

Tuesday, 29th 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**



CALCUTTA: GOVERNMENT OF INDIA  
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# **Legislative Assembly**

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# LEGISLATIVE ASSEMBLY.

*Tuesday, 29th March, 1932.*

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

## MEMBERS SWORN:

Major-General John Wallace Dick Megaw, C.I.E., M.L.A.,  
(Government of India: Nominated Official); and

Mr. Narayan Raghavan Pillai, M.L.A. (Government of India:  
Nominated Official).

## QUESTIONS AND ANSWERS.

### BRAZILIAN IMMIGRATION SCHEMES.

961. \***Rao Bahadur B. L. Patil:** (a) Have Government any information regarding the Brazilian immigration schemes started by the Brazilian Government with a view to attract industrial and agricultural population?

(b) If so, will Government place it on the table?

(c) If not, have Government any objection to obtain the necessary information on the subject of Brazilian immigration including the following points:

- (i) the number of Indians who have already settled there;
- (ii) the names of Indians in superior official posts and in learned professions;
- (iii) the time since how long the schemes are in operation; and
- (iv) restrictions, if any, as to the profession of religious faiths?

**Sir Evelyn Howell:** (a) No, Sir.

(b) Does not arise.

(c) His Majesty's Government will be moved to make enquiries on the points mentioned by the Honourable Member.

### BRAZILIAN IMMIGRATION SCHEMES.

962. \***Rao Bahadur B. L. Patil:** Will Government be pleased to place on the table the correspondence, if any, of whatsoever date, between the Brazilian Government and the Government of India, either direct or through the British Government, on the immigration schemes?

**Sir Evelyn Howell:** No such correspondence has taken place.

MUSLIMS APPOINTED TO THE POLITICAL DEPARTMENT IN THE NORTH-WEST FRONTIER PROVINCE.

963. **\*Dr. Ziauddin Ahmad** (on behalf of Seth Haji Abdoola Haroon): Will Government be pleased to state:

- (a) how many Muslims have been taken into the Political Department in the North-West Frontier Province during the last ten years;
- (b) how many of them were appointed Deputy Commissioners and Political Agents in that Province; and
- (c) if the reply to part (b) be in the negative, the reasons for the same?

**Sir Evelyn Howell:** (a) Out of 14 Muslim officers recruited for the Political Department since 1922, ten have served in the North-West Frontier Province.

(b) Two.

(c) Does not arise.

TEN PER CENT. CUT IN EARNINGS OF PIECE-RATED EMPLOYEES OF THE GOVERNMENT OF INDIA PRESS, NEW DELHI.

964. **\*Kunwar Hajee Ismail Ali Khan:** (a) Is it a fact that the compositors, distributors, impositors and pressmen of the Government of India Press, New Delhi, are paid on piece rates and they are allowed no privileges of holidays and Sundays like the salaried hands?

(b) Is it a fact that the 10 per cent. cut is made both from the salaried and piece-rated employees of the Press?

(c) If the answer to parts (a) and (b) be in the affirmative, will Government be pleased to state if they contemplate to stop the 10 per cent. cut from the earnings of the piece-rated employees? If not, why not?

**The Honourable Sir Joseph Bhore:** (a) The answer to the first part is in the affirmative and to the second part in the negative.

(b) Yes.

(c) The attention of the Honourable Member is invited to the reply given on 18th March, 1932, to part (g) of unstarred question No. 198 by Mr. S. C. Mitra in the Legislative Assembly.

RENT OF QUARTERS OF EMPLOYEES OF THE GOVERNMENT OF INDIA PRESS, NEW DELHI.

965. **\*Kunwar Hajee Ismail Ali Khan:** (a) Is it a fact that the employees of the Government of India Press, New Delhi, are provided with quarters with only 5 per cent. rent owing to their scanty earnings, with the sanction of the Government of India since the transfer of the press from Calcutta to Delhi in 1912 which is a period of about 20 years?

(b) Is it a fact that the employees of the press are exempted from such extra charges as water tax, and electricity metre rent, etc., due to their poor earnings?

(c) If the answer to parts (a) and (b) be in the affirmative, will Government be pleased to state whether it is contemplated to raise the rate of rent and to levy such extra charge as water tax, etc.? If so, why?

**The Honourable Sir Joseph Bhore:** (a) Indian subordinate employees of the Government of India Press, Delhi, are charged rent up to a maximum limit of 5 per cent. of their emoluments.

(b) and (c). The employees of the Delhi Press have been given the concessions under Fundamental Rule 45A, under which no separate rent is charged for sanitary, water supply and electric installations and fittings. But this rule requires that the tenant should pay meter hire and the cost of water and electric energy, etc., consumed. The question whether Press employees should receive water free of charge or not is under consideration.

**DEDUCTION FOR PROVIDENT FUND FROM THE EARNINGS OF PIECE-RATED EMPLOYEES OF THE GOVERNMENT OF INDIA PRESS, NEW DELHI.**

**966. \*Kunwar Hajee Ismail Ali Khan:** (a) Is it a fact that the Contributory Provident Fund was deducted on the earnings of the piece-rated employees of the Government of India Press, New Delhi?

(b) Is it a fact that the Contributory Provident Fund of the piece-rated employees of the press is now deducted on their class-rate pay?

(c) If the answer to parts (a) and (b) be in the affirmative, will Government be pleased to state why the Contributory Provident Fund is not deducted on the earnings of the piece-rated employees?

**The Honourable Sir Joseph Bhore:** (a) and (b). Yes.

(c) Because the earnings of piece-workers fluctuate and the rules require that the subscription fixed by the subscriber shall not vary throughout the year.

**EXPENDITURE BY THE POST OFFICE FOR THE OCCUPATION OF THAKERSEY HOUSE AND IRWIN HOUSE IN BOMBAY.**

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

(a) the amount of rent paid by the Post Office for the occupation of the Thakersey House in Bombay per month inclusive of all municipal and other taxes;

(b) the total amount paid for the purchase of Irwin House in Bombay for the Post Office including the commission of the house agent;

(c) the ground rent paid per month to the Bombay Port Trust;

(d) the average amount required to be spent per month for the purchase of disinfectants and the supervisory charges required to be paid to the Bombay Municipality or otherwise;

(e) the average monthly amount demanded by the Bombay Municipality by way of house and other taxes;

(f) the total expenditure so far incurred on the repairs to the Irwin House after its purchase and the recurring expenditure required annually for its repairs;

- (g) the annual depreciation value of the building; and
- (h) the total monthly expenditure on account of all items mentioned in parts (c), (d) and (e) including the average monthly interest on the purchase price?

**Mr. T. Ryan:** (a) Rs. 2,500, Thakersey House was given up from the 1st December, 1931.

(b) Rs. 2,09,100.

(c) Rs. 2,174.

(d) Rs. 84. Supervisory charges were paid to the Bombay Municipality for two months only, *viz.*, May and June, 1931, at Rs. 15 per month. Since the 1st July, 1931, the supervision is exercised departmentally.

(e) Rs. 307 per month as house tax. Water and other taxes have not yet been fixed by the Municipality.

(f) Rs. 12,270. The recurring expenditure required annually is about Rs. 5,000.

(g) Rs. 600.

(h) Rs. 3,611 excluding water and other taxes under item (e).

#### STOPPAGE OF PERMANENT RECRUITMENT FOR THE POST OFFICE.

968. **\*Mr. N. M. Joshi:** (a) Will Government be pleased to state whether:

- (i) the Director General of Posts and Telegraphs had issued instructions on the Post Office side not to fill in any vacancies permanently in the staff since 1st July, 1930; and
- (ii) that similar orders were issued by the Government of India to have effect from the 15th July, 1931?

(b) If the replies to items (i) and (ii) be in the affirmative, are Government prepared to issue instructions that those who held vacant appointments prior to 15th July, 1931, in the Post Office may be confirmed in those posts?

**Mr. T. Ryan:** (a) (i). Orders were issued by the Director General in April, 1931, directing that pending further orders no officiating incumbent of a post should be made permanent.

(ii) The Honourable Member apparently refers to the Resolution dated the 9th July, 1931, published in the Gazette of India conveying the decision of the Governor General in Council that as an *ad interim* measure all appointments to any posts permanent or temporary made on or after the 16th July, 1931, of persons not in Government service on the 15th July, 1931, whose pay the Governor General in Council in competent to determine under the Civil Services Rules shall be made on a provisional footing, that is to say, in an officiating capacity.

(b) The Director General is issuing instructions permitting, subject to certain restrictions, the confirmation of permanent officials in posts not affected by retrenchment in which they were appointed to officiate prior to the 24th September, 1931.



DELEGATION OF CERTAIN POWERS TO TOWN INSPECTORS OF POST OFFICES  
IN FIRST CLASS HEAD OFFICES.

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

- (a) whether the examination of the question of giving powers to the Town Inspectors of Post Offices attached to the First Class Head Offices has been completed and, if so, with what result;
- (b) whether it is a fact that the Town Inspectors at the Presidency Towns of Madras and Calcutta, do exercise the powers of appointments, etc., of postmen and inferior servants and that no administrative difficulty is experienced at those Presidency Towns;
- (c) whether the delegation of these powers in Bombay would reduce considerably the work of the Inspecting Postmasters attached to the Bombay General Post Office;
- (d) whether the inspection of First and Second Class Offices was carried on by the Town Inspectors even when these posts carried time-scale of pay; and
- (e) if reply to part (b) above be in the affirmative, whether Government propose to extend those powers to the Town Inspectors in Bombay?

**Mr. T. Ryan:** (a) The examination is still in progress.

(b) The reply to the first part of the question is in the affirmative, as regards the second part, some administrative difficulty has arisen.

(c) Some slight reduction of work might result.

(d) Yes.

(e) As already stated the whole question is still under examination, and no final decision has been reached.

ATTENDANCE AT RAILWAY PLATFORMS OF RAILWAY MAIL SERVICE SORTERS.

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

- (a) whether the enquiry referred to in the reply to unstarred question No. 306, on the 16th March, 1931, by Mr. N. R. Gunjal in the Legislative Assembly, has since been completed and if so, with what result;
- (b) whether it has since been further decided that the platform attendance of the R. M. S. Sorters should be completely ignored and the additional set in the R. M. S. Section withdrawn under certain circumstances and, if so, whether Government will be pleased to place on the table a copy of these orders; and
- (c) whether it is an intention of these orders that the platform attendance, even to the extent of two hours in excess of the permissible time of 15 minutes, should neither be considered nor counted as duty?

**Mr. T. Ryan:** (a) Yes. The decision arrived at is that the time spent by sorters of Railway Mail Service sections in Record Offices should not

be taken into account in determining their weekly working hours in the vans.

(b) and (c). The position is not as stated by the Honourable Member. He is referred to the orders contained in the Government of India, Department of Industries and Labour letter No. Est.-B./APC.-31/27, dated the 14th July, 1930, a copy of which is placed on the table of the House.

No. Est.-B./APC-31/27.

GOVERNMENT OF INDIA.

DEPARTMENT OF INDUSTRIES AND LABOUR.

Posts and Telegraphs Branch.

Dated Simla, the 14th July 1930.

From

T. RYAN, Esquire, C.I.E.,

Joint Secretary to the Government of India.

To

The Director General of Posts and Telegraphs.

**SUBJECT :—***Standard of weekly working hours for sanctioning additional sets for R. M. S. Sections.*

SIR,

With reference to the orders communicated in this Department letter No. 96-P.T.E., dated the 13th December, 1926, sanctioning additional sets in the Railway Mail Service for 53 sections, it has now come to the notice of Government of India that cases often arise in which the weekly working hours of a Railway Mail Service set exceed the prescribed standards by an hour or two and as no formula exists for determining what excess over the prescribed standards of weekly working hours of 30 and 36 hours for night and day sections, respectively, should be taken to justify an additional set, there is a considerable diversity of practice in dealing with such cases. In order to ensure uniformity the Government of India consider that definite orders should be issued, to the effect that an additional set should not be sanctioned when such addition will have the effect of reducing the weekly working hours per set below 24 and 30 in the case of night and day sections, respectively. In applying this standard, platform attendance should not be counted since work on the platform before the departure of a train is not so strenuous as work in a running section, and the standard for a sorting mail office is as high as 8 hours a day. Moreover, the counting of platform attendance in such cases increases the weekly working hours appreciably, and causes avoidable expenditure.

2. As an example a case may be quoted of a section with 5 sets which has a run of 10 hours 10 minutes in the out-trip and 9 hours 37 minutes in the in-trip. The weekly working hours of each set are 26 hours 27 minutes and 3 seconds, a figure much below the standard of 30 hours fixed for a night section; but by adding its daily platform attendance of  $3\frac{1}{2}$  hours, the weekly working hours were increased to 32 hours 15 minutes and 4 seconds, and another set was sanctioned. The result is that the weekly working hours now are 23 hours 4 minutes and 50 seconds per set, which the Government of India consider too low even for a night section.

3. In order to avoid the recurrence of such cases in future platform attendance may, for ordinary purposes, be counted in determining the number of sets of a section, but when the addition of the platform attendance has the effect of reducing the weekly working hours below 24 hours in the case of a night section and below

30 hours in the case of a day section, it should not be taken into account, but the number of sets should be determined solely by the actual working hours in the mail van.

4. Heads of Circles should now be instructed to re-examine the number of sets in each of the Railway Mail Service sections under their control and to readjust them where necessary in accordance with the principles laid down above.

I have the honour to be,  
Sir,  
Your most obedient servant,

T. RYAN,  
*Joint Secretary to the Government of India.*

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No. Est. B/APC-31/27.

A copy is forwarded for information to the Accountant General, Posts and Telegraphs.

M. R. COBURN,  
*Financial Adviser, Posts and Telegraphs.*

SMILA,  
*The 14th July 1930.*

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No. Est. B/APC-31/27.

A copy is forwarded for information and necessary action to all Postmasters-General and to the Director of Posts and Telegraphs, Sind and Baluchistan Circle.

J. R. T. BOOTH,  
*Senior Deputy Director-General.*

SMILA,  
*The 14th July 1930.*

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SCALES OF PAY IN THE POSTAL DEPARTMENT.

971. \*Mr. N. M. Joshi: Referring to the reply given to starred question No. 1057 (regarding scales of pay in the Postal Department) put in the Assembly by Mr. T. N. Ramakrishna Reddy, on 21st March, 1931, will Government be pleased to state:

- (i) how the concluding sentence in clause (g) can be reconciled with the statement in clause (c) of the said reply;
- (ii) whether a graduate recruited in the Bombay Circle on 11th June, 1926, on an initial pay of Rs. 51 per month in the old scale of Rs. 40—120 then, was under F. R. 22 brought on to the new scale on 1st March, 1927 and his pay fixed at Rs. 55 per month;
- (iii) whether a graduate recruited on and after 1st March, 1927, in the new scale, viz., Rs. 40—5—140 was, however, given an initial salary at Rs. 60 per month;
- (iv) whether it is a fact that in the case referred to in (ii) and (iii) above, a junior got higher pay than what his senior did;
- (v) whether it is a fact that the number of such affected officials does not exceed 50; and

- (vi) whether they propose to grant to the old graduate servants one advance increment under Fundamental Rule 27?

**Mr. T. Ryan:** (i) There is no inconsistency between the two statements to which the Honourable Member refers. One of them admitted that certain officials got less pay than certain others. The second statement was that those officials were not put to any loss. In fact, nobody lost any pay. In both cases the officials received the pay to which they were entitled under the conditions which existed at the time they joined the service, or as subsequently revised.

(ii) No. In June, 1926, there was no time-scale of Rs. 40—120 in the Bombay Circle.

(iii) Yes.

(iv) Cases of this kind occurred though the precise case contemplated in part (ii) of the question did not occur.

(v) Government have no definite information as to the number of such cases but it probably exceeds 50.

(vi) No. The changes made in scales of pay, coupled with the operation of the rules, no doubt caused some anomalous cases; anomalies cannot always be avoided and as no body was adversely affected in pay Government decided not to treat specially the cases in question.

#### EDUCATION OF THE CHILDREN OF PRESS EMPLOYEES IN DELHI.

972. **\*Kunwar Raghubir Singh** (on behalf of Mr. A. Das): (a) Will Government be pleased to state why schools for boys and girls are not yet started in the Press area at Barakhamba since the move of the Press from Old to New Delhi in August, 1931?

(b) Are Government aware that education of the children of the Press employees has been hampered owing to want of Primary Free Schools? If so, when will such schools be opened?

(c) Is it a fact that the Press employees represented the said case to the higher authorities? If so, what action has been taken by Government? If not, why not?

(d) Is it a fact that at Timarpur there were three schools, one for boys, one for Bengali girls and another for Hindu and Muhammadan and Christian girls under the Notified Area Committee?

**Sir Frank Noyce:** (a) A primary school for boys and girls was started in the Barakhamba area by private enterprise on the 16th November, 1931. This school has been recognised by the Education Department of Delhi Province which has also made a recommendation to the New Delhi Municipal Committee that the school should receive a grant-in-aid. The provision of additional facilities for schools in this area is the responsibility of the New Delhi Municipal Committee.

(b) Primary education in the schools maintained by the New Delhi Municipal Committee as well as in most of the aided schools in New Delhi is already free.

(c) Government have no record of any such representation.

(d) Yes.

QUARTERS OF PRESS EMPLOYEES IN NEW DELHI.

973. \***Kunwar Raghubir Singh** (on behalf of Mr. A. Das): (a) Will Government be pleased to state whether the accommodation in the new quarters for the Press employees at Barakhamba is not better than those at Timarpur or New Delhi, especially of "B", "C" and "D" type quarters?

(b) Is it a fact that in the corner space one "B" and three "C" quarters have been built and the back side of these quarters are very close to the latrines of the adjoining quarters and bad injurious smell of the adjoining latrines come to the verandahs and courtyards of these "B" and "C" quarters?

(c) Is it a fact that the latrines of the "B" and "C" quarters have been built in the verandah attached to bedroom?

(d) Is it a fact that some *dhobi ghats* have been built on the back site of the quarters forming a square where *dhobis* from the City and surrounding places come to wash their clothes? Are Government aware that this is likely to bring infections into the Government quarters?

(e) Do Government propose to take immediate action to stop this practice?

**The Honourable Sir Joseph Bhoré:** (a) The accommodation provided in the newly constructed "B" type Press quarters is a little less than that provided in New Delhi and at Timarpur, but greater in cases of "C" type Press quarters than the corresponding type in New Delhi. The accommodation in "D" type quarters is a little less than the Timarpur quarters.

(b) The reply to the first part is in the affirmative and to the second part in the negative.

(c) No.

(d) The reply to the first part of the question is in the affirmative. These *ghats* are not open to *dhobis* from the City. Only *dhobis* holding licences from the New Delhi Municipality are authorised to use them.

(e) Does not arise.

PROVISION OF FACILITIES FOR RECREATION, ETC., OF PRESS EMPLOYEES IN NEW DELHI.

974. \***Kunwar Raghubir Singh** (on behalf of Mr. A. Das): (a) Is it a fact that no quarter for a recreation club has been given to the Press employees at Barakhamba and are Government aware that much inconvenience is being felt for library, etc.?

(b) Is it a fact that no suitable play ground has been fixed for the employees of the Press since their coming over to Barakhamba? If not, why not?

(c) When do Government propose to remove all the said inconveniences?

**The Honourable Sir Joseph Bhoré:** (a) No press quarter is available for allotment for a recreation club.

(b) Common playgrounds exist outside the Delhi Gate and at Connaught Place for the use of residents at Barakhamba, and Government are not in a position to provide a separate playground for the press.

(c) Does not arise.

**LACK OF HEATING ARRANGEMENTS IN THE GOVERNMENT OF INDIA PRESS, NEW DELHI.**

975. **\*Kunwar Raghupir Singh** (on behalf of Mr. A. Das): Is it a fact that no heating arrangement had been made this winter in the new Government Press building in New Delhi? What is the idea in regard to this?

**The Honourable Sir Joseph Bhoré:** Yes, Government do not propose to take any action at present.

**LACK OF WATER TAPS IN THE GOVERNMENT OF INDIA PRESS, NEW DELHI.**

976. **\*Kunwar Raghupir Singh** (on behalf of Mr. A. Das): (a) Will Government be pleased to state how many water taps have been fixed in the main Government Press building, New Delhi?

(b) Is it a fact that only one tap has been fixed in front of the Manager's room where the Press employees are not allowed to go?

(c) Are Government aware that much inconvenience is felt on account of want of water taps?

**The Honourable Sir Joseph Bhoré:** (a) 28.

(b) and (c). No.

**ACCOUNTANTS REVERTED TO THEIR SUBSTANTIVE APPOINTMENTS.**

977. **\*Mr. S. C. Mitra:** Will Government be pleased to lay on the table a list of the Accountants, with names, who have been on deputation in the office of the Accountant General, Central Revenues, since 1923 showing the grounds on which they have been retained or reverted to the substantive appointments held by them in other provinces owing to retrenchment in that office?

**The Honourable Sir George Schuster:** With your permission, Sir, I will reply to questions Nos. 977 and 978 together.

The information has been called for and will be laid on the table in due course.

**DIVISIONAL ACCOUNTANTS RETIRED AT 55 YEARS OF AGE.**

†978. **\*Mr. S. C. Mitra:** Will Government be pleased to state the names of the Divisional Accountants serving under the Accountant General, Central Revenues, who have or have not been given an extension of their services after completing 55 years of age?

**FORMATION OF A "KARNATIK" PROVINCE.**

979. **\*Rao Bahadur B. L. Patil:** (a) Referring to the replies to unstarred question No. 49 (a), dated the 15th September, 1931, will Government be pleased to state whether any action has been taken under section 52A of the Government of India Act?

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† For answer to this question, see answer to question No. 977.

(b) Do Government intend to proceed to make an enquiry when the conditions of section 52A are complied with?

**The Honourable Sir George Rainy:** With your permission, Sir, I propose to answer questions Nos. 979, 980 and 981 together.

Government are aware of the views which have been expressed on these questions from time to time in the Central Legislature and the Legislative Councils of Madras, Bombay and Coorg. There is no present intention of proceeding further at this stage with the question of forming separate Andhra and Kannada provinces.

#### CREATION OF A SEPARATE ADMINISTRATIVE UNIT IN THE KANNAD-SPEAKING DISTRICTS OF THE BOMBAY AND MADRAS PRESIDENCIES.

†980. **\*Rao Bahadur B. L. Patil:** (a) Are Government aware that the attention of the public is greatly concentrated in the Kannad-speaking districts of Bombay and Madras Presidencies and the Province of Coorg on the question of unification of those districts into a separate administrative unit?

(b) Are Government further aware that widespread discontentment prevails in those places, among all classes of people, owing to Government's inaction in those places in connection with this question?

(c) Are Government prepared to appoint a small committee to investigate this matter and report as to the financial position and other questions incidental thereto?

#### FORMATION OF AN ANDHRA PROVINCE.

†981. **\*Rao Bahadur B. L. Patil:** (a) Are Government aware that there is a strong demand also for the formation of an Andhra Province adjoining the Kannad districts?

(b) If so, have Government considered the question of appointing a single committee both for Andhra and Kannad speaking districts?

(c) Do Government propose to reach a decision before the reforms are ushered in?

#### FUTURE STATUS OF BERAR.

982. **\*Mr. S. G. Jog:** (a) Is it a fact that the Government of India have received any communication or statement or suggestion in the matter of the future status of Berar from the Government of the Central Provinces?

(b) If so, will Government let the House know as to what that statement or suggestion is?

**Sir Evelyn Howell:** It is regretted that it is not possible to make any announcement on the subject at this stage. The Honourable Member's attention is invited to the answer given by me to starred question No. 36 by Mr. Gaya Prasad Singh on the 15th of January last.

