision will only be a waste of the time of the House. With regard to this common law right, permit me to say what the English jurists state on that point. In this connection I should like to draw the attention of the House to Halsbury's Laws of England, page 40.

The Honourable Sir Brojendra Mitter: Which volume?

Mr. Lalchand Navalrai: Probably under "H". The Honourable Member can ask his Assistants who are Barristers to find out the number of the volume for him. This is what Halsbury's Laws of England say:

"In any matter involving the liberty of the subject, the action of the Crown or its Ministers or high officials of the Privy Council or Executive Government is subject to the supervision and control of the Judges on *habeas corpus*. It is this fact which makes the prerogative writ of the highest constitutional importance, it being a remedy available to the meanest subject against the most powerful."

Well, Sir, here the Government of India are going to be more powerful than anybody else, even the High Courts. And there they will be just coming into clash with the very first fundamental principle of common law, that *habeas corpus* is a right of the public which cannot possibly be taken away. Then, Sir, with respect to a right of taking away the *habeas corpus* right by statutory provision, which I do not admit, I must confess that it is true that the Calcutta High Court has in one or two decisions given that opinion, that section 491 of the Criminal Procedure Code is the only section under which particular persons who are detained can ask the High Court to go into their cases. But I submit that even the opinion of the Calcutta High Court is not unanimous. I know the Law Member is partial to the Calcutta High Court in adopting that view perhaps because he has remained there long.

Mr. C. C. Biswas: He argued the case and induced the Court to take that view.

Mr. Lalchand Navalrai: Then, Sir, he was a party himself (Laughter) and he cannot possibly be a judge or a legislator here. (Laughter.) On the contrary, I think his opinion should be considered as prejudiced.

The Honourable Sir Brojendra Mitter: It is no longer my opinion; it is now the opinion of the Court.

Mr. Lalchand Navalrai: I am submitting that the Court, which was led by the Honourable gentleman, has given a decision which is in direct contradiction to the opinion of other highest Judges for whom the Law Member must also have respect, the High Courts of Bombay and Madras. Sir, I know of two decisions in I. L. R. 50 Bom. page 616 and 45, Madras page 922, where it is said that the right to issue a writ of *habeas corpus* still continues in the chartered High Courts, in spite of section 491 of the Criminal Procedure Code. Then, Sir, the Calcutta High Court has no doubt given that opinion which the Law Member is relying upon and stating that it is not his opinion but the opinion which has been accepted by the High Court. It is true, but there also the Judges admit, at page 751 of 54 Calcutta, that the Criminal Procedure Code has incorporated in it only a portion of the rights under the Habeas Corpus Act, and not all the rights. They therefore stated after some consideration that they would not go into that question. They have, so to say, not given a definite decision on that point, and therefore I consider that that is a hesitating judgment. It is not a judgment which this House can accept, but further between these differences of opinion who is to decide? It is the Legislature that has to decide whether the Bombay and Madras High Courts are correct or the Calcutta High Court. I appeal to the House then to consider this question. The thing is this, that the common law right is a right which has been given by the common right of *habeas corpus* and the further question is whether we can manipulate that common law right, which has been given with regard to the liberties of a man and say that we will not accept that law but would curb the liberties of men. Apart from that there being two opinions of High Courts against one, what I say is this, that the common right should not be taken away, and that we will be wasting the time of the House if we make a provision which will be in fact absolutely nugatory.

Then, Sir, I come to the second question of law. The second question of law is dependent on section 491 of the Criminal Procedure Code and the interpretation that the Honourable the Law Member puts upon it. Section 491 of the Criminal Procedure Code says:

"Any High Court may, whenever it thinks fit, direct (a) that a person within the limits of its appellate criminal jurisdiction be brought up before the Court to be dealt with according to law;

(b) that a person illegally or improperly detained in public or private custody within such limits be set at liberty; and

(c) that a prisoner detained in any jail situate within such limits be brought before the Court to be there examined as a witness in any matter pending or to be inquired into in such court."