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† For answer to this question, see answer to question No. 979.

**Mr. Gaya Prasad Singh:** Do Government propose to give the people of Berar an opportunity of expressing their opinion, on the principle of self-determination, before any changes are made in the political or administrative status of Berar?

**Sir Evelyn Howell:** I regret I cannot give the Honourable Member any information.

**Diwan Bahadur A. Ramaswami Mudaliar:** Will Government kindly state whether they would take this Assembly into confidence before any commitments of a wider nature than are at present incurred are entered into in connection with this question?

**Sir Evelyn Howell:** I would like to have notice of that question.

### THIRD CLASS ACCOMMODATION PROVIDED FOR SECRETARIAT EMPLOYEES MOVING TO SIMLA FROM NEW DELHI.

983. \***Mr. Badri Lal Rastogi:** (a) Are Government aware that the Government of India staff generally prefer to move up to Simla by the 143 Up train, it being the most convenient, and that mostly applications for reserved compartments at the time of move are for smaller capacity III class compartments, say 9 seaters?

(b) Is it a fact that the stock running on the said 143 Up train from Delhi to Kalka is comprised of only three 9 seater compartments and all the remaining compartments are 40 and 20 seater III class compartments?

(c) If the reply to the above be in the affirmative, have the Railway authorities concerned considered the desirability of attaching more 9 seater compartments in the said train to meet the demand of the staff of the Government of India Secretariat? If not, why not?

**Mr. P. R. Rau:** (a) Yes.

(b) Government understand that the number of third class carriages with small compartments is very limited, but are not aware of the actual number of such compartments available in the stock of this train.

(c) I have communicated the Honourable Member's suggestion to the Agent, North Western Railway, for such action as the latter may consider feasible.

### REPRESENTATION OF THE INTERESTS OF INDIAN SETTLERS IN TANGANYIKA.

984. \***Mr. Gaya Prasad Singh:** (a) Will Government kindly state if the representation of the Indian settlers in Tanganyika is based either on their population, or on their large commercial and settlers' interests?

(b) Are Government aware that no Indian settler in Tanganyika has yet been appointed as an officer in the territory, or to any judicial post; and that in the grant of public contracts, there is a marked tendency to ignore the claims of Indians in favour of Europeans who may even not be citizens of the Empire?

**Mr. G. S. Bajpai:** (a) I am sorry, Sir, I am unable to answer this part of the question, as the Honourable Member has not specified the body in respect of which he desires the information.



(b) I am prepared to accept that the position in regard to the appointment of Indians in the higher services in Tanganyika may be as stated by the Honourable Member. As regards the second part of this question, Government have no information.

**Mr. Gaya Prasad Singh:** Are Government aware that the condition of Indian settlers in Tanganyika is becoming as acute as that which obtains in Kenya?

**Mr. G. S. Bajpai:** I had the privilege about a month ago of passing through Tanganyika, and I heard very divergent views on that subject.

**Mr. B. Das:** In view of what the Honourable Member said regarding the employment of Indians, what steps does the Honourable Member propose to take to remedy matters?

**Mr. G. S. Bajpai:** The Indian community in Tanganyika have two avenues of getting redress. One is by appeal to the Permanent Mandate Commission of the League of Nations and the other is through their own representatives in the Tanganyika Legislative Council. Government do not think that in minor matters of this kind they can really interfere in what appears to be a matter of purely internal policy.

**Mr. B. Das:** May I ask the Honourable Member what is the use of accepting the statement, if the matter is going to be left to the representatives in the Tanganyika Legislative Council.

**Mr. G. S. Bajpai:** Though I said that the position stated by the questioner may be as stated by him, I accept no responsibility on behalf of Government.

**Dr. Ziauddin Ahmad:** In view of the divergent information which the Government have received, may I ask whether the Government would try to find out the actual position and make an attempt to redress the grievances, if they are found to exist.

**Mr. G. S. Bajpai:** If the Honourable Member wants to have detailed information on the subject, I should say that the great bulk of the opinion which I was able to collect in Tanganyika was to the effect that the majority of the Indian community there are quite happy.

**Mr. Gaya Prasad Singh:** Are Government aware that some important pieces of legislation have been passed by the Government of Tanganyika restricting the trading rights of Indian settlers in that territory?

**Mr. G. S. Bajpai:** I would ask my Honourable friend to exercise a little patience and wait for the answers to the further questions which he has put down on that subject.

**Mr. B. Das:** Does not the Honourable Member think it is high time that the Government of India should appoint an Agent in East African Tanganyika to look after the interests of the Indians there? The suggestion has been made very often from this side.

**Mr. G. S. Bajpai:** The suggestion regarding the appointment of an Agent in Tanganyika has only been made today. The suggestion about Kenya has been made before and has been under the consideration of the Government.

**Mr. Gaya Prasad Singh:** Are Government aware that the suggestion about the Agent in East Africa has been made for some time?

**Mr. G. S. Bajpai:** I confess that it comes to me entirely as a piece of new information today.

**Mr. K. C. Neogy:** Does the statement made by the Honourable Member that the majority of Indians residing in Tanganyika appear to be quite happy, represent the considered opinion of the Government of India, or is it based on certain observations made by him as a tourist in that country?

**Mr. G. S. Bajpai:** The Honourable Member seems to assume that my visit to Tanganyika was merely that of a tourist. It was not exactly that, because the local Indian Association came and saw the members of the delegation and stated to them what their views on the position in Tanganyika were. Now, it is perfectly clear that in regard to one or two matters they had certain representations to make, but I think that my Honourable friend, merely because one or two pieces of legislation were placed on the Statute-book recently, would not be justified in drawing the inference that the general condition of the Indian community is one of unhappiness.

**Mr. K. C. Neogy:** Am I to take it that the delegation was officially authorised by the Government of India to inquire into the situation in Tanganyika?

**Mr. G. S. Bajpai:** It was not officially authorised to inquire into the Tanganyika situation. Equally it was not officially prohibited from listening to representations that were made to them.

**Mr. B. Das:** Do I infer that in the opinion of the Honourable Member the situation is so good in Tanganyika and East Africa that there is no necessity for the appointment of an Agent there?

**Mr. G. S. Bajpai:** I never said that.

#### AMENDMENT OF THE TRADE LICENSING ORDINANCE IN TANGANYIKA.

\***Mr. Gaya Prasad Singh:** (a) Are Government aware that an Ordinance, entitled "An Ordinance to amend the Trades Licensing Ordinance", was passed by the Legislative Council of Tanganyika, on the 5th February, 1932, in spite of the protest of the Indian Association, and the Indian settlers there?

(b) Is it a fact that the Ordinance creates monopolies in favour of non-Indians to the prejudice of the Indian trading and commercial interests, so far as the native produce is concerned?

(c) Are Government aware that this Ordinance is at variance with Article 7 of the mandate, which secures "to all nationals of States Members of the League of Nations the same rights as are enjoyed in the

territory by his own nationals in respect of entry into and residence in the territory, the protection afforded to their person and property, the acquisition of property, movable and immovable, and the exercise of their profession or trade''?

(d) What steps, if any, have Government taken, or propose to take in the matter?

**Mr. G. S. Bajpai:** (a) Yes.

(b) There is nothing in the Ordinance to show that monopolies would be created in favour of non-Indians. The Governor gave an assurance that the law would be applied with absolute impartiality.

(c) This is the view held by the Indian Association of Dar-es-Salaam. It has been brought to the notice of His Majesty's Government.

(d) Government are in correspondence with the Secretary of State on this subject.

**Mr. B. Das:** Is it not a fact that the Government of India contemplated the appointment of a Trade Commissioner for East Africa and that official was to be located at Zanzibar?

**Mr. G. S. Bajpai:** I think that question ought to be addressed to the Honourable the Commerce Member. I do not deal with Trade Commissioners.

**Mr. B. Das:** I addressed my question to the Treasury Benches.

**The Honourable Sir George Rainy:** I did not hear the Honourable Member's question.

**Mr. B. Das:** Is it a fact that the Government of India contemplated the appointment of a Trade Commissioner in East Africa to look after the interests of Indians there and that he was to be located at Zanzibar?

**The Honourable Sir George Rainy:** They certainly contemplated the appointment of a Trade Commissioner at Mombasa, but there was no question of looking after Indian interests apart from trade interests. That was not part of the scheme.

**Mr. B. Das:** The question put concerned the question of looking after the Indian trade interests: I was not thinking of political interests?

**The Honourable Sir George Rainy:** The Honourable Member is quite correct that that was part of our Trade Commissioners' scheme.

**Mr. B. Das:** May I inquire what led to the holding in abeyance of that particular scheme,—why no Trade Commissioner had been appointed?

**The Honourable Sir George Rainy:** I think the Honourable Member is aware that owing to financial stringency we can make no provision for that scheme at present.

## LEVY OF A POLL TAX IN TANGANYIKA FOR EDUCATION.

986. \***Mr. Gaya Prasad Singh:** (a) Will Government kindly state if "an Ordinance to make provision for the levy of non-native poll tax" in Tanganyika, has been or is about to be passed in that territory, which seeks to repeal the non-native education tax? Are Government aware that this tax has been helpful in the maintenance of schools?

(b) What in short are the proposals in this Ordinance?

(c) Do Government propose to take steps to see that this Ordinance does not affect adversely the interests of the Indians there?

**Mr. G. S. Bajpai:** (a) The Ordinance referred to by the Honourable Member has been passed. It repeals the Non-Native Education Tax Ordinance, 1930, the proceeds from which were utilised for educational expenditure on the different non-native communities according to their respective contributions.

(b) A copy of the Ordinance has been placed in the Library of the House.

(c) The Government of India are already in correspondence with His Majesty's Government on the subject.

**Mr. Gaya Prasad Singh:** Is it a fact that the Government of Tanganyika spend much more money on the education of Europeans than on the education of the Indian settlers in that territory?

**Mr. G. S. Bajpai:** I would like the Honourable Member to put down a question on that subject. I could not say offhand.

**Dr. Ziauddin Ahmad:** In spite of these Ordinances, do the Government still think that the Indians there are very happy?

**Mr. G. S. Bajpai:** I should say that no community in the world which is called upon to pay any tax is happy over that, but that does not necessarily imply general unhappiness in them.

## APPOINTMENT OF AN INDIAN AS ASSISTANT AIRCRAFT INSPECTOR.

987. \***Mr. Amar Nath Dutt:** (a) Is it a fact that the Government of India have invited applications for the post of Assistant Aircraft Inspector through the High Commissioner in London?

(b) If so, has any application been received from qualified Indians? What is the number of such applicants, if any?

(c) Do Government propose to give preference to an Indian, provided a qualified Indian is available?

**The Honourable Sir Joseph Bhore:** (a), (b) and (c). The High Commissioner has been asked to recruit a suitably qualified officer for the post of Assistant Aircraft Inspector in the Civil Aviation Directorate. Should there be Indians possessing the qualifications necessary for this particular post, subject to the paramount necessity for securing efficiency, Government are prepared to give preference to an Indian.

CENSORSHIP OF NEWS SENT TO FOREIGN NEWSPAPERS.

988. \***Mr. K. C. Neogy**: (a) With reference to the answer given to a supplementary question in connexion with starred question No. 805, on the 15th March, 1932, to the effect that immunity from censorship depends partly on "the responsibility of the news agency or correspondent" sending news to foreign newspapers, will Government be pleased to state by what standards is such "responsibility" judged and by whom?

(b) Is news sought to be sent by cable by any responsible non-official Indian to any British or foreign newspaper liable to be subjected to censorship, unlike news sent by any correspondent or news agency?

**The Honourable Sir James Orerar**: (a) The practical test is whether the concession is or is not abused, and of that Government must clearly be the judge.

(b) The arrangements in question relate to press messages only, and the ordinary procedure in other cases applies.

REVENUE SACRIFICED UNDER SECTION 49 OF THE INDIAN INCOME-TAX ACT.

989. \***Mr. Rahimtools M. Ohinoy** (on behalf of Mr. H. P. Mody): Will Government be pleased to state what amount of revenue has been given up by them under section 49 of the Indian Income-tax Act of 1922 during the last six years?

**The Honourable Sir George Schuster**: A statement is laid on the table.

*Statement showing the amount of refunds granted under section 49 during the years 1925-26 to 1930-31.*

	Rs.
1925-26 . . . . .	91,84,314
1926-27 . . . . .	1,06,90,863
1927-28 . . . . .	96,68,078
1928-29 . . . . .	93,02,077
1929-30 . . . . .	1,08,31,287
1930-31 . . . . .	1,00,61,217
Total . . . . .	5,96,37,836

EXEMPTIONS, ETC., UNDER SECTION 60 OF THE INDIAN INCOME-TAX ACT.

990. \***Mr. Rahimtools M. Ohinoy** (on behalf of Mr. H. P. Mody): Will Government be pleased to state what exemptions, reductions in rate, or other modifications, if any, have been made in respect of Income-tax under section 60 of the Indian Income-tax Act of 1922?

**The Honourable Sir George Schuster**: The information required by the Honourable Member is contained in paragraphs 17 and 17A of the Income-tax Manual, a copy of which is kept in the Library of the House.

**“ EXTRAORDINARY RECEIPTS ” OF THE GOVERNMENT OF INDIA.**

991. \***Mr. Rahimtoola M. Ohinoy** (on behalf of Mr. H. P. Mody): Will Government be pleased to lay on the table a classified statement of the “Extraordinary Receipts” of the Government of India during the last five years?

**The Honourable Sir George Schuster:** The attention of the Honourable Member is invited to Account No. 79-A. of the Finance and Revenue Accounts of the years concerned.

**TRAINING OF INDIAN CADETS FOR THE ROYAL AIR FORCE.**

992. \***Mr. B. V. Jadhav:** (a) Will Government be pleased to state whether the policy laid before this House by His Excellency the Commander-in-Chief in his speech of the 8th of March, 1928, about reserving 6 vacancies in each of the Royal Military Academy, Woolwich, and the Royal Air Force College, Cranwell, still continues in force?

(b) What is the number of cadets admitted into each college up till now, and the dates of their admission there?

(c) Have any of these completed their course and returned to India?

(d) To what units are they attached?

(e) Is there any provision made at present for cadets at the new Indian Military Academy, Dehra Dun, for Air Force or the Engineer Corps training?

**Mr. G. M. Young:** (a) and (e). Indian Air Force cadets will continue to go to Cranwell for the present. But Indian cadets for the artillery, engineers and signals will, after this year, be sent for training to the Indian Military Academy.

(b) *Woolwich*.—Two in September 1930, two in February 1931, two in September 1931, and three in February 1932. Three more will join in September 1932.

*Cranwell*.—Six in September 1930, one in September 1931, and three in January 1932. Three more will join in September 1932. Of the six admitted in September 1930, one cadet was found unfit for training in flying, and has been transferred to the Stores Branch.

(c) and (d). None of the Indian cadets at Cranwell has yet completed the course. Two cadets have completed the course at Woolwich and are now undergoing a post-graduate course in England.

**PROVISION OF QUARTERS FOR THE STAFF OF THE RAILWAY CLEARING  
ACCOUNTS OFFICE, DELHI.**

993. \***Mr. D. K. Lahiri Chaudhury** (on behalf of Mr. Goswami M. R. Puri): (a) Will Government please say what is the position at present regarding the provision of quarters for the staff of the Railway Clearing Accounts Office, Delhi?

(b) If there is no likelihood of quarters being provided in the near future, are Government prepared to consider the advisability of allowing

leased plots in Paharganj or Karol Bagh to such of the staff of the Railway Clearing Accounts Office who wish to build their own houses?

**Mr. P. R. Rau:** (a) It has not been possible to provide funds for this purpose in the Budget for 1932-33, but the preparation of detailed plans and estimates is in hand, so that no delay may occur when money is available.

(b) Government have so far received no applications, but the suggestion will be carefully considered.

**Dr. Ziauddin Ahmad:** Are Government contemplating to send part of it to Madras? In that case the question of accommodation will not arise?

**Mr. P. R. Rau:** No, Sir.

**Dr. Ziauddin Ahmad:** Are Government contemplating to do away with the office altogether as being an expensive and unnecessary waste?

**Mr. P. R. Rau:** No; whether it is a waste or not is a matter of opinion, Sir.

#### AUCTION OF LAND IN KAROL BAGH AND PAHARGANJ FOR RESIDENTIAL QUARTERS.

994. **\*Mr. D. K. Lahiri Chaudhury** (on behalf of Mr. Goswami M. R. Puri): (a) Is it a fact that Government are considering the auction of leased plots of land for residential quarters in Karol Bagh and Paharganj?

(b) Is it also a fact that the staff of the Railway Clearing Accounts Office applied to the Nazul Officer for the grant of land in Karol Bagh or Paharganj for residential quarters as great hardship was experienced in the matter of accommodation, house rents, etc.?

(c) If so, will Government please say what steps are being taken to help the staff who have to pay high rents? Is it a fact that many times in this Assembly Government have shewn their intention to provide quarters for the staff? Is it a fact that nothing has been done in the matter so far and are Government aware that the hardships of the staff continue more so now-a-days on account of the 10 per cent. emergency cut recently imposed upon them?

(d) If it is not possible at this stage to build quarters for them, are Government prepared to consider their claims for the leased plots in Karol Bagh and Paharganj in preference to the outside public?

**Mr. P. R. Rau:** (a) and (b). I am obtaining information on the points raised and will lay a reply on the table in due course.

(c) Government regret that financial stringency has stood in the way of the building of quarters for the staff.

(d) As I have already stated, any application will receive most careful consideration.

REINTRODUCTION OF A THROUGH CARRIAGE BETWEEN LUCKNOW AND BOMBAY ON THE GREAT INDIAN PENINSULA RAILWAY.

995. \***Mr. J. Ramsay Scott:** (a) Are Government aware of the discontinuance by the Great Indian Peninsula Railway authorities, with effect from the beginning of June 1931, of the upper class through composite bogie carriage on the mail trains between Lucknow and Bombay?

(b) If the answer is in the affirmative, are Government aware of the great inconvenience caused to upper class passengers travelling between the United Provinces, and particularly Lucknow and Cawnpore, and Bombay by the discontinuance of this through service?

(c) Are Government aware that the United Provinces Advisory Committee of the Great Indian Peninsula Railway have on three occasions recommended the re-introduction of this through bogie, either permanently or at least in connection with out-going and in-coming mail and passenger steamers and that the United Provinces Government have also, on the 9th October, 1931, recommended to the Great Indian Peninsula Railway authorities the feasibility of running the through bogie composite on the Punjab mail trains during the months of March-April and October-November of each year?

(d) Are Government aware that the Jhansi-Lucknow section of the Great Indian Peninsula Railway offers the main and most direct route between Bombay and two-thirds of the United Provinces, including the important cities of Cawnpore, Lucknow and Bareilly, and are Government prepared to provide on this route the same facilities for travel as are provided on the route from Jhansi to Delhi and recommend to the Great Indian Peninsula Railway the re-introduction of the upper class through composite bogie between Bombay and Lucknow *via* this route?

**Mr. P. R. Rau:** (a) Yes.

(b) Government are aware of the inconvenience caused by the discontinuance of the through service carriage.

(c) Yes.

(d) The Agent, Great Indian Peninsula Railway, has been asked to re-examine this matter.

SUPPLY OF FILTERED WATER, LIGHTING, ETC., IN KAROL BAGH, DELHI.

996. \***Sirdar Harbang Singh Brar:** (a) Will Government please state whether the area comprising the suburbs of Delhi known as Karol Bagh is within the limit of Delhi Municipality and taxes such as house-tax and ground-tax are realised from the house owners within that area?

(b) If so, will Government please state why facilities for the supply of filtered water, roads with drains and street lighting are not provided there?

(c) Is it a fact that the Proprietors' Association, Karol Bagh, have ventilated through a memorial to the Chief Commissioner, Delhi, in December 1931, their above grievances and no action has yet been taken? When is it likely that their grievances will be redressed?

(d) As regards water supply to Karol Bagh, do Government propose to consider the advisability of a supply of water from the new reservoir which has recently been constructed close to the area of Karol Bagh?



**Mr. G. S. Bajpai:** (a) Yes.

(b) Street lighting has been provided in a large part of the area and roads are reported to be in fair condition. Drainage and water supply schemes have been worked out, but are held in abeyance on account of financial stringency.

(c) Yes. As soon as funds permit.

(d) The water-supply scheme which has been worked out provides for supply from the new reservoir.

# CONFISCATION OF THE PRIVILEGE OF INTERVIEW OF CERTAIN POLITICAL PRISONERS.

997. **\*Mr. S. C. Mitra:** Are Government aware of the fact that the privilege of interview of some C class political prisoners has been confiscated for 6 months in the Ajmer Jail? What is their number and why have they been so punished?

**Sir Evelyn Howell:** With your permission, Sir, I propose to answer questions Nos. 997, 999 to 1003 and 1005 to 1019 together. The information is being collected and will be given to the House in due course.

**Mr. Gaya Prasad Singh:** Are Government aware that there is no non-official visitor of the Ajmer Central Jail, and if there is none, why?

**Sir Evelyn Howell:** I would like to have notice of that question, please.

# INSUFFICIENCY OF CLOTHES PROVIDED FOR PRISONERS IN THE AJMER JAIL.

998. **\*Mr. S. C. Mitra:** (a) Are Government aware of the fact that in Ajmer Central Jail only one *jangia* is provided and not two as stated by Sir Evelyn Howell in reply to Mr. Gaya Prasad Singh's starred question No. 707 on March 9th, 1932?

(b) Do not Government feel that even for washing the one *jangia* the prisoners have to remain almost naked?

**Sir Evelyn Howell:** (a) "One pair of *Jangias*" means a single garment.

(b) No doubt that is so.

**Mr. S. C. Mitra:** Does the Honourable Member appreciate the situation and would he like to continue the same situation, or does he want to give two pairs of *jangias* to each?

**Sir Evelyn Howell:** I shall consider the Honourable Member's suggestion.

**Mr. Gaya Prasad Singh:** Does not the Honourable Member think that the practice is simply barbarous?

**Sir Evelyn Howell:** It is most universal, Sir, in this country.

**Mr. Gaya Prasad Singh:** Is it not monstrous that there is only a single pair of *jangias* supplied, and while that is being washed, the prisoner has to remain absolutely naked?

**Sir Evelyn Howell:** Sir, the question stated:

“Do not Government feel that even for washing the one *jangia* the prisoners have to remain almost naked?” The answer given was that no doubt that was so.

**Mr. B. Das:** May I inquire of the Honourable Member if it is the practice throughout all the jails in India to only allow one pair of *jangias* to the ordinary criminal prisoners and to allow them to remain naked while that pair is being washed?

**The Honourable Sir James Crerar:** I have studied the jail administration with great care, Sir, but I could not, in reply to a supplementary question, commit myself to what is the practice in every jail in India.

**Mr. S. C. Mitra:** Is the practice in question prevalent in all the jails in the centrally administered areas—namely, that only one single garment is supplied, and while that is being washed, the prisoner has to remain naked—or the practice is only confined to Ajmer?

**The Honourable Sir James Crerar:** I should like to avoid any possibility of giving the Honourable Member any inaccurate information. I must therefore ask for notice.

**Mr. Gaya Prasad Singh:** Do Government realize the significance of the reply of the Honourable the Foreign Secretary to this question? Is it really the position that the prisoners all over India or even in Ajmer jail have to remain naked while their single *jangia* is being washed?

**The Honourable Sir James Crerar:** I did not understand the statement of my Honourable friend to have that effect.

**Diwan Bahadur Harbilas Sarda:** Is it in order that this kind of treatment to the prisoners in the Ajmer jail may not be questioned or objected to by outsiders, that no jail visitors to Ajmer jail are appointed?

**Sir Evelyn Howell:** No, Sir.

**Mr. B. V. Jadhav:** Is it the desire of Government then to encourage the new naked cult in the prisons? (Laughter.)

#### CONFINEMENT IN A DARK CELL OF A PRISONER IN THE AJMER CENTRAL JAIL.

†999. **\*Mr. S. C. Mitra:** Is it a fact that Sjt. Narsingh Das has been kept in a dark cell in the Ajmer Central Jail? If so, why?

#### HUNGER STRIKE OF A PRISONER IN THE AJMER JAIL.

†1000. **\*Mr. S. C. Mitra:** Are Government aware of the fact that Master Lakshmi Narain has been on hunger strike since 1st March, 1932, in the Ajmer Central Jail? What are the reasons?

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\* For answer to this question, see answer to question No. 997.

**REMOVAL UNDER THE ORDINANCE OF PRIVATE MONEY BY THE AJMER POLICE.**

†1001. **\*Mr. S. C. Mitra:** Are Government aware of the fact that the Ajmer Police while searching some places for Congress moneys on 17th February, 1932, took away private moneys of the persons for whom the notice under section 3 of sub-section 7 of Ordinance No. IV of 1932 was meant and also of their family members, though the attention of the Police Officer, Sardar Ishwar Singh, was drawn and objection raised by Mr. Srilal, B.A., LL.B., Vakil, that he was not authorised to take away private moneys?

**AUCTION OF PRIVATE PROPERTY IN THE GANDHI ASHRAM AT HATUNDI.**

†1002. **\*Mr. S. C. Mitra:** (a) Is it a fact that the Gandhi Ashram, Hatundi, is a notified area?

(b) Are Government aware of the fact that the private properties of the inmates of the Ashram and the furniture of the Ashram School have also been auctioned?

**ARREST OF A SHOPKEEPER FOR FLYING THE CONGRESS FLAG.**

† 1003. **\*Mr. S. C. Mitra:** Are Government aware of the fact that the national flag was flying on the 26th January, 1932, on an open roof in Ghasity Mohalla, Ajmer and that Seth Kalyan Mal, a shopkeeper, was taken into custody, abused by the Sub-Inspector, detained the whole day, was forced to apologise and then released, though the said Kalyan Mal informed the police of his utter ignorance in this matter at the very outset?

**ALLEGATIONS ABOUT THE "DEOLI DETENUS CAMP".**

1004. **\*Mr. S. C. Mitra:** (a) How many prisoners are there at present in the Deoli detenus camp?

(b) Are Government aware that these detenus are assaulted by the staff on the slightest pretext and the Superintendent recommends kicks when they ask for medicine?

(c) Are Government aware of the fact that one Bengali gentleman, who happened to pass by the camp, was brutally assaulted to unconsciousness and that people passing by the camp are generally maltreated and molested?

(d) Is there any non-official visitor in Deoli Camp; if not, are Government prepared to appoint one now?

**The Honourable Sir James Orerar:** (a), (b) and (c). There are no detenus at present in the proposed Deoli Camp Jail which has not yet been opened. The Honourable Member will therefore realise that the allegations are without any foundation.

(d) Non-official visitors will be appointed in due course if and when the Camp Jail is opened.

**Mr. K. C. Neogy:** Will not the non-official visitors be of the usual toady class?

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†For answer to this question, see answer to question No. 997.

**Mr. Gaya Prasad Singh:** May I take it that there is not one prisoner at present confined in the Deoli jail?

**The Honourable Sir James Orerar:** There is none.

#### ARREST OF YOUNG BOYS IN AJMER.

†1005. **\*Mr. S. C. Mitra:** (a) Are Government aware of the fact that in Ajmer young boys below 16 are put under arrest and set free after having been stripped of their clothing? Will they state under which law or Ordinance all this is being done?

(b) Are Government aware of the fact that six boys under the age of 16 while making some demonstrations in the court compound of Ajmer, were arrested and summarily convicted for lurking and house trespass and flogged?

(c) Do Government intend to issue instructions to Local Governments for the discontinuance of flogging?

#### CLASSIFICATION OF PRISONERS IN THE AJMER CENTRAL JAIL.

†1006. **\*Mr. S. C. Mitra:** (a) How many political prisoners are there at present in Ajmer Central Jail and how are they classified? Why is none considered eligible for 'B' class?

(b) Do Government think that there was any mistake in the classification of political prisoners during the civil disobedience movement of 1930-1931? If not, will they state reasons why prisoners formerly classed 'A' are now awarded 'C' class, e.g., Messrs. Baijnath Mahodaya, B.A., Gopikishan, Narsinghdas, Ladhuram, Ramadevi, Bhikamsingh, Nityanand Nagar, Rishidutt Mehta, Govardhan and others?

#### CLASSIFICATION OF PRISONERS IN THE AJMER CENTRAL JAIL.

†1007. **\*Mr. S. C. Mitra:** Are Government aware of the fact that prisoners are generally classified a long time after their conviction and during this interval persons of even high academical qualifications and social status are given 'C' class treatment? Do Government propose to ask the Ajmer-Merwara administration to advise Magistrates to classify people at the time of conviction?

#### CLASSIFICATION OF PRISONERS IN THE AJMER CENTRAL JAIL.

†1008. **\*Mr. S. C. Mitra:** Will Government please state whether Mrs. Shoba Lall Gupta has been put in 'C' class in the Ajmer jail while Mr. Shoba Lall has been awarded 'A' class? If so, why?

#### STANDARD OF DIET OF "C" CLASS PRISONERS IN AJMER.

†1009. **\*Mr. S. C. Mitra:** (a) Will Government be pleased to state the reasons why there has been a change in the standard of diet allowed to 'C' class prisoners in Ajmer this year from that allowed during the civil disobedience movement last year?

(b) Is it a fact that the standard of diet last year was:—Wheat flour 12 chataks, Ghee  $\frac{1}{2}$  chatak, Dal 3 chataks, Vegetable 2 chataks, private cooking allowed and the standard of diet this year is—Half-baked Rotees and black Dal, boiled leaves of vegetables?

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†For answer to this question, see answer to question No. 997.

**CORN-GROUNDING LABOUR GIVEN TO POLITICAL PRISONERS.**

†1010. **\*Mr. S. C. Mitra:** (a) How many of the political prisoners in Ajmer were given corn-grinding labour at the outset? Is it not a fact that this is the general practice with nearly all the political prisoners for some days in the beginning?

(b) Will Government be pleased to explain the justification in giving corn-grinding labour to people like Prof. Gokul Lall, M.A., a thin man of about 80 lbs. an 'A' class prisoner, Mr. B. S. Deshpande, B.Sc. and Mr. Baij Nath Mahodaya, B.A., in the Ajmer Central Prison?

(c) Is it a fact that one political prisoner was put in a dark cell for not being able to grind full 15 seers?

**HUNGER STRIKE OF POLITICAL PRISONERS IN AJMER.**

†1011. **\*Mr. S. C. Mitra:** Is it a fact that a number of political prisoners in Ajmer Central Jail went on hunger-strike recently? What was the exact number of these hunger-strikers? What is the cause and the duration of the hunger-strike? How did it end?

**COMPLAINT ABOUT THE TREATMENT OF PRISONERS IN THE AJMER CENTRAL JAIL.**

†1012. **\*Mr. S. C. Mitra:** (a) Is it a fact that Pt. Jainarain Vyas, Secretary of the Beawar District Congress Committee, was abused by a warder in the Ajmer Central Jail and on complaint to the Jailor, the latter refused to ask the warder to apologise? Is it a fact that the Jailor himself twisted the ear of and slapped Sjt. Durga Prashad Choudhary, Captain of Provincial Volunteer Corps, and kicked and otherwise assaulted Sjt. Lal Chand a volunteer? Is it a fact that these among others were the causes of hunger-strike referred to in the preceding question?

(b) Is it a fact that water was not supplied to Mr. Vyas for two days while he was on hunger-strike and that food was not given for more than one day to all 'C' class political prisoners, although they went on only a single day's sympathetic hunger-strike?

(c) What punishments, if any, have been awarded to the hunger-strikers by the jail authorities? How many have been so punished?

**CONDITIONS OF INTERVIEWS WITH POLITICAL PRISONERS IN THE AJMER CENTRAL JAIL.**

†1013. **\*Mr. S. C. Mitra:** Are Government aware that interviews with political prisoners in the Ajmer Jail are generally allowed only on Sundays; that this practice is enforced even in the case of undertrial prisoners; that this practice is not in accordance with the Jail rules; that ladies and gentlemen have to stand in the sun outside the Jail while interviewing the political prisoners; that interviews even with 'A' class prisoners are held under similar circumstances and that it was not so last year when all political prisoners, whether in 'A' or 'C' class, were allowed interviews sitting inside the Jail? Will Government be pleased to state reasons for this change?

### ALLEGED HARASSING OF PRISONERS IN THE AJMER CENTRAL JAIL.

†1014. **\*Mr. S. C. Mitra:** Are Government aware that there is a great discontent among prisoners, their friends and relatives, against the generally humiliating autocratic harassing and differential treatment meted out by the Jailor of the Ajmer Central Jail? Is it a fact that the Jailor refused to deliver some articles of dress, toilet, books, etc., to Messrs. Shoba Lall and Haribhan, 'A' class prisoners, on the ground that he could accept articles only if similar things were brought for all 'A' class prisoners?

### RECORD OF WEIGHTS OF POLITICAL PRISONERS IN THE AJMER CENTRAL JAIL.

†1015. **\*Mr. S. C. Mitra:** (a) Will Government be pleased to place on the table the record of the weights of all the political prisoners in the Ajmer Central Jail?

(b) Is it a fact that Messrs. Baij Nath Mahodaya, B. S. Deshpande, Bhikam Singh and some more have lost 10 to 15 lbs. of weight?

### DISALLOWANCE OF A RELIGIOUS BOOK TO A PRISONER IN THE AJMER CENTRAL JAIL.

†1016. **\*Mr. S. C. Mitra:** Are Government aware of the fact that even a religious book like *Atharwa Waid* was disallowed to prisoner Gopikishan in the Ajmer Central Jail and no reason was assigned for this?

### PROVISION OF A NON-OFFICIAL VISITOR FOR THE AJMER CENTRAL JAIL.

†1017. **\*Mr. S. C. Mitra:** Is there a non-official visitor for Ajmer Central Jail? If not, why not? Do Government propose to appoint one now?

### LACK OF SOAP AND OIL IN THE AJMER CENTRAL JAIL.

†1018. **\*Mr. S. C. Mitra:** Is it a fact that washing soap and oil are not allowed even to lady prisoners in the Ajmer Central Jail?

### ALLEGED OBJECTIONABLE METHODS IN SEARCH FOR CONGRESS FUNDS ADOPTED BY THE POLICE INSPECTOR, AJMER.

†1019. **\*Mr. S. C. Mitra:** (a) Do Government know that during searches for Congress money Sardar Ishwar Singh, Police Inspector, Ajmer, put altogether impertinent and unnecessary questions even to the ladies, and searched even household utensils, glass phials, clothing, empty match boxes, etc., and that the Police took away private money for which they were not authorised by warrants? Do Government propose to hold an enquiry into the matter?

(b) Will Government please state why the account books current and old of some firms taken away during the searches, have not been returned even up to this time, though about a month has passed since they were taken away?

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†For answer to this question, see answer to question No. 997.

**CLOTHING ALLOWANCE OF BRITISH AND INDIAN TROOPS.**

**1020. \*Mr. B. Das:** (a) What was the total amount of clothing allowance paid for the year 1930-31.

- (i) to British troops;
- (ii) to Indian troops;
- (iii) to the British soldiers; and
- (iv) to the Indian soldiers?

(b) What proportion of the sum so paid is in respect of actual clothing and what proportion in respect of cleaning materials, repairs and other similar heads?

(c) Is it a fact that troops are under obligation to purchase all regulation items of clothing through the Quartermaster's store of the unit to which they belong?

(d) How much of the amount paid as clothing allowance is received back by Government through the Quartermaster's stores?

(e) What becomes of the balance allotted for purchase of regulation items of clothing? Is this balance retained by the soldier?

(f) Will the Army Secretary lay on the table a copy of the regulations covering the payment of clothing allowance and a complete statement showing how this balance is spent?

**Mr. G. M. Young:** (a) (i) Rs. 55,43,000.

(ii) Rs. 50,80,000.

(iii) Rs. 95-4-0, a year.

(iv) Rs. 29-4-0, a year.

(b) The proportions are 62·8 per cent. and 37·2 per cent. in the case of a British soldier, and 82 per cent. and 18 per cent. in the case of an Indian soldier.

(c) Yes.

(d) 41·6 per cent. of the total allowance or 55·5 per cent. of that part of the allowance which is meant for the up-keep of authorised clothing and necessaries.

(e) The balance is retained by the soldier.

(f) The Honourable Member is referred to paragraphs 150 to 201 of the Clothing Regulations, India, and Army Instructions (India) No. B.97 of 1929, Nos. 39 and 46 of 1930 and No. 110 of 1931. If the Honourable Member wishes to know the scales on which the soldier is required to maintain personal clothing and necessaries, I would refer him to pages 119 to 152 of the Clothing Regulations. If however he wishes to know how each soldier spends that portion of his allowance which he does not spend in the Quartermaster's store, I am afraid that the information is unobtainable.

**RECRUITMENT OF PUNJABI MUSSALMANS TO GUARD ARMY HEADQUARTERS.**

**1021. \*Sardar G. N. Mujumdar:** (a) Is it a fact that fourteen Punjabi Mussalmans have been recruited to guard the Army Headquarters in New Delhi and Simla?

(b) What was the reason for their recruitment? Has there occurred any special necessity for doing so after the Great War?

(c) What extra expenditure has been caused to Government through this? From what Grant are they paid and what is the amount that each recruit receives?

(d) Are Government aware that many frictions have occurred between these gate-keepers and the Army Headquarters staff?

(e) Do Government propose to dispense with their services? If not, why not?

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

(b) To prevent the entry of unauthorised persons into Army Headquarters. The reply to the last portion is in the affirmative.

(c) The additional expenditure amounts to about Rs. 4,840 per annum. The gate keepers are paid from the Army Estimates at the following rate:

One Non-Commissioned Officer-in-Charge—Rs. 30-8-0 per mensem:  
Remainder—Rs. 25-8-0 per mensem.

(d) No, Sir.

(e) No, Sir, for the reason stated in the reply to part (b).

#### BARBED WIRE FENCE ROUND THE OFFICE OF THE QUARTERMASTER GENERAL IN SIMLA.

1022. \***Sardar G. N. Mujumdar:** (a) Is it a fact that the offices of the Quartermaster General in India in Simla, have been fenced with barbed wire entanglements after the recruitment of the gate-keepers? What was the amount spent on them?

(b) Why was this entanglement not considered during the Great War and what special reason is there for it during normal times?

(c) Is it a fact that the building in which His Excellency the Commander-in-Chief has his office has not yet been similarly fenced? If so, will Government be pleased to state why the building in which the Quartermaster General in India works has been fenced?

(d) What is the necessity for this fence when ex-soldiers picket the Quartermaster General's Branch?

(e) Do Government propose to remove the barbed wire fencing? If not, why not?

**Mr. G. M. Young:** (a) Yes; the amount spent was Rs. 2,230.

(b) To prevent the entry of unauthorised persons into Army Headquarters.

(c) Barbed wire fencing is not necessary in the building referred to, as it is already protected by barriers and gates.

(d) The gatekeepers are stationed at the open gates. The object of the fencing is to prevent unauthorised persons entering the building at other points.

(e) No, Sir, for the reasons given in my reply to part (d) of this question.



AYURVEDIC DISPENSARIES IN DELHI AND LACK OF SIKH HAKIMS OR VAIDS.

1023. \***Sardar Sant Singh:** (a) Is it a fact that there are 2 *Unani* and 3 *Ayurvedic* Dispensaries at Delhi and New Delhi run by the Delhi and New Delhi Municipalities? If so, in which localities and when were they opened?

(b) Is it also a fact that there is no Sikh *Hakim* or *Vaid* working in any of these dispensaries? If so, who are the gentlemen employed in these dispensaries and what are their qualifications, pay and other allowances?

(c) Is there any likelihood of there being any addition in the establishment of the *Hakims* or *Vaids* in the near future or in 1932 under any of these Municipalities? If so, under what categories and when?

(d) If the reply to part (c) be in the affirmative, are Government prepared to order the recruitment of a Sikh *Hakim* in the next vacancy? If not, why not?

**Mr. G. S. Bajpai:** (a) Yes. A statement showing where these dispensaries are located and when they were opened, is laid on the table.

(b) Yes. A statement giving the rest of the information asked for by the Honourable Member is also laid on the table.

(c) and (d). A *Hakim* will be required for the new *Unani* dispensary which is to be opened in New Delhi during the next financial year. Applications have been invited and the claims of Sikh candidates will be duly considered with others when a selection is made.

*Statement referred to in reply to part (a) of starred question No. 1023.*

	Opened.
Unani dispensary at Chandni Mahal, Delhi . . . .	1925-26
Ayurvedic dispensary at Nai Sarak, Delhi . . . .	1925-26
Unani dispensary at Sabzimandi, Delhi . . . .	1927-28
Ayurvedic dispensary at Ajmeri Gate, Delhi . . . .	1928-29
Ayurvedic dispensary at Gol Market at New Delhi . . . .	1930

*Statement referred to in reply to part (b) of starred question No. 1023.*

There are seven *Vaids* and *Hakims* employed in the dispensaries, five *Hindus* and two *Muhammadans*. Four are in the grade of Rs. 70—4—100 p. m., with free quarters, two in the grade of Rs. 40—3—70 p. m. and one on a pay of Rs. 50 p. m. As regards qualifications, excepting the *Vaid* in charge of the *Ayurvedic* dispensary at New Delhi who has passed the *Ayurvedicharya* examination of the All-India *Ayurvaid*s Maha Mandal and *Vidya Pith* of Madras in 1925 and is a graduate in Medicine of the Gurukul Medical College, Gurukul University, Hardwar, all of them fulfil the conditions laid down by rules framed by the Local Administration.

INCREASE OF PERCENTAGE AFTER RETRENCHMENT OF HINDUS IN THE  
ARCHÆOLOGICAL DEPARTMENT.

1024. \***Haji Chaudhury Muhammad Ismail Khan** (on behalf of Mr. M. Maswood Ahmad): (a) Will Government kindly state the percentage of the Hindu, Muslim, and European Officers in the Archæological Department, Class I, before and after retrenchment?

(b) Is it a fact that the percentage of the Hindu officers has considerably increased as compared with that of the Muslims?

(c) Is it a fact that while European and Muslim officers of six or seven years' service have been retrenched a Hindu officer has been appointed only in July last? If so, how do Government justify his appointment?

**Mr. G. S. Bajpai:** (a) A statement giving the information required is laid on the table.

(b) Only slightly owing to decrease in the European strength of the Department.

(c) Yes; this officer has been retained in view of his special technical qualifications.

*Statement showing the percentages of Hindu, Muslim and European officers in the Archaeological Survey of India before and after retrenchment.*

*Before retrenchment.*

Hindus.	Muslims.	Europeans.
52.4	28.6	14.3

*After retrenchment.*

57.9	31.5	5.3
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**NEW APPOINTMENTS IN THE INCOME-TAX DEPARTMENT IN THE PUNJAB, NORTH-WEST FRONTIER PROVINCE AND DELHI.**

1025. **\*Khan Bahadur Haji Wajihuddin:** Will Government please lay on the table a statement showing the number of the following appointments made in the Income Tax Department, Punjab, North-West Frontier and Delhi Provinces, in connection with the sur-charge and lowering of taxable limit from Rs. 2,000 to Rs. 1,000?

Name of Appointment.	Total No. employed.	Muslims.
Income-tax Officers . . . .		
Inspectors . . . . .		
Head Clerks . . . . .		
Head Assistants . . . . .		
Assistant Clerks . . . . .		

**The Honourable Sir George Schuster:** The information is being obtained and will be laid on the table in due course.

**EMPLOYMENT OF MUSLIMS IN THE INCOME-TAX DEPARTMENT.**

1026. **\*Khan Bahadur Haji Wajihuddin:** (a) Will Government please give a detail of the assistant clerks employed for surcharge and ordinary work, and for Income Tax Officers?

(b) Is it a fact that most of the Muslims have been employed specifically for surcharge work and that all of them will be turned out in March?

(c) If so, are Government prepared to consider the advisability of retaining the Muslims in such a number as to remove the previous inadequacy in the representation of Muslims in the Income Tax Department?

**The Honourable Sir George Schuster:** Certain information is being obtained and a reply will be laid on the table in due course.

**DISPOSAL OF ESTABLISHMENT CASES IN THE INCOME-TAX DEPARTMENT  
IN THE PUNJAB, NORTH-WEST FRONTIER PROVINCE AND DELHI.**

**1027. \*Khan Bahadur Haji Wajihuddin:** Is it a fact that all the establishment cases in the Income Tax Department are dealt with by a non-gazetted Superintendent in preference to a gazetted Personal Assistant to the Commissioner in the Provinces of Punjab, North-West Frontier and Delhi? If so, are Government prepared to consider the advisability of assigning the whole or part of the establishment work to the gazetted officer?

**The Honourable Sir George Schuster:** Establishment cases, like other files, are submitted to the Commissioner of Income-tax, Punjab, North-West Frontier Province and Delhi by a Superintendent who is a non-Gazetted officer since there is no regular Gazetted Personal Assistant. They are dealt with by the Commissioner himself.

The Government are not prepared to interfere with the Commissioner's discretion as to the distribution of work in his office.

**APPOINTMENT OF A MUSLIM AS ASSISTANT COMMISSIONER OF INCOME-TAX.**

**1028. \*Khan Bahadur Haji Wajihuddin:** Is it a fact that Government have never appointed a Muslim Assistant Commissioner so far? If so, do they propose to give the next appointment to a Muslim?

**The Honourable Sir George Schuster:** I presume that the Honourable Member's question relates to the Punjab, North-West Frontier Province and Delhi. No Mussalman has hitherto been appointed as Assistant Commissioner in these Provinces. It is not likely that any early vacancy will occur, and I cannot foretell what promotion will be made when it does occur. I can only say that promotions must, according to the Government's settled practice, be regulated primarily with reference to the qualifications and claims of individual officers and the interests of efficiency rather than by communal qualification.

**APPOINTMENT OF A MUSLIM AS COMMISSIONER OF INCOME-TAX IN THE  
PUNJAB, NORTH-WEST FRONTIER PROVINCE AND DELHI.**

**1029. \*Khan Bahadur Haji Wajihuddin:** Is it a fact that the post of the Income Tax Commissioner in the Punjab, North-West Frontier and Delhi is reserved for an I. C. S. officer?

(b) If so, are Government prepared to consider the advisability of appointing a Muslim I. C. S. officer to that post?

**The Honourable Sir George Schuster:** (a) The post of Commissioner of Income-tax is not reserved for the I. C. S. At present three Income-tax Commissionerships are held by officers who are not members of the

I. C. S., including the post of Commissioner, Punjab, North-West Frontier Province and Delhi to which the Honourable Member refers.

(b) The aim of the Government is to fill these Commissionerships by promotion within the Department as far as possible and such promotion is not regulated by communal considerations. I might mention as a matter of interest that, of the two Indians who at present hold posts as Commissioners of Income-tax, one is a Mussalman and the other a Parsi. So far as can be foreseen no vacancy in the appointment of Commissioner of Income-tax, Punjab, North-West Frontier Province and Delhi is likely to occur in the near future.