Now, Sir, after reading this the interpretation that has been put upon it is this, that if a particular detenu has been detained illegally and not only illegally but improperly too, then the High Court has got jurisdiction under section 491. That is how the Law Member has interpreted that section. Then what will happen is this. A representative on behalf of a detenu will come and put in his application. He will allege therein that a certain man has been detained illegally and improperly. What is the High Court to do? The High Court will get that application registered. After having got it registered they will send for the record. They

probably will give notice to the detenu to appear, as otherwise it will be impossible to find out the impropriety or the illegality of the action in detaining him. Then the High Court will have to go into the record and find out whether the detention is really illegal and improper. Will this procedure be carried out or not? It will certainly come to that, because when you make an application and you allege illegal or improper detention, the High Court will never say that it is only the party's allegation so the application must be thrown out. They will surely go into the question to see if the allegation of improper and illegal detention is made out. That was the gist of the argument put in by the Honourable the Law Member and I do not know what different construction the Law Member will now put upon the wording of section 491 Criminal Procedure Code, and I will be very interested in seeing what reply he makes to my argument that if the High Court can go into the illegality of the detention, in spite of clause 4 of the Bill, why should clause 4 be enacted at all? If a man can move the High Court with regard to the question of the illegality or the impropriety of the detention, then everything is done and section 491 has been complied with. I do not know if, when making that statement, the Honourable the Law Member's attention was drawn to the words "improperly detained", in section 491 Criminal Procedure Code. If it was, I am glad my argument stands and he loses his case. (Laughter.)

The Honourable Sir Brojendra Mitter: Not so easily.

Mr. Lalchand Navalrai: I know the obstinacy on the other side. What I say

The Honourable Sir Brojendra Mitter: We have had plenty of politics; let us have a little law.

Mr. Lalchand Navalrai: Sir, I say that this question is one purely of law and of the liberty of a man and it is no matter such as to be trifled with. If a High Court has got the power to go into the question of impropriety of the detention, it will be a question of merits and the merits will be considered by the High Court. Any way the High Courts will stand upon their rights and say, "We will go into the merits and find out under section 491 whether the detention is right or wrong". Therefore my second contention is that this provision, which is being incorporated into this Act, is not at all necessary.

Then the only reason that has been given for the introduction of this clause 4 is this. I wondered what must be the reason of the Government for this clause being put in, so as to take away the rights of the High Court under section 491. What did I find? It was shown in the Objects and Reasons of the Bill that because once the Criminal Procedure Code was amended and clause 3 added to section 491, providing that nothing in that section applied to persons detained under the Bengal State Prisoners Regulation, 1818, Madras Regulation II of 1819, or Bombay Regulation XXV of 1827, or the State Prisoners Act, 1850 or the State Prisoners Act, 1858, such a provision should be made with regard to the Bengal Criminal Law Amendment Act also. In other words they say that once we have made that exception, why not make it here also? But, is that sound reasoning I ask? It is no reasoning at all. On the contrary

[Mr. Lalchand Navalrai.]

I maintain that this provision 3 in section 491 Criminal Procedure Code is *ultra vires*. The Legislature had no power to make this provision, which is on the Statute-book. Because it is there that does not show that it is a valid one. High Courts have disputed it, and the question having risen before them, they have said that there is a doubt about it. But I maintain that the rights that have been given under section 491 are common law rights, which the common people have got, which cannot be repealed by any other law. Therefore no Legislature can possibly make any provision which cuts away the rights of *habeas corpus*. This clause 4 in my humble opinion is *ultra vires* and for that I find an authority in 39 Calcutta

Mr. President: How long is the Honourable Member likely to take?

Mr. Lalchand Navalrai: About twenty minutes more, Sir.

The Assembly then adjourned till Eleven of the Clock on Tuesday, the 29th March, 1932.