#### BYE-LAWS FOR SWEETMEAT SHOPS AND MEAT SHOPS IN DELHI.

1030. \***Bhai Parma Nand:** (a) Is it a fact that the Health Officer of Delhi City Municipality, considering the insanitary state of meat shops in Delhi, framed certain bye-laws about six years ago for their better supervision?

(b) Is it a fact that the Health Officer originally did not think it necessary to frame bye-laws for sweetmeat shops, but later on he did so?

(c) Is it a fact that these bye-laws were unanimously passed by the Executive Committee but were not confirmed at the ordinary meeting for a very long time?

(d) Is it a fact that when these were passed, no Christian member was present in the committee?

(e) Is it a fact that these bye-laws were unanimously passed?

(f) Is it a fact that the Health Officer considered the framing of bye-laws as urgent in the case of meat shops but not in the case of sweetmeat shops?

(g) Is it a fact that the Local Government have given their approval to the sweetmeat shops bye-laws but withheld their approval for the meat shop bye-laws?

(h) Is it a fact that almost all the meat shops are owned by the Muslims and most of the sweetmeat shops by Hindus?

(i) If the reply to parts (e) and (f) is in the affirmative, will Government be pleased to state the reasons that led the Honourable Chief Commissioner to make this distinction?

**Mr. G. S. Bajpai:** Material for answering the question is being collected, and the information asked for by the Honourable Member will be laid on the table in due course.

#### PREVIOUS SERVICE OF MR. MONOHAR LAL, NOW IN THE OFFICE OF THE DIRECTOR OF ORDNANCES (PROVISION).

1031. \***Mr. B. N. Misra** (a) With reference to part (b) of the reply to unstarred question No. 133, dated the 7th March, 1932, is it a fact that Mr. Manohar Lal was not recruited from the Ferozepore Arsenal for service in the office of the Assistant Director of Ordnance Services (Provision)?

(b) Is it a fact that prior to transfer to his present office Mr. Manohar Lal was serving as Assistant Cashier of the Quartermaster General's Branch which he entered some 12 years ago?

(c) If the answers to parts (a) and (b) above be in the affirmative, will Government please say how they reconcile the two facts as explained by them in parts (a) and (b) of the answer given on the 7th March, 1932?

**Mr. G. M. Young:** (a) Mr. Manohar Lall was recruited from the Ferozepore Arsenal in 1920, for service in the office of the Director of Ordnance Services, which then included the present office of the Assistant Director of Ordnance Services (Provision).

(b) Yes. Mr. Manohar Lall was employed as an Assistant Cashier in the Quartermaster General's Branch from the 1st April 1924 to the 31st March 1929.

(c) Mr. Manohar Lall was originally recruited from an arsenal. Moreover, the orders at present in force were issued in October, 1929, and had reference to future recruitment only, and not to promotion.

**PREVIOUS SERVICE OF MR. MONOHAR LAL, NOW IN THE OFFICE OF THE DIRECTOR OF ORDNANCES (PROVISION).**

1032. **\*Mr. B. N. Misra:** (a) With reference to parts (b) and (c) of the reply to unstarred question No. 135, dated 7th March, 1932, is it a fact that until the date of his latest promotion to the upper-time scale, Mr. Monohar Lal was carrying the Cashier's allowance with him, the amount, having been merged into his lower-time scale assistant's pay?

(b) If the answer to part (a) above be in the affirmative, how do Government reconcile the discrepancy between the answer given on the 7th March, 1932, and that now given?

**Mr. G. M. Young:** (a) and (b). The Cashier's allowance was merged into Mr. Manohar Lall's initial pay in the 1st Division as a personal allowance to be absorbed by subsequent increments, in order to protect him against a reduction in his emoluments on promotion, and not in consideration of his performing the duties of a Cashier in addition to other duties.

**RETRENCHMENT OF THE APPOINTMENTS IN ARSENALS OF CERTAIN MEN BROUGHT FROM ARSENALS TO ARMY HEADQUARTERS.**

1033. **\*Mr. B. N. Misra:** (a) With reference to parts (a) and (b) of the reply to unstarred question No. 137, will Government please state the number of men on lower rates of pay who have been brought up from arsenals to replace the six Army Headquarters clerks?

(b) In view of the fact that they have not been replaced on the arsenal establishments, will Government please say whether these men were not surplus to the requirements of the arsenals from which they have come?

(c) Having regard to the crying need for retrenchment everywhere, do Government propose to consider the possibility of reducing the number of men in the arsenals by six?

(d) Is it a fact that the saving effected by reducing the six Army Headquarters clerical appointments is being utilized to finance the two posts of Superintendents now created temporarily, and that the reduction of the six clerks bears no connexion with the lower paid arsenal clerks?

**Mr. G. M. Young:** (a) Nine clerks have been brought up from arsenals temporarily, not to replace the six Army Headquarters clerks, whose appointments were abolished, but to assist in the introduction of a new procedure for the control of stores.

(b) They were not surplus to requirements in arsenals, from which they have been temporarily spared in order to carry out urgent reorganisation work at Army Headquarters.

(c) The matter will be considered when the reorganisation work at Army Headquarters has been completed.

(d) Yes.

#### DUTIES OF MEN PROMOTED IN THE OFFICE OF THE ASSISTANT DIRECTOR OF ORDNANCE SERVICES (PROVISION).

1034. **\*Mr. B. N. Misra:** Is it a fact that the duties of the men who have been lately promoted Superintendents and upper-time scale assistants in the office of the Assistant Director of Ordnance Services (Provision), Army Headquarters, have undergone no change?

**Mr. G. M. Young:** There has been no change in the duties of assistants who were formerly employed as Superintendents and have now been graded as such, but the duties of assistants promoted to the upper time scale have increased.

#### PROMOTION OF A CASHIER IN THE OFFICE OF THE ASSISTANT DIRECTOR OF ORDNANCE SERVICES (PROVISION).

1035. **\*Mr. B. N. Misra:** Is it a fact that a Cashier has been promoted to the upper-time scale in the office of the Assistant Director of Ordnance Services (Provision) and are Government prepared to instruct all their offices that there is no bar against a cashier rising to a superintendentship?

**Mr. G. M. Young:** No, Sir. The assistant after promotion was not employed solely as a cashier, but combined that with various other duties. The latter part of the question does not therefore arise.

#### THEFT BY BRITISH SOLDIERS IN THE BAREILLY BRITISH INFANTRY BAZAR.

1036. **\*Mr. K. P. Thampan:** (a) Will Government be pleased to state whether it is a fact that a dacoity was committed by the British soldiers on the 24th December, 1930, at Bareilly British Infantry Bazar and the Sessions Judge at Bareilly convicted some of the soldiers with imprisonments ranging from 3 years to 3 months?

(b) Is it a fact that though the matter was reported to the military authorities at Bareilly the next morning after the occurrence and they were satisfied (by the discovery of some of the lost articles in the box of one of the soldiers and by the identification of the bed irons left behind in the shops as belonging to the barracks) that the soldiers had something to do with the dacoity the military authorities refused to allow the Civil Police to make a search of the barracks till after the expiry of 2 weeks?

(c) Was any departmental enquiry made by the Officer Commanding or any other military authority on the part played by the soldiers in this dacoity and were any of the soldiers other than those convicted by the Sessions Judge of Bareilly dealt with departmentally?

(d) Is it a fact that at the hearing of the case at the Session Court the more serious charges such as committing dacoity and being in possession of articles stolen in a dacoity were not pressed and the indictment was for minor offences of theft, etc.?

(e) Will Government state whether they have perused the judgment of the Sessions Judge at Bareilly (Trial No. 3 of 1931) and the connected papers and considered the question as to whether condign punishment has been meted out to the offenders?

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

(b) No, Sir. A search was carried out in the lines of the 1st Battalion, The Duke of Cornwall's Light Infantry, in the presence of civil police officials, on the day following that of the dacoity.

(c) A military Court of Enquiry was held on the 29th December. The enquiry proved abortive, as civilian witnesses failed to identify any of the soldiers. The case was then handed over to the Civil Police.

(d) No, Sir.

(e) Government have read the judgment, and see no reason to question it.

COMPENSATION FOR THEFT BY BRITISH SOLDIERS IN THE BRITISH INFANTRY BAZAR, BAREILLY.

1037. **\*Mr. K. P. Thampan:** Will Government be pleased to state:

(a) whether they received any memorials from some of the shopkeepers at Bareilly British Infantry Bazar, praying that they may be compensated for the loss suffered by them in the dacoity committed by the British soldiers on the 24th of December, 1930, and their petitions were rejected;

(b) whether Government have been giving any compensation to the sufferers in cases of such excesses committed by the soldiers; and

(c) whether they are prepared to consider the desirability of doing something to allay the discontent?

**Mr. G. M. Young:** (a) Petitions have been received at Army Headquarters.

(b) No.

(c) Government are not liable to pay compensation in such cases, nor is it their practice to do so.

**Mr. K. P. Thampan:** May I know whether the Government have consulted their legal advisers and made sure that there is no legal obligation to make good the losses sustained by these people in this dacoity?

**Mr. G. M. Young:** The answer is in the negative.

CONSTRUCTION OF A ROMAN CATHOLIC CHURCH AT MINGALADON CANTONMENT.

1038. **\*Sirdar Sohan Singh** (on behalf of Mr. Jehangir K. Munshi): (a) Will Government be pleased to state whether the plans and estimates of the Mingaladon Cantonment Roman Catholic church have been completed and sanctioned?

(b) Are Government prepared to take necessary steps and issue necessary instructions for the early completion of the church?

(c) Will Government be pleased to state when they expect the church to be available for the British troops in the Mingaladon Cantonment?

**The Honourable Sir George Rainy:** (a) A plan and a preliminary estimate relating to the project were received, but have recently been returned to the Local Government for further scrutiny in certain respects.

(b) and (c). I am afraid it is not at present possible to say when the church can be built. Owing to the existing financial stringency, Government have been compelled to postpone expenditure on all new civil major works.

#### RACIAL DISCRIMINATION BY THE BRITISH INDIA STEAM NAVIGATION CO. IN DISEMBARKING PASSENGERS.

1039. **\*Sirdar Sohan Singh** (on behalf of Mr. Jehangir K. Munshi): (a) Is it a fact that the British India Steam Navigation Co., Ltd., issue "Debarkation Passes" at Rangoon and Calcutta to Asiatic passengers and not to European and American passengers?

(b) Is it a fact that European and American passengers are allowed to disembark and pass through the gate at Rangoon and Calcutta without any "Debarkation Pass"?

(c) Is it a fact that Asiatic passengers—even first and second class Asiatic passengers—are not allowed to disembark and pass through the gate at Rangoon and Calcutta without being called upon to produce the "Debarkation Passes" issued by the British India Steam Navigation Co., Ltd.?

(d) What is the object of the British India Steam Navigation Co., Ltd., in observing this racial discrimination and in imposing this restraint on Asiatic passengers?

(e) Are the Government of India prepared to issue necessary orders to stop this practice?

**The Honourable Sir George Rainy:** The Government of India are not in possession of the information asked for. Enquiries are, however, being made from the local authorities, and on receipt of the information, a reply will be laid on the table of the House.

#### ALLEGED RACIAL DISCRIMINATION IN THE MEDICAL EXAMINATION OF LADY PASSENGERS EMBARKING AT CALCUTTA FOR RANGOON.

1040. **\*Sirdar Sohan Singh** (on behalf of Mr. Jehangir K. Munshi): (a) Is it a fact that first and second class European and American lady passengers are allowed to embark at Calcutta for Rangoon without any medical examination and without being passed by the Calcutta Port Health Officer or his Assistants?

(b) Is it a fact that first and second class Asiatic lady passengers are not allowed to embark at Calcutta for Rangoon without medical examination or without being passed by the Calcutta Port Health Officer or his Assistants?



(c) What is the object of the Calcutta Port authorities in observing this racial discrimination?

(d) Are the Government of India prepared to issue necessary orders to stop this practice?

**Sir Frank Noyce:** The information asked for by the Honourable Member is being obtained and will be furnished to the House in due course.

**DISTINCTION BETWEEN LIGHT AND HEAVY "LATHI" CHARGES.**

1041. **\*Sirdar Sohan Singh** (on behalf of Mr. Jehangir K. Munshi):

(a) Will Government be pleased to explain the distinction between a "light lathi" charge and a "heavy lathi" charge?

(b) Have the Government of India prescribed, by any official circular or instructions issued to any of the local Governments, what kind of "lathies" are to be used by the Police in charging or dispersing crowds?

**The Honourable Sir James Crerar:** (a) The answer would depend on the context in which these phrases were used. The reference might be to the measures of force it was necessary to use, or to the kind of lathis used.

(b) No. This is a matter entirely within the competence of the Local Governments.

**Mr. Gaya Prasad Singh:** Will the Honourable Member give a physical demonstration on the floor of this House as to what a light lathi charge is as distinguished from a heavy lathi charge? (Laughter.)

**Dr. Ziauddin Ahmad:** Not on the Members of the Assembly.

**SUBJECTION OF WOMEN TO LATHI CHARGES.**

1042. **\*Sirdar Sohan Singh** (on behalf of Mr. Jehangir K. Munshi):

(a) Are the Government of India in a position to cite the case of any civilised Government which has subjected women to "lathi charges"?

(b) Are the Government of India aware of the intensity of public opinion and feeling on this question?

(c) Are the Government of India prepared to reconsider and revise the present policy and practice of subjecting women to "lathi charges"?

**The Honourable Sir James Crerar:** (a), (b) and (c). I must protest strongly against the suggestion contained in the Honourable Member's question that it is either the policy or the practice of the Government of India or of Local Governments to subject women to lathi charges which is entirely without foundation.

In the dispersal of unlawful assemblies, care is taken, where this is possible, to separate women if they are present, before the dispersal is made and it is always a matter for regret when women are injured as the result of a dispersal.

I would suggest to the Honourable Member that he would better serve his purpose if he used his influence against the participation of women in unlawful assemblies, instead of making charges by innuendo which are totally unfounded.

## NUMBER OF WOMEN ARRESTED AND IMPRISONED FOR POLITICAL OFFENCES.

1043. **\*Sirdar Sohan Singh** (on behalf of Mr. Jehangir K. Munshi): Will Government be pleased to state how many women have been (a) arrested, and (b) imprisoned throughout India during the past three months either in connection with the civil disobedience movement or for alleged offences under any of the Ordinances?

**The Honourable Sir James Crerar:** I have no information in regard to arrests. The information at my disposal shows that 1,481 women were convicted in connection with the civil disobedience movement up to the end of February 1932.

## EXPENDITURE FROM CENTRAL REVENUES ON PROVINCIAL SUBJECTS.

1044. **\*Mr. B. Das:** With reference to the following observations of the Indian Statutory Commission (para. 189, page 155, Simon Report, Vol. II):

"The view is authoritatively held in India on the construction of the present Devolution Rules, that it is not permissible to incur expenditure from central revenues on provincial subjects or to make assignments from central to provincial revenues for expenditure on a provincial subject."

will Government be pleased to lay on the table a statement of their views which they supplied to the Statutory Commission?

**The Honourable Sir George Schuster:** The attention of the Honourable Member is invited to paragraph 86 of the memorandum on Financial Relations between the Government of India and the Provincial Governments—Parts C to J—submitted to the Indian Statutory Commission, a copy of which will be found in the Library of the House.

## EXPENDITURE FROM CENTRAL REVENUES ON PROVINCIAL SUBJECTS.

1045. **\*Mr. B. Das:** With reference to the conclusions of sub-paragraph of paragraph 189, page 155, Simon Report, Vol. II stating as follows:

"But we are strongly of opinion that so rigid a division between expenditure on central and provincial subjects should be modified. We recommend that it should be rendered constitutionally possible under suitable restrictions to assist provincial objects from central funds and *vice versa* " :

(a) What action have Government taken so far on the abovementioned recommendation and what steps they are taking to amend the constitution to make such financial assistance possible?

(b) Will Government be pleased to state the drafts in the Devolution Rules they contemplate?

**The Honourable Sir George Schuster:** Pending the future constitutional changes the Government of India do not propose to take any action on the recommendation of the Indian Statutory Commission.

**Mr. B. Das:** May I enquire if the Federal Finance Committee had gone into this aspect of the question, and if the Government of India laid their views on this matter before the Committee?

**The Honourable Sir George Schuster:** In answer to the first part of the question, I have no means of ascertaining whether the Federal Finance

Committee are going to deal with that question. As regards the second part, the Government of India, so far as I know, have not been asked by that Committee to give any expression of their views about that question.

**Mr. N. M. Joshi:** What measures do Government propose to take to get this rule changed?

**Mr. Arthur Moore:** Is it not a fact that the report of the Federal Finance Committee has been signed?

**The Honourable Sir George Schuster:** In a newspaper for which my Honourable friend is himself responsible, I have had a statement that the report has been signed.

**Sir Cowasji Jahangir:** Does the Honourable Member's answer imply that the Government of India gave no evidence before the Federal Finance Committee?

**The Honourable Sir George Schuster:** No, Sir.

**Sir Cowasji Jahangir:** Does the Honourable Member imply that on this particular subject the Government of India gave no assistance to the Committee?

**The Honourable Sir George Schuster:** If my Honourable friend will read the question he will find that it refers to certain specific recommendations made by the Indian Statutory Commission. My answer to my Honourable friend's supplementary question was that, so far as I was aware, no representative of the Government of India had been asked by the Federal Finance Committee to express any opinion on this particular recommendation of the Statutory Commission.

#### SUBVENTION GRANTED TO THE NORTH-WEST FRONTIER PROVINCE.

1046. **\*Mr. B. Das:** (a) Will Government be pleased to state if it is not a fact that they have granted the subvention of one crore of rupees to the North-West Frontier Province for three years?

(b) Do Government contemplate to provide in the Government of India Act, 1921, by amending Devolution Rules for this subvention?

(c) Do Government contemplate to amend the Devolution Rules to apply only to the North-West Frontier Province or will the amendment be general and include all new provinces?

**The Honourable Sir George Schuster:** (a) I would refer the Honourable Member to the statement which I made in my Budget speech on March 7th.

(b) The Devolution Rules are, with the approval of the Secretary of State in Council, being amended for this purpose.

(c) An amendment to the existing Devolution Rules to validate the payment to the North-West Frontier Province only is all that is now contemplated.

## DEFICIT SHOWN BY THE SIND COMMITTEE.

1047. **\*Mr. B. Das:** Is it not a fact that the Sind Committee has shewn a deficit of more than one crore of rupees?

**The Honourable Sir George Schuster:** Yes

## GRANT OF FINANCIAL AID TO PROVINCES.

1048. **\*Mr. B. Das:** (a) Will Government be pleased to state if they have given any financial aid to any provinces since the new reforms besides the relief given by remission of provincial contributions?

(b) Did any of the provinces at any time ask for any special financial aid from Central revenues since 1921 and what are the reasons advanced to refuse such financial assistance?

(c) Will Government be pleased to lay on the table all correspondence between Provincial Governments and the Central Government on the subject of financial grants asked in the past since 1921 and also all papers asking for a revision of financial relations?

**The Honourable Sir George Schuster:** (a) In certain cases the position of Provincial Governments has been improved, for example, by the amendment of Devolution Rule 15.

(b) Certain provinces have from time to time complained against the financial arrangements known as the Meston Settlement and incorporated *inter alia* in the Devolution Rules. The Government of India have in general refused to reopen the question of the Meston Settlement, partly in view of the constitutional review provided for in the Government of India Act and at present being undertaken.

(c) The Government think that no useful purpose would be served by collecting all such correspondence at this stage. All Provincial Governments have had an opportunity of making representations as to their financial position on the occasion of the investigation by the Simon Commission and recently again in the memoranda submitted to the Federal Finance Sub-Committee of the Round Table Conference.

**Mr. B. Das:** May I enquire if the Government of India have knowledge of the demand of the various Provincial Governments that the present financial distribution is inadequate for the provinces and that it should be readjusted?

**The Honourable Sir George Schuster:** I have already answered that in my answer to part (b) of my Honourable friend's question.

**Mr. B. Das:** May I enquire what is the intention of the Government of India, whether they are willing to concede the insistent demand of the provinces to give them more financial assistance?

**The Honourable Sir George Schuster:** I am afraid I cannot answer that question at present. My Honourable friend knows if he remembers my Budget speech, that I gave that as one of the questions which the Government of India will have to consider during this year. My Honourable friend is also aware that in the present financial and constitutional position, it will be extremely difficult to take any action on those lines.

ALLOCATION OF SEATS IN THE LEGISLATIVE ASSEMBLY AND COUNCIL OF STATE TO THE NORTH-WEST FRONTIER PROVINCE.

1049. **\*Mr. B. Das:** (a) With reference to my starred questions Nos. 205 and 206 answered on the 10th February, 1932, will Government be pleased to state if they have reached conclusions on the report of the Chief Commissioner of the North-West Frontier Province regarding the number of seats to be allocated to the North-West Frontier Province in the Assembly and Council of State?

(b) If so, what are the numbers allotted and on what principles have these been allotted?

(c) Will Government be pleased to reply categorically to the points raised in my questions Nos. 205 and 206?

**The Honourable Sir George Rainy:** (a) No, Sir.

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

**Mr. B. Das:** Do I understand that the Government of India wish to take a decision in this matter after the Legislative Assembly adjourns so that no short notice question may be asked on the floor of the House?

**The Honourable Sir George Rainy:** I am quite sure that that motive is not present in the mind of the Government of India.

**Mr. Gaya Prasad Singh:** But the result would be the same.

**Mr. B. Das:** Do I need to draw the attention of the Honourable the Leader of the House to the fact that the statement in the Press was in contravention of the practice in the different provinces, and whatever might be the recommendations of the Chief Commissioner of the North West Frontier Province, the Government of India ought to take the House into their confidence? Will the Government of India bring forward a motion when they are going to alter the present electoral rules in order to take the view of the House whether four Members should sit in this Assembly representing the North-West Frontier Province?

**The Honourable Sir George Rainy:** I can give no undertaking to that effect.

**Dr. Ziauddin Ahmad:** Will the Government please follow the practice of Berar and have the election first, and afterwards get the elected candidates nominated by the Government till such time that the rules are amended?

**The Honourable Sir George Rainy:** I do not know why the Government of India should follow the example of Berar, considering that the North-West Frontier Province is part of British India and Berar is not.

**Mr. Gaya Prasad Singh:** Do Government propose to consult this House with regard to the numerical strength of Members from the North-West Frontier Province in this House?

**The Honourable Sir George Rainy:** I cannot promise that it will be possible to do so before the conclusion of this session.

### CANDIDATES GRANTED SCHOLARSHIPS FOR TRAINING IN MARINE ENGINEERING.

1050. **\*Mr. B. Das:** Will Government be pleased to state the names of the candidates to whom scholarships for receiving training in Marine Engineering in England were granted during the years 1930 and 1931, and also to give an account of the progress made by them?

**The Honourable Sir George Rainy:** Marine Engineering State scholarships were awarded to Messrs. Braham Swarup Sud, D. A. Moghe and Qamarud Din Ahmad in 1930 and to Messrs. Balkrishna Gupta, Mohd. Ibrahim Kidwai and W. K. Katre in 1931. The only report so far received is in respect of the batch of scholars sent in 1930, and this report states that the work and progress of the scholars have been satisfactory.

### SCHOLARSHIPS GRANTED FOR THE TRAINING OF INDIANS IN MARINE ENGINEERING.

1051. **\*Mr. B. Das:** (a) Will Government be pleased to state whether they are awarding three scholarships tenable in England for the training of Indians in Marine Engineering for the year 1932?

(b) If the answer to part (a) be in the negative, will Government be pleased to state the reasons thereof?

**The Honourable Sir George Rainy:** (a) and (b). Owing to the need for economy in Central expenditure it has been decided not to award any scholarships this year.

### TRAINING OF MARINE ENGINEERS.

1052. **\*Mr. B. Das:** (a) Will Government be pleased to state whether any letter was addressed by them to the Government of Bombay in April, 1930, on the subject of training of Marine Engineers in India and whether any Committee was appointed as a consequence thereof?

(b) If the answer to part (a) be in the affirmative, will Government be pleased to state whether any report of that Committee has been received by them?

(c) If the answer to part (b) be in the negative, will Government be pleased to state when they expect to receive the report of that Committee?

**The Honourable Sir George Rainy:** (a) Yes, a letter was addressed to the Government of Bombay on the subject in April 1930. The Local Government referred the matter to the Board of Trustees of the Victoria Jubilee Technical Institute, Bombay, who appointed a Committee to prepare a scheme.

(b) and (c). For certain reasons, the Committee has not been able to proceed with the preparation of a report. The question of the training of Marine Engineers in India has, however, been further examined by the Government of India, and a provisional scheme has been formulated by the Local Government in the light of the suggestions made by the Government of India. It is therefore not now necessary for the Committee to submit a report.

TRAINING OF INDIANS IN MARINE ENGINEERING.

1053. **\*Mr. B. Das:** (a) Will Government be pleased to state whether they have under contemplation any scheme for providing facilities for giving training to Indians in Marine Engineering in this country?

(b) If the answer to part (a) be in the affirmative, will Government be pleased to state if they will consult the Indian commercial and shipping opinion on this subject?

(c) Will Government be pleased to state when they expect to formulate that scheme and start training Indians as Marine Engineers in this country just as they have started the Training Ship for giving training to Indians as deck officers?

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

(b) The technical aspect of the scheme is still under examination. The desirability of consulting shipping and other commercial interests will be considered when the scheme has taken practical shape.

(c) Government are not at present in a position to say when the scheme is likely to be brought into operation.

**Mr. B. Das:** May I inquire if the scheme is awaiting the new constitution to be formulated?

**The Honourable Sir George Rainy:** No, Sir. It is financial considerations very largely which have held up the whole thing.

**Dr. Ziauddin Ahmad:** Did the Retrenchment Committee suggest retrenchment of these scholarships and expenditure under this head?

**The Honourable Sir George Rainy:** I should like to have notice of that. It is not within my recollection.

INCREASE IN THE NUMBER OF CADETS ADMITTED TO THE TRAINING SHIP  
"DUFFERIN".

1054. **\*Mr. B. Das:** Will Government be pleased to state:

(a) if they propose to make a cent. per cent. increase in the number of cadets they have been admitting every year to the I. M. M. T. S. "Dufferin".

(b) if the answer to part (a) be in the affirmative, the reasons which lead them to make such an increase?

**The Honourable Sir George Rainy:** (a) No.

(b) Does not arise.

**Dr. Ziauddin Ahmad:** Is it not a fact that without incurring any additional cost it is possible to double the number in this particular school?

**The Honourable Sir George Rainy:** I am afraid I cannot answer that question offhand. It sounds to me very improbable.

**Dr. Ziauddin Ahmad:** I put a question some time ago and sent a note on this very question.

**The Honourable Sir George Rainy:** Then the Honourable Member must know the answer.

**Dr. Ziauddin Ahmad:** I did not put a question in the Assembly but sent a private note.

**The Honourable Sir George Rainy:** I do not recollect the Honourable Member asking me.

#### EMPLOYMENT OF CADETS TRAINED ON THE "DUFFERIN".

1055. **\*Mr. B. Das:** Will Government be pleased to state:

- (a) if the Governing Body of the Training Ship "Dufferin" have considered the prospects of employment as officers of those cadets coming out of the Training Ship "Dufferin" who may obtain their Certificates of Competency;
- (b) if the answer to part (a) be in the affirmative, whether it is a fact that the Governing Body came to the conclusion that the prospects of employment as officers for the present number of cadets taken by the Training Ship were uncertain after they obtained their certificates of competency?

**The Honourable Sir George Rainy:** (a) and (b). The question has been engaging the attention of the Governing Body for some time and is still under their consideration.

#### DEVELOPMENT OF THE INDIAN MERCANTILE MARINE.

1056. **\*Mr. B. Das:** Will Government be pleased to state:

- (a) whether it is not a fact that, after the failure of the Shipping Conference in 1930, they issued a communiqué on the 6th January, 1930, informing the public that the responsibility will rest with the Government of India as to what future action should be taken for the Development of the Indian Mercantile Marine; and
- (b) if the answer to part (a) be in the affirmative, what action has been taken by them or what action do they propose to take for the development of Indian shipping?

**The Honourable Sir George Rainy:** With your permission, Sir, I will answer questions Nos. 1056 and 1057 together.

The attention of the Honourable Member is invited to the reply given by me to a somewhat similar question asked by Mr. S. C. Shahani on the 29th January, 1931. The Government of India have nothing to add to that statement except that the consideration of methods involving the grant of direct financial assistance to the industry must for the present be postponed.



DEVELOPMENT OF INDIAN SHIPPING.

†1057. **\*Mr. B. Das:** (a) Are Government aware that the Honourable Sir George Rainy stated in the Legislative Assembly in September, 1929, that in case the Shipping Conference failed, the Government of India would explore other avenues for the Development of Indian shipping?

(b) If the answer to part (a) be in the affirmative, will Government be pleased to state what other avenues have been explored by them or what other avenues they propose to explore for the development of Indian shipping?

NON-ADMISSION OF INDIANS TO THE PRINCE OF WALES SEAMEN'S INSTITUTE, BOMBAY.

1058. **\*Mr. B. Das:** Will Government be pleased to state:

- (a) whether the building of the Prince of Wales Seamen's Institute was raised out of public subscriptions and whether the Indian public subscribed a large sum towards that building fund,
- (b) whether it is not a fact that out of Rs. 5,69,373 received by public subscriptions for the building of that Institute during the years 1917, 1918 and 1919, Rs. 2,30,000 were subscribed by the Western India Turf Club and about Rs. 1,50,000 by Indians,
- (c) whether it is not a fact that the money subscribed by the Western India Turf Club is derived both from Indian and non-Indian sources,
- (d) whether it is not a fact that the Indian Officers and Seamen (Iascars) are not admitted in the Prince of Wales Seamen's Institute, and
- (e) if the answer to part (d) be in the affirmative, why a public institute like the Prince of Wales Seamen's Institute discriminates against Indians and refuses them admission?

**The Honourable Sir George Rainy:** Government are not in possession of complete information. Inquiries have been made from the Government of Bombay and a reply will be laid on the table of the House in due course.

NON-ADMISSION OF INDIANS TO THE PRINCE OF WALES SEAMEN'S INSTITUTE, BOMBAY.

1059. **\*Mr. B. Das:** (a) Has the attention of Government been drawn to the reply given in the Bombay Legislative Council on the 14th March, 1928, to the question put by Mr. Lalji Naranji (page 1385, of Vol. 22 of the Bombay Legislative Council Debates) that "the Institute (Prince of Wales Seamen's Institute) though undenominational in character does not cater specially for the needs of Indian seamen" and also to the following remarks made by the Bishop of Bombay at the Extraordinary General Meeting of the Members of the Prince of Wales Seamen's Institute held in November, 1928:

"The Bombay Sailors' Home was an undenominational society and our Society is a denominational society how could these be amalgamated"?

†For answer to this question, see answer to question No. 1056.

(b) If the answer to part (a) be in the affirmative, will Government be pleased to state whether it has still been held that the Prince of Wales Seamen's Institute is an undenominational Institute?

**The Honourable Sir George Rainy:** (a) Government have seen the reply to Mr. Lalji Naranji's question in the Bombay Legislative Council referred to but have no information regarding the alleged remarks by the Bishop of Bombay relative to the Prince of Wales Seamen's Institute.

(b) Full information regarding this Institute has been called for and a reply will be laid on the table of the House in due course.

#### SUNDAY PENALTY FEES COLLECTED AND METHOD OF THEIR DISTRIBUTION.

1060. **\*Mr. B. Das:** Will Government be pleased to state:

- (a) the amount collected by way of Sunday Penalty Fees at the different ports in India during the last five years;
- (b) the amount contributed by them out of this Sunday Penalty Fees for the following charitable purposes during the last five years?
  - (1) for the benefit of the superior grade of Customs Officers.
  - (2) for the benefit of the subordinate grade of Customs Officers.
  - (3) for the benefit of European seamen.
  - (4) for the benefit of Indian seamen.
  - (5) contributions made towards the building fund of the Institutes which do not admit Indian seamen.
  - (6) contributions made towards Institutes which admit both European and Indian seamen, and
  - (7) contributions made towards building funds of Institutes started specifically for Indian seamen.

**The Honourable Sir George Schuster:** (a) The receipts from Sunday fees for the last five years (*i.e.*, actuals, for 1927-28 to 1930-31 and revised estimates for 1931-32) amounted to a total of Rs. 20,70,146.

(b) (1) Nil.

(2) The contributions for the benefit of subordinate grades—Preventive officers, clerks and others—amounted to a total of Rs. 2,04,342.

(3) Rs. 2,12,119 apart from grants covered by (5) or (6).

(4) Nil, apart from grants covered by (7).

(5) or (6). Rs. 1,60,200. This sum represents the grant made to the Mayo Marine Institute, Rangoon, which admits Indian officers but not Indian seamen.

(7) Rs. 1,13,000.

**Mr. Gaya Prasad Singh:** Is it not a fact that the receipts from the Sunday fees have been given mostly to welfare institutions of non-Indian seamen rather than to those of Indian seamen?

**The Honourable Sir George Schuster:** I feel sure that my Honourable friend from his knowledge as member of the Standing Finance Committee has very full information on that subject. He will be able to calculate

from the replies which I have given what is the position for the years specified in the question which I have just answered. It will also be within his recollection that, according to the statement prepared for the Standing Finance Committee, the distribution in the last year has been altered considerably in the direction of giving grants to institutions aimed at the benefit of Indian seamen.

**Mr. B. Das:** May I inquire why no contribution had been made for the benefit of Indian seamen? Was it due to the fact that there were no Indian Seamen's Trade Unions asking for it?

**The Honourable Sir George Schuster:** I think it has been mainly due to the fact that, until last year, there was no specific institute in existence which aimed at giving these benefits to Indian seamen to which contribution could be made.

**Mr. B. Das:** May I inquire if Mr. Kabeeruddin Ahmad, who was the representative of seamen on the Indian Labour Commission, raised this particular issue before the Labour Commission?

(No answer was given.)

#### PRINCIPLES FOR GRANTS OUT OF THE SUNDAY PENALTY FEES FUND.

1061. **\*Mr. B. Das:** Will Government be pleased to state:

- (a) the principles under which grants are made out of the Sunday Penalty Fees Fund to various charitable Institutions in the country; and
- (b) whether they propose to make any changes in the present procedure under which such grants are allocated and, if so, will Government be pleased to state the new changes which they propose to introduce in this connection?

**The Honourable Sir George Schuster:** The subject is too complicated to enable me to give a satisfactory answer within the limits suitable for a reply. The Honourable Member will find the situation fully explained in the proceedings of the Standing Finance Committee to which I give the following references:

Paragraph 7 of the proceedings dated 16th January, 1930.

Paragraph 7 of the proceedings dated 16th June, 1930.

Paragraph 25 of the proceedings dated 19th June, 1930.

Paragraph 26 of the proceedings dated 23rd January, 1932.

#### CONTRIBUTIONS TO SAILORS' HOMES IN BOMBAY AND DISCRIMINATION AGAINST INDIANS.

1062. **\*Mr. B. Das:** (a) Will Government be pleased to state whether the Government of Bombay paid the sum of Rs. 4,44,375 to the authorities of the Bombay Sailors' Home, for the acquisition of their buildings somewhere in the year 1928 or 1929?

(b) If the answer to part (a) be in the affirmative, will Government be pleased to state whether the entire portion of Rs. 4,44,375 went to the

Prince of Wales Seamen's Institute under the new amalgamation scheme of that Institute with the Bombay Sailors' Home?

(c) Is it a fact that the original cost of the building of the Royal Alfred Sailors' Home, Bombay, was Rs. 3,66,000, of which a sum of Rs. 2,00,000 was contributed by His Highness the Gaekwar of Baroda and Rs. 1,66,000 by the Government of Bombay?

(d) Is it a fact that the object of the Bombay Sailors' Home Society was primarily to provide a comfortable home for seamen frequenting or visiting the port of Bombay without any discrimination between European and Indian seamen?

(e) If the answer to parts (b), (c) and (d) be in the affirmative, will Government be pleased to state whether the object for which the Royal Alfred Home was started is achieved by handing over the entire sum of Rs. 4,44,375 to the Prince of Wales Seamen's Institute which discriminates against Indian seamen and Indian officers by refusing them admission into their Institute?

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

(b) The whole of the amount went to the Bombay Seamen's Society (now known as the Royal Bombay Seamen's Society), which was formed by the amalgamation of the Bombay Sailors' Home Society with the Prince of Wales Seamen's Institute and Bombay Harbour Mission.

(c) Yes, except that the Bombay Government's contribution amounted to Rs. 1,40,000 only. The balance of Rs. 26,000 was presumably derived from other sources.

(d) The Home was open to seamen of all classes, but it does not appear to have been used to an appreciable extent at any time by Indian seamen.

(e) The Royal Bombay Seamen's Society are under no legal obligation to pay any portion of the sale proceeds of the Royal Alfred Home to any other institute. The Society, however, gave a voluntary donation of Rs. 1 lakh towards the construction of a Home which has recently been opened at Bombay for the use of Indian seamen.

#### SHORT NOTICE QUESTION AND ANSWER.

##### REDUCTION OF TRAVELLING AND OTHER ALLOWANCES OF MEMBERS OF THE LEGISLATURE.

**Mr. J. Ramsay Scott:** (a) Have Government under consideration any proposals for reduction in the present scales of travelling and other allowances of Members of the Legislature?

(b) If so, will Government be pleased to state whether the House Committee will be given an opportunity to consider the proposals before a decision is arrived at?

**The Honourable Sir George Schuster:** (a) Yes. The present allowance admissible to Honourable Members for journeys by rail is  $1\frac{3}{5}$ ths of a First Class fare. This allowance was fixed on a parity with that admissible for Government servants of the first grade. In the case of Government servants the allowance has been reduced to  $1\frac{1}{2}$  fares with effect from

the 1st October, 1931, and Government feel it right that similar reduction should now be made in the case of Honourable Members also. Government have also considered the recommendation of the General Purposes Committee on page 60 of their Second Report to the effect that the rule permitting the drawing by Honourable Members of the cost of haulage of their motor cars irrespective of the amount, needs revision, and that a limit of Rs. 500 in all for both journeys, outward and return, should be imposed. In the opinion of Government such a provision would not work equitably in that it would penalise Members coming from long distances. They consider that the present rule should be retained, but that economy during the present financial crisis could be secured by the abolition of the allowance for petrol or forage of Rs. 75 per month at present admissible to Members who reside outside Delhi and elect for free haulage of their conveyances.

(b) Government had considered laying proposals on this basis before the House Committee, but on further examination they were convinced that consultation in a matter of this kind lay outside the scope of that Committee's functions. The more appropriate procedure would be to place the proposals before the House by means of a Resolution. Unfortunately it does not appear likely that time will be available to move such a Resolution this session. Government propose, therefore, to move a Resolution at the earliest possible occasion in the next summer session and to suggest that the reduction of railway allowance should, if accepted, take effect in respect of the journey to Simla.

**Lieut.-Colonel Sir Henry Gidney:** In view of the Honourable Member's reply, in which he attempted to draw a parallel between Government servants and Members of this House, will he please inform the House whether or not it is a fact that Government servants, in addition to their railway travelling allowances, are in receipt of a handsome salary which Members of the Assembly are not?

**The Honourable Sir George Schuster:** I hardly think my Honourable friend's question requires an answer. I would remind him that officials of the Government are also under considerable obligations for working every day of the year which do not apply to Honourable Members of this House.

**Lieut.-Colonel Sir Henry Gidney:** Will the Honourable Member inform the House whether those additional remarks do not apply with greater force to Members of this House who also have to work every day of the year?

## UNSTARRED QUESTIONS AND ANSWERS.

### APPOINTMENT OF TELEGRAPH PEONS AS POSTMEN.

266. **Mr. S. C. Mitra:** (a) Is it a fact that in order to give the peons in the Telegraph Branch some opportunity to earn pension and leave allowances at superior rates, orders were issued to permit their entry into postmen's grade by competitive examination? If so, from what date were the orders given effect to?

(b) Is it a fact that many telegraph peons went through this competitive examination and were appointed as postmen?

(c) Is it a fact that they had to furnish security bonds for these new appointments as are required from permanent postmen?

(d) Will Government be pleased to state the number of telegraph peons so appointed as postmen?

(e) Is it a fact that some of the telegraph peons so recruited to the postmen's grade have since been reverted?

(f) If the reply to part (d) be in the affirmative, will Government be pleased to state the number and names of the men so reverted and the reasons in each case for the action taken?

(g) Do Government propose to re-examine these cases and see that these men get back their appointments as postmen, if they are found to have been qualified for their appointments under the rules then in force? If not, why not?

**Mr. T. Ryan:** (a) No.

(b) to (g). Do not arise.

#### SYSTEM OF SUPPLYING UNIFORMS TO TELEGRAPH AND POSTAL PEONS.

267. **Mr. S. O. Mitra:** (a) Has the attention of Government been drawn to the article published at page 315 of the *Telegraph Review* of September, 1931, under the caption of "Inferior staff to go without uniform"?

(b) Have Government made any enquiry in the matter? If so, to what effect?

(c) Will Government be pleased to state what is the present system of supplying uniforms to (i) the inferior staff in the Telegraphs and (ii) peons in the Postal Department?

(d) Will Government be pleased to quote the authority under which the peons were ordered to produce their old tattered dresses for inspection of the Chief Superintendent, Central Telegraph Office, Calcutta, as complained in the article?

(e) Will Government be pleased to state whether any order was issued beforehand to the peons requiring them to preserve torn and tattered uniforms for production for inspection when so ordered? If so, when and by whom?

(f) Is it a fact that some of the peons made written statements to the effect that their old uniforms were totally torn and thrown out or the like and hence could not be produced for inspection?

(g) Is it a fact that in spite of these statements fines for non-production of uniforms were still imposed on these peons by the Chief Superintendent, Calcutta?

(h) Will Government be pleased to state the number of such peons who were thus fined?

(i) Do Government propose to refund these fines to the parties concerned? If not, why not?

**Mr. T. Ryan:** (a) Yes.

(b) No enquiry was made on the matter.

(c) The scheme for the supply of uniforms and warm clothing to the Posts and Telegraphs outdoor staff and inferior servants is described in the following statement:

*Class I Offices—(Head Offices, Central Telegraph Offices, offices situated in stations where there are Head Offices and other important offices).*

**"A" Stations**—Where the climate is usually warm to hot and there is no appreciable cold in the winter months.

Two complete sets of drill uniforms every year, putties at the discretion of Heads of Circles. Where putties are to be supplied only one pair between two sets of uniforms every year.

**"B" Stations**—Where the climate is cold for certain months of the year but not very cold.

Two complete sets of drill uniforms every year, one woollen jersey once in two years, putties as of "A" stations.

**"C" Stations**—Where the winter is severe and prolonged. The general criteria for classifying offices into class "C" should be a latitude of 28° North and/or an altitude of 4000 ft. If these criteria do not meet the special requirements of any place the Head of a Circle may suggest the inclusion of any particular station in class "C" and obtain the orders of the Director-General on the subject.

One complete set of serge uniform every alternate year, one complete set of drill uniform every year, one pair of putties every year.

*Class II Offices—(Offices not included in Class I. Branch Offices excluded).*

**"A" Stations**—Where the climate is usually warm to hot and there is no appreciable cold in winter months.

One complete set of drill uniform a year, putties as at "A" stations in class I Offices.

**"B" Stations**—Where the climate is cold for certain months of the year but not very cold.

One complete set of drill uniform every year, one woollen jersey once in three years and putties as at "A" stations in class I Offices.

**"C" Stations**—Where the winter is severe and prolonged. The general criteria for classifying offices into class "C" should be a latitude of 28° North and/or an altitude of 4000 ft. If these criteria do not meet the special requirements of any place the Head of a Circle may suggest the inclusion of any particular station in class "C" and obtain the orders of the Director-General on the subject.

One complete set of serge uniform and one complete set of drill uniform once in two years, one pair of putties between the two sets of uniforms.

2. (a) Uniforms should not be supplied to officials of branch offices.

(b) Village postmen at "C" class stations only should be supplied with uniforms admissible to postmen attached to such stations.

(c) Packers and other inferior servants, except in certain selected offices to be approved by the Director-General should be supplied only with blouse (alternatively jersey where justified) and pugree.

(d) Lungyi and Gaungbaung can be substituted for shorts (trousers) and Pugree in Burma.

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(d) Orders were issued in May 1931 requiring all Heads of offices, Postal Traffic and Engineering, to inspect periodically the uniforms supplied to their subordinates as laid down in rule 736 of the *Posts and Telegraphs Manual*, Volume II.

(e) No special order was issued to the peons requiring them to preserve torn and tattered uniforms for production for inspection when so ordered, as the rule referred to above prescribes that it is the duty of Inspecting Officers to see that uniforms and warm clothing, where supplied, are kept clean and in good condition and that at kit inspections each man will be required to produce all the articles of clothing supplied to him.

(f) }  
(g) } Government have no information.  
(h) }

(i) Does not arise in view of the reply to parts (f), (g) and (h). Copy of the question and of the reply to parts (e) to (i) will however be sent to the Postmaster-General for any further attention desirable.

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#### SYSTEM OF SUPPLYING UNIFORMS TO TELEGRAPH AND POSTAL PEONS.

268. **Mr. S. C. Mitra:** (a) Is it a fact that complaints were made by Posts and Telegraph peons expressing their inability to wear tattered dresses while discharging their duties in the office?

(b) Will Government be pleased to state the steps they have taken or propose to take to remove such complaints?

(c) Is it a fact that peons have been taken to task and even fined in Calcutta and other places for not putting on their uniforms, even when the peons stated that they were very badly torn and hence could not possibly be worn?

(d) Do Government propose to refund the fines thus imposed? If not, why not?

(e) Do Government propose to allow sufficient uniforms to the peons or, in the alternative, allow them to wear their own dresses when their uniforms are torn and new ones are not supplied? If not, why not?

(f) Is it a fact that Government have issued revised rules for supply of uniforms to the peons in the Posts and Telegraphs Department? If so, what are they?

**Mr. T. Ryan:** (a) Government have no information.

(b) Government have made some provision for the supply of uniforms to the outdoor staff and inferior servants of the Posts and Telegraphs Department on a limited scale.

(c) Government have no information.

(d) Does not arise.



(e) A reference is invited to the reply to part (b) of the question. Such outdoor and inferior staff of the Indian Posts and Telegraphs Department as are not provided with uniforms at Government expense will naturally wear their own clothing.

(f) Yes. The revised rules have been quoted in reply to part (c) of the Honourable Member's question No. 267.

#### GRANT OF CONVEYANCE ALLOWANCE TO INSPECTORS OF TELEGRAPH PEONS.

**269. Mr. S. O. Mitra:** (a) Will Government be pleased to state how many Inspectors of Peons and Inspectors of Post Offices are employed in Telegraph and Postal Branches respectively?

(b) Is it a fact that the Inspectors of both these groups are required to perform indoor as well as outdoor work?

(c) Is it a fact that the Inspectors of Post Offices in towns are in receipt of Conveyance Allowances?

(d) If the reply to part (c) be in the affirmative, will Government be pleased to state if they propose to grant similar allowance to Inspectors of Peons in Telegraph Branch? If not, why not?

**Mr. T. Ryan:** (a) There are 9 Inspectors of peons attached to the larger departmental telegraph offices. The number of Inspectors of Post Offices in charge of Postal Sub-Divisions and of Town Inspectors of Post Offices attached to First Class Head Post Offices is 418.

(b) and (c). Yes.

(d) The duties of Postal Town Inspectors differ widely from those performed by Inspectors of Peons in telegraph offices, and Government do not admit the necessity of the grant to the latter of a conveyance allowance similar to that drawn by the former. In certain offices, Inspectors of Peons are supplied with bicycles by the Department for the discharge of the duties required of them.

#### REVISED SCHEMES FOR PENSION ON THE POSTS AND TELEGRAPHS DEPARTMENT.

**270. Mr. S. O. Mitra:** (a) Is it a fact that Government issued a circular to all the recognised organisations of the staff in the Posts and Telegraphs Department to obtain their opinion on certain proposed revised schemes for pension?

(b) If the reply to part (a) be in the affirmative, will Government be pleased to state if replies from all such organisations have been received? If so, when?

(c) Will Government be pleased to state if a final decision on the matter has been arrived at? If so, to what effect? If not, why not?

**The Honourable Sir George Schuster:** (a) If the Honourable Member is referring to a scheme for substituting a contributory fund or other benefits of a corresponding kind for pensionary benefits, the answer is in the affirmative.

(b) Replies were received by July 1930 from some 95 Service Associations, including various Posts and Telegraphs organisations.

(c) I would refer the Honourable Member to the speech made by the Finance Secretary in the debate held in the Council of State on the 3rd March 1932, and reproduced on pages 142, 143 and 144 of the Official Report.

**PENSION SCHEME FOR SUBORDINATES ON THE POSTS AND TELEGRAPHS DEPARTMENT.**

**271. Mr. S. C. Mitra:** (a) Is it a fact that a large number of the employees in the Posts and Telegraphs Department in Subordinate Services are not in receipt of any pension?

(b) Will Government be pleased to state if they contemplate to revise the whole pension scheme which will convert the present non-pensionable posts into pensionable ones? If not, why not?

(c) If reply to part (b) be in the affirmative with regard to some of the appointments, will Government be pleased to state (i) which of the groups are likely to be included in the same and also (ii) when the same is likely to take effect?

**Mr. T. Ryan:** (a) While it is a fact that the service of certain classes of employees, such as cable supervisors, mechanics and artificers, telephone operators appointed on or after the 1st March, 1919, etc., is non-pensionable, the total number of employees serving under these conditions is not large.

(b) and (c). The question of admitting the non-pensionable personnel to the benefits of a Contributory Provident Fund or of making them eligible for pension, is under consideration. Government are not in a position to state when a final decision will be reached.

**CUT IN PAY OF LOW PAID MEN IN THE POSTS AND TELEGRAPHS DEPARTMENT.**

**272. Mr. S. C. Mitra:** (a) Will Government be pleased to state the personnel and the lowest pay in the different departments of Government which have been spared from any cut due to retrenchment?

(b) Is it a fact that only in the Posts and Telegraphs and in Railways men drawing Rs. 40 and less have not even been spared from a cut in pay?

(c) Is it a fact that the Telegraph Department, unlike most other departments, is considered as both a public utility and safety service and at the same time a revenue-earning department?

(d) If the replies to the above be in the affirmative, will Government be pleased to state why men getting a pay of less than Rs. 40 have also been retrenched in the Posts and Telegraphs Department?

**The Honourable Sir Joseph Bhoré:** (a) All Government servants under the control of the Government of India drawing Rs. 40 a month or less, except those employed in the Railway and the Posts and Telegraphs Departments, have been exempted from the emergency cut in pay.

(b) Yes.

(c) The Posts and Telegraphs Department is a public utility department which, in accordance with the generally accepted policy of Government, is run on commercial lines.

(d) Reference is invited to the reply given by the Honourable Sir George Rainy on the 23rd March, 1932, to starred question No. 864, asked by Rai Bahadur Sukhraj Rai. It was considered proper to treat the staff of the two great commercial departments alike.

**CUT IN PAY OF LOW PAID MEN IN THE POSTS AND TELEGRAPHS DEPARTMENT.**

**273. Mr. S. C. Mitra:** (a) Will Government be pleased to state if they propose to retrench the pay of men below Rs. 40 in other departments?

(b) If the reply be in the negative, do Government propose to mete out similar treatment to men similarly situated in the Posts and Telegraphs Department?

**The Honourable Sir Joseph Bhore:** (a) and (b). No.

**SYSTEM OF PAYMENT FOR TELEGRAPH MESSENGERS.**

**274. Mr. S. C. Mitra:** (a) Is it a fact that press and triple rate messages are sent out singly for delivery to ensure their prompt disposal?

(b) Is it a fact that task work messengers used to get earnings for a complete bhaga (*viz.*, 5 messages for a cycle peon and 3 messages for a foot peon) for delivering these messages singly without waiting for other messages? If so, how long has this system been in force?

(c) Is it a fact that this system has been abolished with effect from the 1st November, 1931, and the delivery messengers are now granted the earnings for one message only per trip for delivery of these press and triple rate messages?

(d) Is it a fact that triple rate messages are paid for at triple rates by the senders in order to ensure their expeditious disposal?

(e) Is it a fact that the Press get concession rates (very much cheaper than the ordinary rates) for sending their messages?

(f) Is it a fact that delivery messengers are still made to deliver these press and triple rate messages singly without permission to await any other telegram though they are paid for only one message per trip?

(g) If so, do Government propose to reconsider the question and revert to the old system? If not, why not?

**Mr. T. Ryan:** (a) As regards triple rate messages, yes: as regards Press messages, not as a general rule.

(b) The practice described by the Honourable Member existed in the Calcutta Telegraph Office only. Government do not know how long it was in force.

(c) Orders were issued in 1931 abolishing the system in the Calcutta Telegraph Office and bringing the procedure there into line with that followed in other offices.

(d) and (e). Yes.

(f) Reference is invited to the answer to parts (a) and (c).

(g) Government do not see any necessity to alter the rules now in force.

## SYSTEM OF PAYMENT FOR TELEGRAPH MESSENGERS.

275. **Mr. S. O. Mitra:** (a) Is it a fact that under Bhaga System which was in force in the Central Telegraph Office, Calcutta, up to the beginning of 1931, it was required to give 5 messages in one lot for a cycle messenger and 3 messages for a foot messenger for every delivery, and that if the full number was not available after waiting for a reasonable time they would be sent out with a lesser number of messages but their earnings would remain the same?

(b) Will Government be pleased to state how long this system has been in vogue in the Telegraph Department?

(c) Is it a fact that various modifications were made to this system from time to time to avoid anomalies or to redress grievances of the delivery staff?

(d) Is it a fact that this system was stopped from the 1st March, 1931, without any notice to the staff? If so, what are the reasons?

(e) If the reply to the latter portion of part (d) be in the negative, will Government be pleased to state, (i) when it was notified to the staff and also (ii) what was the reason, if any, that was given for the same?

(f) If the reply to part (d) above be in the affirmative, will Government be pleased to state why a system that has been in existence for such a long period has all on a sudden been abolished?

(g) Will Government please quote the rule or order under which this system was first introduced?

(h) If there be no rule or order, will Government be pleased to state how it came to be introduced?

(i) Is it a fact that the salary bills of the staff are checked and audited by the audit offices and that it is one of the fundamental duties of the audit office to hold under objection any item of expenditure which is not sanctioned by proper authority?

(j) If the reply to part (i) above be in the affirmative, will Government please state if any objection was ever raised by the Audit Offices against this system? If so, when and how was it disposed of?

(k) Will Government refer to parts (h), (i) and (j) above and state whether they propose to consider the advisability of amending the rules to conform to the age-long procedure? If not, why not?

(l) Is it a fact that the existing task work messengers of the Central Telegraph Office, Calcutta, were appointed as such when the previous system was in force? If so, do Government propose to permit them to continue under that condition till they retire? If not, why not?

(m) Will Government be pleased to state (i) who is responsible for the irregularity, if any; (ii) the amount spent so far in excess owing to this so-called irregular system, and (iii) how it is proposed to make good this loss to Government?

**Mr. T. Ryan:** (a) Yes.

(b) Government have been unable to ascertain the date from which the practice was introduced.

(c) Yes.

(d) Yes. The system, for the original introduction of which no authoritative orders are traceable, was peculiar to Calcutta, and on review was considered not to be justified by the prevailing conditions.

(e) Does not arise.

(f) The reasons are indicated in the answer to part (d).

(g) Reference is invited to the answer to part (b).

(h) Government have no information.

(a) Yes.

(j) No.

(k) No. Reference is invited to the answer to part (d).

(l) Probably, but Government are not prepared to allow task work messengers of Calcutta to continue to enjoy earnings which have never been conceded to the task work messengers of other telegraph offices and for which they can find no special justification in Calcutta.

(m) (i) and (ii). Government have no information. (iii) It is not practicable to recover any loss that may have been incurred.

#### RECRUITMENT TO THE SUBORDINATE ENGINEERING BRANCH OF THE TELEGRAPH DEPARTMENT.

276. **Mr. S. C. Mitra:** (a) Will Government be pleased to state the number of men recruited for the Subordinate Engineering Branch of the Telegraph Department during the last year—(i) from the Departmental men and (ii) from outside?

(b) Will Government be pleased to state the number of Departmental men (i) who applied for recruitment in the Engineering Branch, and (ii) who were admitted to the examination?

(c) Will Government be pleased to state the number of Departmental telegraphists who have not been allowed to appear in the examination on account of:

(i) exceeding the age-limit,

(ii) unsatisfactory record of service, and

(iii) any other reasons?

(d) Will Government be pleased to state the number of Departmental candidates who were exempted from the bars referred to in part (c) in consideration of their nationality or community?

(e) Will Government be pleased to state the number of Departmental candidates who were not so exempted though they possessed previous experience in the Engineering Branch including the Telephone Branch for a considerable period?

(f) Will Government be pleased to state if any of the men referred to in part (e) were recommended by the heads of the Circle including the Engineering Officers?

(g) Is it a fact that the Department is heavily overstaffed with Departmental telegraphists and that outside recruitment meant additional expense?

(i) If the reply to part (g) be in the affirmative, will not the appointment of the Departmental candidates referred to in parts (e) and (f) in

vacancies in the Engineering Branch mean reduction of surplus staff and employment of qualified hands at far less cost?

**Mr. T. Ryan:** (a) The Honourable Member apparently refers to the recruitment of Engineering Supervisors. If so, the number of departmental recruits was thirteen and of others twelve.

(b) and (c). As the selection of candidates for the examination is made by Heads of Circles, Government have no information on the points raised in these two parts of the question.

(d) No candidate was exempted from the tests in consideration of his nationality or community.

(e) and (f). Do not arise in view of the reply to part (d).

(g) It is a fact that there is some surplus staff of telegraphists and that outside recruitment for the posts of Engineering Supervisors does mean some extra expenditure.

(i) The reply to the first part is in the affirmative, and to the latter part, in the negative, as Government do not consider that those departmental candidates who were not exempted from or failed to pass the examination are thoroughly qualified.

#### TRAINING OF APPRENTICES OF THE RIFLE FACTORY AT ISHAPORE.

277. **Mr. S. C. Mitra:** (a) Have Government invited the opinions of Mr. T. K. Ghosh, and Lt.-Col. B. H. Brown, late Works Manager and Superintendent of the Rifle Factory at Ishapore, in the matter of reducing and abolishing the theoretical and laboratory training to apprentices in that Factory?

(b) If so, what were the opinions of those officers? If not, do Government propose to take their opinions on the subject? If not, why not?

**Mr. G. M. Young:** (a) No.

(b) Because it was unnecessary to consult officers who no longer held these appointments.

#### TRAINING OF APPRENTICES OF THE RIFLE FACTORY AT ISHAPORE.

278. **Mr. S. C. Mitra:** Will Government be pleased to state whether the present scheme of technical training in lecture rooms and laboratories for the Rifle Factory Apprentices at Ishapore is "subject to modifications"? If so, does "subject to modifications" mean abolition of the scheme?

**Mr. G. M. Young:** The scheme itself is subject to modifications: and in addition, the whole subject of apprentice training in Ordnance Factories is under review, with reference to its suitability to the policy of gradual Indianisation of the factories.

#### TRAINING OF APPRENTICES OF THE RIFLE FACTORY AT ISHAPORE.

279. **Mr. S. C. Mitra:** (a) Are Government aware of the fact that the existing apprentices in the Rifle Factory at Ishapore were all entertained on the clear understanding that they would be trained both in theory and practice in "Mechanical Engineering"?

(b) What justification have Government to train the existing apprentices in the Rifle Factory at Ishapore, now as craftsmen which they and their guardians do not approve of?

(c) Do Government propose to keep the existing scheme in force at least for the existing apprentices in the Rifle Factory at Ishapore? If not, why not?

**Mr. G. M. Young:** (a) The syllabus issued contained a good deal of theoretical, in addition to practical training: but it was announced as subject to modification.

(b) The modifications were made in the interests of the Factory.

(c) The scheme will remain in force for existing apprentices, but as explained in answer to Starred Question No. 114, on the 3rd February, 1932, the amount of theoretical training has been greatly reduced; as such training is not essential.

#### DISEASES CAUSED BY MILITARY SERVICE.

280. **Sardar Sant Singh:** With reference to the answer to unstarred question No. 142 on the 9th March, 1932, are Government prepared to override the decisions of those Medical Boards, which have wrongly come to the conclusion that asthma or trachoma are not attributable to military service?

**Mr. G. M. Young:** Government have no reason to suppose that the finding of the Medical Board in any particular case was wrong.

#### ARREARS OF PENSION FOR DISABILITY SUBSEQUENTLY DECLARED AS ATTRIBUTABLE TO MILITARY SERVICE.

281. **Sardar Sant Singh:** With reference to the answer given to unstarred question No. 143, will Government please state as to what arrears do the rules allow, in cases in which a later Medical Board has reversed the decision of the first Medical Board, which held the attributability of the disability as not attributable to service?

**Mr. G. M. Young:** The rules do not specifically provide for the convening of a second Medical Board. Government are at liberty either to dispose of an appeal themselves, with the aid of their medical advisers, or to convene a second Medical Board if they feel justified in doing so on the grounds stated in the appeal. In either event they would be competent to grant a disability pension with such arrears as they might determine according to the merits of the case.

#### RATES OF MILITARY PENSIONS.

282. **Sardar Sant Singh:** (a) Is it a fact that rates of all sorts of military pensions, including the pensions granted under the special powers of the Government of India, were increased on the termination of the Great War, and the enhanced rates made applicable to all-India ranks who served during the War?

(b) Is it also a fact that the increased rates were, for all practical purposes, disallowed to all such individuals as were pensioned under the special powers of the Government of India as contemplated in para. 587 of the Pay and Allowance Regulations, Part II?

(c) Are Government prepared to consider such cases as were pensioned after 4th August, 1914, and prior to the date with effect from which the new scale of pensions was inserted in Pensionary Regulations?

**Mr. G. M. Young:** It will take some time to investigate the points raised in the Honourable Member's question. A reply will be laid on the table as soon as practicable.

**PENSIONS OF CERTAIN MILITARY MEN INCREASED BY RE-EMPLOYMENT DURING THE GREAT WAR.**

283. **Sardar Sant Singh:** (a) With reference to the answer given on 9th March, 1932, to unstarred question No. 146, are Government prepared to send for the cases of the following individuals, whose pensions were increased by virtue of their re-employment during the Great War, under Army Instruction (India) Nos. 171 of 1921, and 1064 of 1923?

- (i) C. M. A. Mhow Pension Circular No. 10 of 16th March, 1928, *re* Subedar Phura Singh.
- (ii) C. M. A. Mhow Pension Circular No. 24, dated 16th October, 1928, *re* Subedar Sher Singh.
- (iii) C. M. A. Mhow Pension Circular No. 30 of 1929 *re* Subedar Major Budha Singh.
- (iv) C. M. P. A. Mhow Pension Circular No. 83 of 1931 *re* Subedar Jagannath.
- (v) C. M. P. A. Mhow Pension Circular No. 80 of 1931 *re* Subedar Genda Singh.
- (vi) C. M. P. A. N. and E. Commands, Lahore, Pension Circular No. 42, dated the 16th January, 1929, *re* Jemadar Dip Chand.

(b) If so, will Government kindly state why the same rule was not applied to the cases of the following individuals:

- (i) Subedar Mam Raj (*vide* Government of India, Army Department, letter No. B.-16187/1-A. G.-14, dated the 4th September, 1931).
- (ii) No. 20, Havildar Sant Singh of 16th Bengal Lancers re-employed in Military Hospital Ambala (O. C. 6 Company I. H. Corps Poona, letter No. B./23/Case/55, dated the 5th October, 1931)?

(c) Under what rules of limitation the aforesaid claims were treated to be within time while others declared time-barred?

**Mr. G. M. Young:** Inquiries are being made and replies will be laid on the table in due course.

**PRACTICE IN REGARD TO GRANT OF DISABILITY AND FAMILY PENSIONS.**

284. **Sardar Sant Singh:** (a) Will Government please state as to what practice is in vogue with regard to the grants of disability and family pension claims in cases where (i) a medical board is silent on the point of



attributability and (ii) where they express their inability to give a verdict on the point of attributability because of the loss or destruction of a man's medical history sheet kept by military hospitals in their custody?

(b) Have disability and family pensions been allowed in such cases from the date of casualty?

**Mr. G. M. Young:** Inquiries are being made and a reply will be laid on the table in due course.

#### STATUTORY RIGHTS TO DISABILITY AND FAMILY PENSIONS.

**285. Sardar Sant Singh:** Are Government aware that statutory rights for the entitlement of a disability and family pension have been acknowledged under the War Pensions Act of 1919 and 1920? Do not they intend to recognise such rights in the case of Indian personnel? Is it a fact that the cause of action arose beyond overseas, the compensation of which is due from, and chargeable to the Home Government?

**Mr. G. M. Young:** The right to Great War disability and family pensions in the United Kingdom, provided that the conditions laid down are fulfilled, is conferred by statute in the United Kingdom. The same right is conferred by rule in India. Government do not consider it necessary or practicable to introduce legislation of the kind at this late date.

#### MILITARY PENSION CLAIMS.

†**286. Sardar Sant Singh:** (a) With reference to the answer given to unstarred question No. 146, part (a), dated 9th March, 1932, will Government please state if para. 1031 of Army Regulations (India), Volume I (1915 edition) does not admit all former combatant service for being counted towards pension or gratuity?

(b) Is it a fact that the following individuals were discharged with promises of pension duly entered on their discharge certificates, Last Pay Certificates, etc.?

(i) Letter No. 2-119/1/9, dated 22nd June, 1931 of the Officer Incharge 10th Bn., 4/9th Regiment, *re* Havildar Baz Khan, No. 1131.

(ii) Letter No. 860/20/A.G., dated 16th November 1928 of the O./C. 'A' Coy., 1/4th Bombay Grens., *re* *Ex-Sepoy* Palto Khan, No. 3493.

(iii) Letter No. 2/109/5/384, dated 1st May, 1929 of the Officer Incharge, Records, 2/109th Infantry, *re* L/Nk Bodan Khan, No. 1684.

(iv) Letter No. B.-14073/3/A.G.-14, of the Army Headquarters, India, Adjutant General's Branch, dated 20th June, 1931, *re* *Ex-Sepoy* Mamn, No. 376.

(c) Referring to the answer given on 9th March, 1932, to the question quoted above, is it a fact that para. 1077 of Army Regulations (India), 1915 edition, lays down that an adversely affected person by new rules can claim to receive pension when the deceased joined the service; that note 4 appended to para. 591 of the Pay and Allowance Regulations, Part II, lays down that consent to the changed rules is necessary, and that

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†For answer to this question, see answer to question No. 283.

there is a ruling of the Military Accountant General given in his letter No. 2610-At./B., dated 20th January, 1932? Are Government prepared to review the cases of these claimants?

#### PENSIONS WITHHELD ON ACCOUNT OF CONVICTIONS IN POLITICAL CASES.

287. **Sardar Sant Singh:** (a) With reference to the answer given on 9th March, 1932, to unstarred question No. 148, will Government kindly state if it is not a fact that para. 184 of the Pension Regulation does not debar the District or Independent Brigade Commander from withholding or reducing the pension or gratuity of an Indian military pensioner even if he be convicted of any crime of a political nature?

(b) Is it not a fact that such power is given only in cases of conviction of a serious crime, or of being found guilty of grave misconduct other than of a political nature?

(c) If so, are Government prepared to restore in full the arrears of pensions of those persons whose pensions have been withheld on account of convictions in political cases or on mere police reports?

**Mr. G. M. Young:** (a) and (b). Under paragraph 184 of the Pension Regulations a District Commander, on the recommendation of the local civil authorities, is competent to order the forfeiture of pensions in cases relating to misconduct of a political nature

(c) Does not arise.

#### FACILITIES FOR CLAIMING MILITARY PENSIONS.

288. **Sardar Sant Singh:** (a) With reference to the answer to unstarred question No 150 (b) given on 9th March, 1932, will Government please lay on the table a comparative statement showing adequate facilities for Indian military pensioners as against the facilities given to British ex-soldiers and their families?

(b) Is it not a fact that:

- (i) a British pensioner can engage the services of any voluntary worker or friend whereas in India it is resented;
- (ii) a British pensioner in Appeal Tribunals can engage a solicitor or barrister, a specialist and a friend while in India the C. M. P. A., Mhow, decided that no reply can be sent to the address of a pleader;
- (iii) despite the high percentage of literates in England hundreds of committees, sub-committees and sub-sub-committees with a hoard of voluntary workers have been appointed and notices affixed on every post office and public building showing the location of these committees and addresses of voluntary workers, whereas in India the location and the new designation of disbanded units is not known even by Deputy Commissioner's offices, which usually ask the claimants about the location of their unit?

(c) If so, what were the facilities afforded to Indian ex-soldiers?

**Mr. G. M. Young:** Government are not prepared to argue the matter with the Honourable Member. They are satisfied that all genuine claims to pension are fully investigated, and they are always ready to examine any individual case themselves, if brought to their notice.

## MILITARY DISABILITY AND FAMILY PENSION CLAIMS.

289. **Sardar Sant Singh:** (a) With reference to the reply given on 9th March, 1932, to unstarred question No. 152 (a) and (b), are Government prepared to see the cases detailed below?

- (i) Letter No. I. H. C./44/34, dated 31st October, 1931 of the Headquarters No. 2 (E. C.) Coy. I. H. C., Lucknow, *re* Mustt. Ghogri widow of late Sweeper Jail Lal No. 8268.
- (ii) Letter No. 18330/27/R.-8, dated 15th December, 1931 of the Officer Incharge Records, Indian Signal Corps, Jubbulpore, *re* Mustt. Nimbo, mother of late Driver Jai Ram No. 5063.
- (iii) Letter No. 2-102/1/28, dated 17th March, 1931, of the Officer Incharge Records, 2/102nd Grenadiers, Bareilly, *re* Mustt. Lado widow of No. 1747 Sepoy Hari Singh.
- (iv) Letter No. G.-4/4116, dated 29th January, 1932, of the C. M. A. and Pension, Lahore, *re* Mustt. Anaran, widow of late No. 3012 Sepoy Hazari Singh.
- (v) Letter No. F./P. A. D./55/1/9/3948, dated 27th October, 1930 of the C. M. A. S. C. Poona, *re* Mustt. Raham Daulat, mother of Fitter Jangsher Khan No. 6782.
- (vi) Letter No. 298/28, dated <sup>24th August</sup><sub>25th August</sub> 1928, of the O. C. 2/9th Jat Regiment to District Soldiers Board, Delhi, *re* No. 5117 Sepoy Jhawar.
- (vii) Letter No. 4/9/4/1/410, dated 8rd December 1931, of the Officer Incharge Records, 4/9th Jat Regiment, *re* No. 2105 *ex*-Sepoy Fatheyab Khan.
- (viii) Letter No. 794/A./20, dated 7th May, 1931, of the Adjutant 5/11th Sikh Regiment, *re* No. 900 Reservist Nagender Singh.
- (ix) Letter No. 14763/2/A.-2, dated 28th November, 1931, of the Headquarters, Northern Command, Rawalpindi, *re ex*-Sepoy Narain Singh.
- (x) Letter No. A./13/1/679, dated 27th March, 1931, of the Adjutant 13th D. C. O. Lancers, *re* No. 724 Sowar Chanan Singh.

(b) Have not the affidavits of eye witnesses submitted to substantiate the facts of death and disabilities been disregarded by the authorities concerned?

(c) Have not the Ministry of Pensions issued instructions in the cases of deaths and disabilities unrecorded to allow the advantage of doubt to the beneficiaries?

**Mr. G. M. Young:** Inquiries are being made and replies will be laid on the table in due course.

## MILITARY DISABILITY AND FAMILY PENSION CLAIMS.

290. **Sardar Sant Singh:** (a) Has the attention of Government been drawn to the practice prevalent in their department whereby proved and acceptable disability claims have been admitted by the Government of India with effect from the date of their sanction and on rates far below the minimum as against the date of casualty and the monthly minimum rate of Rs. 8 per mensem?

(b) Are Government aware that the above practice extends to family pensions of the Indian ranks?

**Mr. G. M. Young:** (a) and (b). The answer is in the negative. All claims that are eligible and proved are disposed of in accordance with the rules.

#### PROMOTION OF TELEGRAPHISTS.

**291. Pandit Satyendra Nath Sen:** (a) Will Government be pleased to refer to unstarred question No. 403 (regarding promotion of Telegraphists) put in the Assembly on the 25th March, 1931, and state what decision has been arrived at in the matter?

(b) If so, will Government please state whether definite rulings have since been issued on the points raised therein; if not, when a decision may be expected?

**Mr. T. Ryan:** (a) and (b). A decision on the subject has been postponed pending the consideration of certain connected questions relating to retrenchment.

#### RECOMMENDATIONS OF THE POSTS AND TELEGRAPHS RETRENCHMENT SUB-COMMITTEE.

**292. Pandit Satyendra Nath Sen:** (a) Will Government be pleased to state whether the recommendations of the Posts and Telegraphs Retrenchment Sub-Committee as laid down in paras. 202 (Chapter X) and 164, sub-para. (b), (Chapter VIII) of their Interim Report have been accepted by Government?

(b) If so, to what extent? If not, what are the reasons?

**The Honourable Sir Joseph Bhore:** (a) The suggestions in the paragraphs in question are being considered.

(b) Does not arise.

#### DETERMINATION OF SENIORITY OF BAUDOT SUPERVISORS IN THE POSTS AND TELEGRAPHS DEPARTMENT.

**293. Pandit Satyendra Nath Sen:** (a) Is it a fact that the Indian Telegraph Association requested the Director General, Posts and Telegraphs, to issue clear and definite instructions for fixing seniority amongst the Baudot Supervisors qualified in different standards to fill up appointments carrying allowances?

(b) If so, will Government please state whether the instructions asked for have since been given? If not, when are the instructions likely to be issued?

**Mr. T. Ryan:** (a) Yes.

(b) The reply to the first part is in the affirmative. The last part does not arise.

**CONFIRMATION OF PROBATIONERS IN THE CHIEF ACCOUNTS OFFICE,  
EAST INDIAN RAILWAY.**

**294. Pandit Satyendra Nath Sen:** (a) Is it a fact that there is a rule that the Administration Section of a Chief Accounts Officer's Office, should be manned by the most efficient staff?

(b) If so what steps are being taken to give effect to the views of Mr. Sankara Iyer, late Chief Accounts Officer, East Indian Railway, expressed on the eve of his transfer on the subject of the confirmation of probationers?

(c) Do Government propose to issue orders to those concerned, so that the views of Mr. Sankara Iyer are not overlooked?

**Mr. P. B. Rau:** The internal arrangements of the office are for the Chief Accounts Officer to decide, subject to the general control of the Controller of Railway Accounts, and Government do not propose to interfere in them.

**CONFIRMATION OF PROBATIONERS IN THE CHIEF ACCOUNTS OFFICE,  
EAST INDIAN RAILWAY.**

**295. Pandit Satyendra Nath Sen:** (a) Are Government aware that the prolonged period spent on probation by those men of the East Indian Railway Accounts Department, who were recruited on the results of the competitive examination, prescribed in Appendix B to the Financial Commissioner of Railways' Memorandum No. 5565-F., dated the 31st July, 1929, is in contravention of their "Letters of Appointment", and that it has debarred them from drawing their annual increments? If so, do Government propose to permit them to draw their annual grade increase?

(b) Will Government be pleased to state whether Government intend to issue necessary instructions to the Chief Accounts Officer, East Indian Railway for confirming these probationers against existing permanent vacancies? Will any additional expenditure be involved thereby in view of the Controller of Railway Accounts letter No. 336-C. R. A./E./80, dated the 1st November 1930?

**Mr. P. B. Rau:** I have called for certain information on the subject and will lay a reply on the table in due course.

**ABOLITION OF THE APPOINTMENT OF DEPUTY ASSISTANT ENGINEER,  
TELEGRAPHS CONSTRUCTION.**

**296. Pandit Satyendra Nath Sen:** (a) Has the attention of Government been drawn to an insertion entitled Posts and Telegraphs Sub-Committee's Report in the *Amrita Bazar Patrika*, sometime in the last week of December, 1931?

(b) If so, will Government be pleased to state why one Deputy Assistant Engineer, Telegraphs Construction, is attached to the Patna Telegraph Engineering Branch? Is there any professional work for him to do?

(c) Have Government proposed to abolish the said post in order to run that branch more economically?

**Mr. T. Ryan:** (a) Government have seen the article.

(b) The Deputy Assistant Engineer was attached to the Patna Division for the supervision of construction work.

(c) The question is under consideration.

**ABOLITION OF THE APPOINTMENT OF DEPUTY ASSISTANT ENGINEER,  
TELEGRAPHS CONSTRUCTION.**

**297. Pandit Satyendra Nath Sen:** (a) Will Government be pleased to state why one Deputy Assistant Engineer is attached to the Patna Telephone Exchange? Is there any professional work for him to do? Did the special officer, Mr. P. N. Mitra, deputed by the department in connection with the reduction of staffs, approve a Deputy Assistant Engineer for Patna?

(b) Have Government proposed to abolish the said post to run the Patna Telephone branch more economically?

(c) Is it a fact that the connections there are less than five hundred?

(d) If the reply to part (b) is in the affirmative, do Government propose to appoint a Senior Telephone Supervisor for the Patna Telephone Exchange, instead of a junior, who will also be a Telephone adviser to the Divisional Engineer Telegraphs, Patna?

**Mr. T. Ryan:** Enquiries are being made and a reply will be laid on the table in due course.

**REDUCTION IN NUMBER OF SUB-DIVISIONAL OFFICERS, TELEGRAPHS.**

**298. Pandit Satyendra Nath Sen:** Is it a fact that at present four Sub-Divisional Officers, Telegraphs, are attached in each Division, in the Telegraph Engineering Branch? If so, have Government considered the question of appointing three Sub-Divisional Officers with a few more clerks under them, in each division, for the sake of economy?

**Mr. T. Ryan:** The reply to the first part of the question is in the negative. The second part does not arise.

**DEATH OF MR. K. V. RANGASWAMI IYENGAR.**

**The Honourable Sir George Rainy** (Leader of the House): I think, Sir, before we proceed to the business of the day, it will be the wish of this House that something should be said of one who was formerly one of our Members and who passed away yesterday evening. Mr. Rangaswami Iyengar had a very long connection with the Central Legislature. He was first a Member of the old Imperial Legislative Council, subsequently I understand of the Council of State, then for four years—during 1926-30—of the Legislative Assembly, and at the time of his death he was again a Member of the Council of State. A great many of the Honourable Members present to-day must remember very well his familiar figure on the benches opposite, and the very close attention he paid to the debates, notwithstanding the physical defect of his deafness, which must have made it very difficult. But he never allowed his disability to stand in the way of the performance of his duties as a Member of the Legislature,

and I have often admired the firmness and perseverance with which he carried on under circumstances of difficulty. I knew him as a man of the most courteous and kindly nature and also of considerable ability, who could make a worthy contribution to the discussions in this House. We shall all miss him, Sir, and feel that we have lost a personal friend. I am sure it would be in accordance with the wish of every Honourable Member if you, Sir, were to communicate to his relatives an expression of our deep sympathy and sorrow.

**Mr. C. S. Ranga Iyer** (Rohilkund and Kumaon Divisions: Non-Muhammadian Rural): Sir, I little knew when I went to see Mr. Rangaswami Iyengar last evening in the hospital that this morning what was left of him would be added to the sacred waters of the Jumna. Sir, he came here full of hope that he would continue his work for the country through the Legislature. He was a signatory, before the reforms came into existence, to the 19 Members' memorandum. He was then a colleague of Sir Surendra Nath Banerjee and Sir Bhupendra Nath Basu; and in those days when the reforms were yet to come into existence and when agitation had to be carried on in the country, he joined hands with Mrs. Besant, and travelled long distances preaching the gospel of Home Rule. He, however, did not join the non-co-operation movement which followed; but true to his duty as a legislator, he entered the Legislature, the Council of State, as a representative of the landholders of South India. Again when the Swarajists entered the Legislature, he came to the Legislative Assembly, joined the Swaraj Party, and was one of the most respected Members of that party, who enjoyed the confidence not only of its leaders but of the rank and file. Time and again he had to differ from his leaders. Independence which was an outstanding trait of his character shone when his conviction was not in agreement with their convictions. He then stood for the Council of State, and without any difficulty the province which had honoured him before sent him back to the Council of State. Sir, he came of a very aristocratic family in the South, and spent most of the money that was his in the public cause; and he will long be remembered in South India, as in this Legislature, as a great man and a good man, who was generous, even to a fault. When I look back to six days ago, when he was taken away from his house to the hospital, I could not imagine that he would pass away; he looked so very healthy. Sir, "in the midst of life we are in death". My party and I deeply mourn his passing away. We can only pray for the progress of his soul. It is very seldom that we come across one so good and so true. The hand we were pleased to touch has gone; the voice we loved to hear we shall hear no more. May he rest in peace "where the wicked cease from troubling and the weary are at rest."

**Diwan Bahadur A. Ramaswami Mudaliar** (Madras City: Non-Muhammadian Urban): Sir, I should like to associate myself and my party with the motion that has been made by my Honourable friend the Leader of the House. Mr. Kodivalam V. Rangaswami Iyengar was a well known figure in Madras politics and was in the public life of the country and of the Presidency for the last twenty years. When we remember that he was only 46 at the time of his death, we can realise at what early age he came into prominence in public life and what an active part he has taken during the last twenty years in every aspect of political affairs in the country. Not only did he take a leading part in national politics, as

[Diwan Bahadur A. Ranaswami Mudaliar.]

has been referred to by my friend, Mr. Ranga Iyer, but he was also interested in parochial politics: he was the Chairman of the Municipal Council of Srirangam, his birth-place, and his name is a household word both in Trichinopoly and in Srirangam. In the old Imperial Legislative Council I believe he had the honour of being a colleague of yours, Sir, and for many years with the great men who then took part in the debates of that Council he joined in organising and expressing the public opinion of the country. Mr. Rangaswami Iyengar has been from 1916, except for a short period of one year in 1925 or 1926, a member of the Central Legislature, either of the old Imperial Legislative Council or of the reformed Legislature at the centre. His personality, his charming figure, his absolute urbanity of temperament and his pleasant ways always will remind every one of us of the nature of his good qualities. I have never seen him—and I do not think any Member of this House has ever seen him—in a temper. Whatever might be the occasion, however much he might feel, he always kept that cheerful outlook and that cheerful personality which was his chief characteristic. Sober, always straight in his talk, and always mellowed in his language, Mr. Rangaswami Iyengar typified the rural gentleman at his best. I think that we will be doing our duty if we convey on behalf of the House our feelings of regret to the members of his family at the early demise of the gentleman. Sir, the circumstances under which he was parted from us are of the most tragic kind. Away from home, away from those who are near and dear to him, with only his brother who was just in time to see him in life, Mr. Rangaswami Iyengar has passed away in a strange place, comparatively speaking. These tragedies make us realise occasionally what those who are doing their best on the non-official side for the cause of the country may have to suffer. Mr. Rangaswami Iyengar's death must bring home to every one of us that they also serve who only stand and wait, and they also serve who place before the authorities the best temper and the best opinion of their countrymen in this country.

**Maulvi Sayyid Murtuza Sahab Bahadur** (South Madras: Muhamma-dan): Mr. President, it is my most painful duty to associate myself with the previous speakers in expressing our sense of sympathy and grief for the bereaved family of our departed friend Mr. K. V. Rangaswami Iyengar. He belonged to the same place from where I come. He was my personal friend and was beloved by all communities alike. Though an orthodox Brahmin, he was very social with both Indians and Europeans. In him we have lost a genuine and genial friend. Sir, it was only the other day that I met him quite hale and hearty, and this morning I was shocked to find from the *Hindustan Times* that he had taken ill and passed away from this world. It pained me very much, because I had no opportunity of knowing that he had taken ill. Having heard suddenly about my friend's untimely demise, I ran up to the hospital this morning and took a last glimpse of his face. Sir, he was a staunch nationalist. His much-lamented father Mr. Kodialam Vasudeva Iyengar was a nominated member of the Madras Legislative Council who had many a virtue. Mr. Rangaswami Iyengar had inherited all those virtues and was connected with many national institutions, and as Chairman of the Srirangam Municipality, which is only three miles off from Trichinopoly, he was very popular among all classes of people. As has been expressed by the Deputy Leader of our party, Mr. Rangaswami Iyengar has passed away from this world under very tragic circumstances. His beloved



mother, who is much advanced in age, his daughters and other near relatives are far away from Delhi; they could not even come and have a last glimpse of the deceased; so, Sir, he died a very doleful death. Of course gentlemen of his stamp are very few, in whom are combined many good qualities. Being a nationalist of the first order he always interested himself in all causes which are calculated to lead to the advance of the country and the uplift of all Indians alike. With these few words, I support the motion before the House.

**Mr. Muhammad Yamin Khan** (Agra Division: Muhammadan Rural): Sir, Mr. Rangaswami Iyengar was a great friend of mine. We were both colleagues in the first Council of State, and then he came back to the Assembly when I also came back here. I had known him for all this long period, and I can certainly say that he was a very conscientious legislator, a thorough gentleman and a good friend. It is a pity that he should have been snatched away from our midst at such an early age as 46, and I sympathise with the bereaved family and associate my party and myself with every word that has fallen from the previous speakers. I support this motion.

**Mr. Arthur Moore** (Bengal: European): Sir, we here also wish to be associated to the fullest extent with all that has already been said concerning the sudden and tragic death of one who was our former colleague and who was so well known to many of us.

**Mr. K. Ahmed** (Rajshahi Division: Muhammadan Rural): Sir, it is with great regret that we have heard the sad report of the death of Mr. Rangaswami Iyengar. Early in the morning we got the news from the newspapers, without knowing anything about his illness before, that he passed away last night. Mr. Rangaswami Iyengar belonged to a very aristocratic family of South India and he represented the Landholders' interests in the Legislatures. I first met him in 1921 in this city. He was generous to a fault; he was very clever and a great student of politics. Though he was an orthodox Prahmin, still he was very social with all communities, and in this matter I think he has left behind an example for many of us to follow. I have been closely watching him since 1921, and I must say that he was a thorough gentleman and had a large heart. His writings on political matters and certain other social subjects have left some reminiscences of his life behind. I know he was writing some books, and I do not know if he was able to complete his labour of love before his death. He was so hard working, and so thoughtful, that whenever anything happened either here or in the other place, he would immediately take up the question and study it closely, and he made a lot of sacrifice even to his personal discomfort. Sir, I associate myself with the Honourable the Leader of the House and endorse each and every word that has fallen from the lips of my friends belonging to the different parties. It is only fair, Mr. President, that our expression of sorrow should reach the members of his family. I understand his brother hurried to this place from the South coast only a couple of days ago and he was able to meet the deceased just in time. It is really a pity that we were not informed of the serious nature of his illness nor of the exact hour fixed for his funeral, otherwise some of us at least would have taken a last glimpse of the deceased, and we have missed an opportunity of our life.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): The Chair wishes to associate itself with all that has fallen from Honourable Members in regard to the sad loss which the country has suffered by the premature

[Mr. President.]

passing away of Mr. Rangaswami Iyengar, a gentleman whom I had known for many years and with whom I had developed close ties of friendship. Mr. Rangaswami Iyengar was a very quiet worker in the cause of his country, and one of his greatest merits was that he was always found associated with all progressive movements for the advancement of his motherland. The Chair will communicate to his relatives the feeling of sorrow and sympathy to which the House has given expression.

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#### ELECTION OF MEMBERS TO THE PUBLIC ACCOUNTS COMMITTEE.

**Mr. President:** I have to inform the Assembly that the following Members have been elected to serve on the Committee on Public Accounts, namely:

1. Rao Bahadur M. C. Rajah.
2. Mr. T. N. Ramakrishna Reddi.
3. Kunwar Hajee Ismail Ali Khan.
4. Mr. S. C. Mitra.

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#### ELECTION OF MEMBERS TO THE STANDING FINANCE COMMITTEE FOR RAILWAYS.

**Mr. President:** I have also to inform the Assembly that the following Members have been elected to the Standing Finance Committee for Railways, namely:

1. Mr. R. S. Sarma.
2. Khan Bahadur H. M. Wilayatullah.
3. Mr. G. Morgan.
4. Haji Chaudhury Muhammad Ismail Khan.
5. Mr. A. H. Ghuznavi.
6. Sirdar Harbans Singh Brar.
7. Maulvi Sayyid Murtuza Saheb Bahadur.
8. Mr. Muhammad Yamin Khan.
9. Khan Bahadur Haji Wajihuddin.
10. Mr. Bhuput Sing.
11. Rao Bahadur S. R. Pandit.

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#### STATEMENTS LAID ON THE TABLE.

##### REPRESENTATION OF MUSLIMS IN THE INCOME-TAX DEPARTMENT, BENGAL.

**The Honourable Sir George Schuster** (Finance Member): I lay on the table the information promised in reply to starred question No. 612 asked by Mr. Muhammad Anwar-ul-Azim on the 4th March, 1932.

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(a) Total selections have been made for the appointment of 3 Examiners and 17 Assessors. The latter appointments had to be made in the chain of vacancies caused by the appointment of 17 Assessors as Income-tax Officers.

Of the candidates selected 2 are G. D. As., 1 M.A., 1 B.Com., 11 B.As. and 1 B.Sc. 4 men have been promoted from the department.

Appointments made up-to-date—3 Examiners and 11 Assessors.

(b) This is not a fact. All those candidates who are G. D. As. were offered appointments, but only 3 G. D. As. accepted. Certificates of Divisional Accountant are not regarded as entitling the holders to preferential treatment in filling appointments. It does not appear that any holder of such a certificate applied for one of these temporary posts.

Of the 3 G. D. As., 2 have been appointed to these temporary posts and 1 has been held in reserve to fill a permanent appointment as Examiner which has fallen vacant.

(c) No B.A. or M.A. in Persian has been selected for appointment, as the latter part of the question does not arise.

(d) The figures are shown as below :

	No. of clerks.	No. of Mahomedan clerks.
Office of Commissioner of Income-tax, Bengal	15	Nil.
Office of Assistant Commissioner, Calcutta	7	Nil.
Office of Assistant Commissioner, Head Quarters	11	3

(e) The Honourable Member is apparently referring to the circular issued by the Government of Bengal regarding representation in Services under their control. The orders of the Government of India, as the Honourable Member is aware, are that one-third of the permanent vacancies should be reserved for redressing communal inequalities. They have laid down no fixed percentages for any particular minority community, but have under consideration the question how far it is practicable to follow the practice of local Governments in respect of Services under the Central Government recruitment to which is made locally.

(f) 38 per cent. of the total strength of clerks in Income-tax Offices and Assistant Commissioners' offices.

#### APPLICATIONS FOR REVISION OF INCOME-TAX IN THE POMBAY PRESIDENCY.

**The Honourable Sir George Schuster:** I lay on the table the information promised in reply to starred question No. 658 asked by Mr. Lalchand Navalrai on the 7th March, 1932.

(a) The number of applications was :

1928-29	849
1929-30	1,512
1930-31	1,474

I regret that it is not possible to inform the Honourable Member in how many cases the applicant requested a hearing and in how many cases a hearing was given. To obtain this information would involve the examination of 3,835 files, and I do not feel justified in imposing that task on the staff. I may remind the Honourable Member that the Commissioner acting under section 33 is theoretically acting of his own motion. The section does not provide for any application by an assessee, nor does it require that the assessee should be given a hearing except when the Commissioner proposes to pass an order prejudicial to him. The Commissioner estimates that he granted a hearing in about 40 per cent. of the cases.

(b) As already stated, the law does not contemplate the presentation of applications under section 33. Nor does it require the Commissioner to record reasons for deciding not to exercise his powers under that section. When the Commissioner so decides, he informs the applicant accordingly, and does not generally record the reasons for that decision. Where he does record his reasons, a copy of his order is given to the assessee if he applies for it.

NUMBER OF SIKHS AND MEMBERS OF OTHER COMMUNITIES ON COMMITTEES OF  
THE ROUND TABLE CONFERENCE.

**The Honourable Sir George Rainy** (Member for Commerce and Railways): I lay on the table the information promised in reply to starred question No. 721 asked by Sardar Sant Singh on the 9th March, 1932.

*Indian States Committees—*

(a) Nil.

(b) Hindus 4.

Muhammadan 1,

Anglo-Indian 1

Sikhs—The only application received from Sikhs was for employment as peon.

(c) Does not arise.

*Indian Franchise Committee—*

(a) Nil.

(b) Hindus 15.

Muhammadans 5.

Anglo-Indians 2.

Sikhs—An appointment was offered to a Sikh but he was not prepared to accept the terms offered.

(c) The information is not readily available.

*Consultative Committee—*

(a) One.

(b) Hindus 4.

Muhammadans 2.

Anglo-Indian 1.

Indian Christian 1.

Sikh 1.

(c) The information is given below.

Name of candidate.	Community.	Qualifications.
1. Mr. Fateh Singh. (He was not taken.)	Sikh . . . .	B.A. Employed in the office of the Controller of Railway Accounts.
2. Mr. V. K. Joseph . . . .	Indian Christian . . . .	B.A., LL.B., B. Com. He has one year's previous experience of office work.
3. Mr. Zia-ud-din Ahmad . . . .	Muslim . . . .	B.A., LL.B. A lawyer of six years' standing. He has one year's previous experience of office work.
4. Kunwal Kishore . . . .	Hindu . . . .	B.A., LL.B. Has practised as a lawyer for one year. Has been working in a Government office for about three years.

## COMMUNITIES OF POSTMEN AND INFERIOR SERVANTS IN MUSSOORIE POST OFFICES.

**Mr. T. Ryan** (Director General, Posts and Telegraphs): I lay on the table the information promised in reply to starred question No. 403 asked by Khan Bahadur Haji Wajihuddin on the 17th February, 1932.

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(a) Forty-five.

(b) Yes.

(c) The Season arrangements referred to are made by the Postmaster-General, United Provinces Circle, to whom a copy of this question has been sent.

## REJECTION OF AN APPLICATION FOR CONSTRUCTION OF A BUNGALOW IN LAHORE CANTONMENT.

**Mr. G. M. Young** (Army Secretary): I lay on the table the information promised in reply to starred question No. 354 asked by Sirdar Sohan Singh on the 15th February, 1932.

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(a) Yes.

(b) Yes, the application was returned without reference to the Board, because the specifications of the proposed bungalow were not in accordance with those prescribed in a scheme which had been sanctioned under section 181 (4) of the Cantonments Act, by the Officer Commanding-in-Chief, the Command, in the area within which the bungalow was to be constructed.

(c) Government are of opinion that the object in view, namely, the construction of bungalows of a particular type, should have been achieved by by-laws under section 186 (b) of the Cantonments Act rather than by the imposition of a scheme under sub-section (4) of section 181, and are communicating orders accordingly to the authorities concerned.

(d) Yes.

(e) and (f). The practice existed until lately but has now been discontinued.

## PROSECUTIONS INSTITUTED BY THE EXECUTIVE OFFICER, SIALKOT CANTONMENT.

**Mr. G. M. Young:** I lay on the table the information promised in reply to starred question No. 661 asked by Sirdar Sohan Singh on the 7th March, 1932.

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(a) Government understand that since the introduction of the Cantonments Act, 1924, the practice in the Sialkot Cantonment has been for the Executive Officer to issue notices under that Act as soon as the necessity for doing so arose, his action being subsequently confirmed by a resolution of the Board.

(b) and (c). After the Board had confirmed the issue of the notices the Executive officer lodged prosecutions for non-compliance with those notices as the Board had delegated its powers under sections 266 and 267 to him.

(d), (e) and (f). Yes.

(g) The expenses of the Cantonment Board in the revision proceedings amounted to Rs. 165.

(h) Government have no information.

(i) No further action is called for, as both the Cantonment Board and the Executive Officer acted in good faith and in the belief that the procedure which had been followed for some years was correct.

(j) Government have no reason to believe that the incorrect procedure is followed in other cantonments; and, in view of the decision of the High Court, they do not consider that any action is required.

**MUSLIM CLERKS DISCHARGED FROM THE OFFICE OF THE CHIEF MEDICAL OFFICER, NORTH WESTERN RAILWAY.**

**Mr. P. R. Rau** (Financial Commissioner, Railways): I lay on the table the information promised in reply to starred question No. 675 asked by Mr. Muhammad Muazzam Sahib Bahadur on the 7th March, 1932.

Only one clerk has been discharged from the office of the Chief Medical Officer, North Western Railway during the last three years and that clerk belonged to the Muslim community. The clerk discharged was inefficient and before his services were dispensed with he had had sufficient warning given to him that his work was not of the standard required.

**APPOINTMENT OF TRAFFIC INSPECTORS ON THE NORTH WESTERN RAILWAY.**

**Mr. P. R. Rau:** I lay on the table the information promised in reply to starred question No. 446 asked by Mr. Lalchand Navalrai on the 22nd February, 1932.

(a) and (b). The last 4 employees confirmed as Traffic Inspectors together with their substantive pay and the pay on which they have been confirmed are given below :—

Names.	Former substantive pay.	Substantive pay.
		Rs.
1. Mr. W. W. Foster	A. S. M., Grade V Rs. 300	380
2. Mr. Raghwanish Singh	Claims Inspector pay Rs. 190	345
3. Mr. Kirpa Ram	S. M., Grade III pay Rs. 190	365
4. Mr. Dewan Chand	S. M., Grade III pay Rs. 190	365

(c) Promotions to the post of Traffic Inspector are made by selection from employees who have adequate experience and who are considered to have the qualifications necessary for this post. Such employees appear before a Selection Board of Principal Officers in Headquarters by which the final selection is made, and by whom due consideration is given to the claims of all.

(d) I understand there is no likelihood of their confirmation being cancelled. Their case is different from that of the Controllers referred to by the Honourable Member.

**NON-INCLUSION OF CERTAIN RESOLUTIONS IN THE AGENDA OF A MEETING OF THE LAHORE CANTONMENT BOARD.**

**Mr. G. M. Young:** I lay on the table the information promised in reply to starred question No. 351 asked by Sirdar Sohan Singh on the 15th February, 1932.

(a) Yes.

(b) No. The resolutions were returned under instructions of the President. I am informed that, among other reasons which led to their not being placed on the agenda, they were not received 10 days before the meeting, as required by the regulations.

(c) Yes, provided that it complies with the regulations on the subject.

(d) Does not arise.

# OFFICERS DEALING WITH ESTABLISHMENT MATTERS ON THE EASTERN BENGAL RAILWAY.

**Mr. P. R. Rau:** I lay on the table the information promised in reply to unstarred question No. 87 asked by Mr. M. Maswood Ahmad on the 22nd February, 1932.

Five Muslim officers employed on the Eastern Bengal Railway deal with establishment matters, in addition to their technical duties, viz. :

Department.	Rank.	Designation.
Medical . . . . .	1 Head of Department .	Chief Medical Officer.
Traffic and Commercial .	3 { 1 District Officer .	District Traffic Superintendent (Crews).
	{ 2 Assistant Officers .	Assistant Traffic Superintendent, Santahar.
		Assistant Crew Officer.
Signal Engineering. .	1 Assistant Officer . .	Assistant Signal Engineer, Calcutta.

As regards Office Superintendents and Head Clerks, there are 5 Muslim employed as follows :

## Department—

### Mechanical Engineering—

- 1 Head Clerk employed at Naihati in the Head Train Examiner's Office.
- 1 Head Clerk employed at Kanchrapara in the Electric Power Superintendent's Office.
- 1 Head Clerk employed at Paksey in the Establishment Section of District Loco. Superintendent's Office.
- 1 Head Clerk employed at Paksey in the Accounts Section of District Loco. Superintendent's Office.

### Traffic—

- 1 Head Clerk employed at Calcutta in the District Traffic Superintendent Crews' Office.

# CONTRACTS FOR UNLOADING AND STOCKING COAL ON THE GREAT INDIAN PENINSULA RAILWAY.

**Mr. P. R. Rau:** I lay on the table the information promised in reply to starred question No. 770 asked by Lieut.-Colonel Sir Henry Gidney on the 14th March, 1932.

(a) The reply to all the parts of this question is in the negative.

(b) Does not arise.

DRAFT CONVENTION AND RECOMMENDATIONS *RE* PROTECTION  
AGAINST ACCIDENTS OF WORKERS EMPLOYED IN LOADING  
AND UNLOADING SHIPS.

**The Honourable Sir George Rainy** (Leader of the House): With your permission, I wish to make a statement regarding the Draft Convention and Recommendations concerning the protection against accidents of workers employed in loading or unloading ships adopted by the International Labour Conference at its 12th Session held in 1929.

On the 14th July, 1930, this House adopted the following Resolution moved on behalf of Government:

“This Assembly having considered :

- (1) the Draft Convention concerning the protection against accidents of workers employed in loading or unloading ships;
- (2) the Recommendation concerning reciprocity as regards the protection against accidents of workers employed in loading or unloading ships; and
- (3) the Recommendation concerning the consultation of workers' and employers' Organisations in the drawing up of regulations dealing with the safety of workers employed in loading or unloading ships;

adopted by the International Labour Conference at its Twelfth Session recommends to the Governor General in Council that he should examine the possibility of giving effect to the above Convention and the Recommendations and that the results of this examination should be placed before the Assembly within eighteen months from this date.”

The Government of India consulted the Local Governments and through them the Port Trusts and commercial bodies as to the desirability of ratifying the Draft Convention and accepting the Recommendations referred to in the above Resolution. The replies received showed that the weight of opinion was in favour of the Draft Convention being ratified and the Recommendations being accepted. After considering the replies the Government of India came to the conclusion that the Draft Convention should be ratified and the Recommendations accepted on behalf of India and that necessary legislation should be undertaken to give effect to them. Subsequently, however they received intimation from the International Labour Office that certain Governments had met with difficulties of a practical nature when considering the question of ratifying the Convention, and had approached the Office with the suggestion that, in order to remove these difficulties, the Draft Convention should be modified. An examination of the points of difficulty raised by the Governments referred to above showed that similar difficulties would arise in India and that the amendments to the Draft Convention suggested by the Governments in question would remove them. In the circumstances the Government of India decided to postpone the question of introducing legislation to give effect to the Draft Convention till the decision of the Governing Body of the International Labour Office on the proposal for the revision of the Draft Convention had been received.

The Government of India have now received intimation that the Governing Body of the International Labour Office have placed the question of the partial revision of the Draft Convention on the Agenda of the Sixteenth Session of the International Labour Conference which is to open



at Geneva on the 12th April 1932. In the circumstances the Government of India propose to await further developments before taking any further action regarding the ratification of the Draft Convention and the acceptance of the Recommendations.

### 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. Lalchand Navalrai** (Sind: Non-Muhammadian Rural): The issue involved in this amendment\* is whether we should give sanction to taking away the powers of the High Court under section 491 in respect of the detenus under the Bengal Criminal Law Amendment Act. On Thursday last, while discussing this point, I attempted to make out my contentions, I asked the House to consider this question as one of great and vital importance. If this were in any sense a communal question it would be only a few Members of the House that would pay sympathetic attention to it, but this is a question of national importance, and I request the House to give its utmost consideration to it and look at it from all points of view.

Now, Sir, the points that I made the other day were these. One, that the liberty of a man established by *habeas corpus* does exist independently of the provisions of section 491 of the Code of Criminal Procedure. The second that this Legislature, either this House or even the other House,—the Council of State—has got no power to abolish rights of a *habeas corpus* nature. The third point, with which I concluded that day, was that the proviso to section 491, Criminal Procedure Code, as it now stands which really curtails the powers of the High Court so far as certain regulations mentioned therein are concerned is *ultra vires*. I do contend even now that those provisions under clause 3 of section 491 are *ultra vires*; in other words, even though made by the Legislature, they are null and void. Now these are questions purely of law, and it is well-known, that a legal discussion is generally dry. The other day I was sorry when my Honourable friend, Sir Cowasji Jehangir, found himself somewhat uncomfortable in his seat and doubted whether the points that we are discussing here were appropriate. He put a question whether this House was constituting itself a High Court. Sir, I know full well that some Members of this House are more accustomed to politics than to law, and my Honourable friend will excuse me if I crave his indulgence for saying that he has of course held a portfolio previously of a political nature and not of law, and therefore perhaps he is a little impatient about the consideration of these law questions. I must however submit that this question is of such an important character that all the Members of this House must give their whole attention to it, and decide for themselves this plain question, namely, whether they are going to curb the elementary rights of a man by curtailing the undoubted rights of the High Court with regard to these detenus,

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\*“That clause 4 be omitted and clause 5 be renumbered as clause 4.”

[Mr. Lalchand Navalrai.]

who are already involved in much hardship and harsh treatment? I would therefore ask my Honourable friend, Sir Cowasji Jehangir, to bear with me while I continue my line of argument in order to try to satisfy this House that this clause 4 of the Bill, which is sought to be incorporated into an Act, should not be so made a Bill of the Bill. Sir, on Thursday last, I concluded by saying that proviso 3 to section 491 is really not legal; no matter if it has been made by the Legislature; the Legislature is after all a human body and all human bodies are liable to err. There no doubt have been several Acts some provisions of which the highest courts, including the Privy Council, have held to be *ultra vires*. Sir, I contend that that is the exact position here also. I lay stress on the point of illegality of such a provision as clause 3 of section 491, Criminal Procedure Code, because in the Statement of Objects and Reasons only one reason is given for enacting this clause and that is that a precedent exists under clause 3 of section 491 of the Criminal Procedure Code wherein certain regulations have been excepted from the operation of section 491, Criminal Procedure Code. Sir, it is thus sought to be established that so far as the Bengal Criminal Law Amendment Act is concerned, the High Court should have no power to look into the merits of the case and to decide upon the justice or otherwise of the case of a detenu. Sir, I referred that day to the Indian Law Reports, 39 Bom. and said that in that decision, though it has not been directly ruled that proviso 3 is inoperative, yet there are some remarks therein to support my view. To make that case understandable, I may say that it was a case in which a man was taken up and confined under a writ on the requisition of the Government of Germany for having committed an offence of cheating. An order had been made that that man was to be extradited to Germany to be tried there. An application was made to the High Court, probably under section 491 or under the *habeas corpus* Act, that the High Court should interfere and send for the record and look into that case to find out for themselves the propriety and legality of the action under the Extradition Act. Sir, objection was taken then that the High Court had no jurisdiction and the High Court went into that question and decided that they had jurisdiction. This was because the Extradition Act had made no exception to the exercise of their powers under section 491. Incidentally, however, the question was raised whether the proviso 3 to section 491 is valid or invalid. I shall read out what they said at page 182 of I. L. R. 39 Cal. :

"It must, however, be shown clearly that supreme power such as that under *Habeas Corpus* or under directions in the nature of that writ has been expressly left, if that be possible, to the Legislature."

Now these are the words that I lay emphasis upon, in order to show that it is doubted whether the Legislature have got the power to interfere with the writ of *habeas corpus*. Further on, it is said :

"On the contrary clause 3 of section 491, whether validly or invalidly, excepts certain regulations and Acts from the operation of that section."

I lay emphasis on the words "validly or invalidly". So there is a doubt about its validity and the question is open. Then further on it lays down :

"But the English Act did not give the right to *Habeas Corpus*. It merely declared a right which existed independently of the Statute."

It is therefore my contention here also that the *habeas corpus* right remains independently of section 491, Criminal Procedure Code. Then, Sir, I will read out that portion of the ruling where it is said:

"In re. Salet *ex-parte* Baset indicated, in sections 11, 33 and 34 Vic. c. 52, 1870, the time when as a matter of procedure that right should be invoked. By the order of the Council of 7th March 1904, Gazette of India, page 463, 14th May 1904, it was under section 18 of the English Statute declared that chapter II of the Indian Act should take effect as if it were part of the English Statute. That order has not the effect of incorporating the procedure of section 11 of the Statute into this country which has a procedure of its own."

Sir, the portion which is important is this:

"The order may, however, be affected to show, so far as it goes, that there was no intention to do away with the right to *Habeas Corpus* which was declared in Statute in support of which the Indian Act was ordered to take effect as if it were a part of it."

Then, I submit, that I have now made out two points, namely, with regard to the existence of the right of *habeas corpus* independently of the Statute in the High Court, and my humble submission is that the provision which has been made in clause 3 to section 491, Criminal Procedure Code, is not a valid and legal one. After these two points have been made, I would urge that the question with regard to the reasonableness or feasibility of giving sanction must have some cogent reasons. It is questionable whether such cogent reasons do exist. Sir, I must submit that no reason has been given on which we may place our reliance and it would be absolutely wrong on our part to give such a sanction and take away the power of the High Court especially with regard to the Bengal Criminal Law Amendment Act. My reasons for saying so are these. The Bengal Criminal Law Amendment Act is an Act which is very harsh and severe in its application. That being the case, the question arises whether the only power that has been reserved to the High Court, namely, to send for the case and find out whether the man is really being detained properly or illegally, should also be taken away from it? With regard to this, I would refer to section 2 of the Bengal Criminal Law Amendment Act, which says:

"When in the opinion of the Local Government there are reasonable grounds for believing that any person has acted or is about to act in contravention of the provisions of the Indian Arms Act and other Explosive Substance Act. . . ."

or is found to be a suspect of the crimes therein mentioned, the Executive can pass an order calling on him to notify his residence and any change of residence to such authority as may be specified in the order. Also that he shall report himself to the police in such a manner and at such periods as may be so specified; shall conduct himself in such a manner or abstain from such acts as may be specified; shall reside or remain in any area so specified; shall not enter, reside in or remain in any area so specified and shall be committed to custody in jail. Now, Sir, these are the provisions which are very harsh indeed, and when they are intended to apply not to a man who has been judicially found out to be a suspect, they become harsher still. Then, Sir, let us see what is the procedure that is applied. It is stated in section 9:

"Within one month from the date of the order by the Local Government under sub-section (1) of section 2, the Local Government shall place before two persons, who shall be either Sessions Judges or Additional Sessions Judges the material facts and circumstances in their possession, on which the order has been based or which are relevant to the inquiry."

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These Judges are asked to be only reporters. The section goes on to say :

"The said Judges will then consider the said material facts and circumstances and the allegations and answers and shall report to the Local Government whether or not in their opinion there is a lawful and sufficient cause for the order."

Now, Sir, this is not a judicial decision at all. So we must say that the man had no trial of any kind; still the two Judges have to be appointed and it is always assumed that the procedure was observed though it amounts to nothing. In fact, I will say, if I may, that it is no procedure but a mere farce.

**Rao Bahadur B. L. Patil** (Bombay Southern Division: Non-Muhammadan Rural): Is it open or *in camera*?

**Mr. Lalchand Navalrai**: It is not open but beyond the screen. Then, Sir, these two Judges sit together and go into the facts supplied to them by the Government and what do they do? They have to make only a report and after the report let us see who decides. Sir, the next paragraph gives that answer.

"On receipt of the said report the Local Government shall consider the same and shall pass the order thereon as it appears to the Local Government to be just or proper."

The question has been settled by the Local Government. They get the report and they themselves become the Judge. This is the kind of procedure that is prescribed by the Act. Further on, it is said:

"Nothing in this section shall entitle any person against whom an order has been made under sub-section (1) of section 2 to attend in person or to appear by a pleader in any matter connected with the reference to the said Judges, and the proceedings and the report of the said Judges shall be *confidential*."

Sir, is this justice? This procedure is not only harsh but even the report, according to this procedure, is confidential. Now, I ask what are you going to decide in the case under consideration? Here is a detenu whose case has been considered on a report submitted who is only a suspect detenu and his case has been considered in the manner that I have now indicated to the House. Thus even the report of the two Judges received by the Local Government about him remains a sealed book for the detenu.

I ask, is this justice? Before we enact this provision in the Bill, we must observe that there is at least a glimpse of hope, there is a loophole left for that detenu even though on the materials which are not sufficient and the materials which are supplied by the executive. The detenu has got the hope of getting his case reviewed by the High Court; but now the Government of India are asking the House to take away that power also and leave the detenu in the lurch, in the hands of the executive. They can suspect him, they can detain him, they can collect materials against him in any manner they like. They can appoint two Judges of the High Court to sit and report on the materials placed before them confidentially and then a final order is passed and the Government will say that the detenu is really guilty. Now, the Government further want that even the High Court should not interfere. Is this British justice? I therefore think that it would help the Government morally if they do not take away the last vestige of hope and the last resort the detenu has under the Criminal Procedure Code. I can well understand it when they want to transfer

a detenu. There is some reason in it because the Government believe that by that detenu remaining in Bengal, he will contaminate other prisoners and he will create a disturbance in the prison. That is quite understandable. But if the detenus are transferred, certain conveniences could be given to them. What is the alternative going to be provided for in case the power of the High Court is taken away. The result is that even the little redress that the High Court could give to the detenus is sought to be taken away. Unless and until there are cogent reasons, which have not been given up to this time, the power of the High Court to give redress to the detenus should not be taken away. We are not now asking that the Criminal Law Amendment Act should be repealed. We do not say that the procedure which is a farce should be changed or improved. We are merely asking that the executive should not be given the power to take away the right of the High Court to examine the materials concerning a detenu. I do not know what reasons the Government have got to take away the powers of the High Court. They have not given the reasons up to now. In saying that the Government have not given any reasons, I am supported by what the Honourable the Law Member said in his speech on this debate. I have read the speech of the Honourable the Law Member—I also heard it in this House—and I find that he has given reasons justifying why a detenu should not be given a regular trial. They may be right or wrong, acceptable or unacceptable, but with regard to the provision of taking away the powers of the High Court, he has given no reasons, nor I submit could he give any sound reason. The Honourable the Law Member said:

“I may mention only two factors, one is that a trial is undesirable in order to protect witnesses from being assassinated and the second is that if these persons are brought to trial in that case the methods employed by the Government in fighting the terrorist movement will have to be disclosed in court in cross examination which in the existing circumstances is not desirable.”

I can well understand the reasoning there. If you are going to have an open trial according to the ordinary procedure of the Criminal Law, then witnesses will have to be examined and cross-examined, and then there may be some fear—though I submit that reason also does not appeal to me for it will apply to every other case too. This is a political case in which witnesses come and give evidence, and they are, according to Government, in fear of being assassinated, but may I not ask that even in other Criminal trials pertaining to crimes other than political, is it not a fact that the witnesses are cross-examined that is likely to create bad blood? Is there no fear of the witnesses being assassinated? My opinion is that the argument will apply to all crimes under the criminal law. If the High Court calls for the material papers relating to a detenu, examines the papers and then gives its judgment, how is it that witnesses are going to be affected by that procedure? There will be no witnesses brought out for examination in the court. How then do you say that the witnesses would be in fear of being murdered? The High Court will simply examine the case and judge on the materials, and how will this disturb the happy or the unhappy methods that Government employ in crushing this terrorist movement? The reasons that are given for curbing the powers of the High Court do not appeal to me and I do not think they will appeal to the House either. I therefore submit that as no reasons are given for taking away the powers of the High Court, this amendment should be accepted.

[Mr. Lalchand Navalrai.]

I have only to say a few more words in conclusion. Section 491 of the Criminal Procedure Code allows the right to the High Court to call for a detenu and to consider his case. There is another clause which allows the High Court to call for certain witnesses in certain cases. If that power is also taken away from the High Court, then why not adopt rather a procedure in which when the police suspects a man, they can take him to the jail and let him remain in it till it pleases the police to report to the Local Government that the man has behaved better and could be released. Why not adopt such a procedure instead of the present one which does not help the detenu to any extent even his going up to the High Court. With regard to curbing of such powers of the High Court, the Honourable the Law Member said the other day that the Government always helped the High Court if they ordered the production of any witnesses. But now the Government want to deprive the High Court of the Statutory power of calling for witnesses. I submit that if witnesses can be called for by the High Court only on a request to the executive, it is absolutely a wrong procedure and it will leave the High Court at the mercy of the executive. If we pass this provision in this Bill, it will leave the High Court absolutely helpless and will leave the High Court completely at the mercy of the Executive Government. I therefore object strongly to this provision being put on the Statute-book. Sir, I will not take any more time and  
 1 P.M. I think I have been true to my promise of taking about 20 minutes.

**Mr. President:** The Honourable Member has taken 35 minutes.

**Mr. Lalchand Navalrai:** When speaking on a point of law, no one knows how much time he will take, and I have exceeded my promise by some time. However, I will again appeal to the House that this is a point to which they should give their utmost consideration. They should be alert in safeguarding their powers and in not surrendering the liberties of the people to the executive.

**Mr. R. S. Sarma** (Nominated Non-Official): Sir, whatever may be the defects of the present constitution of the Government of India or the shortcomings of the constitution of the present House, nobody can say that this House lacks lawyer Members who can frequently illumine and enlighten the Members of this House on intricate points of law. We have here lawyers of eminence like our friend who has just finished, lawyers of experience like my friend Mr. Yamin Khan, and lawyers of both eminence and experience like my friend Mr. K. Ahmed. But I really fail to see whether the House is to-day any the richer in its information on this Bill for all the wealth of wasted eloquence of my Honourable friend Mr. Lalchand Navalrai. Sir, he put two or three very passionate questions this morning. Is the right of the subject being taken away and is the High Court deprived of its rights over these detenues? I want to point out that it is very clear and there is no necessity for labouring this point. There was nothing in the speech of the Honourable the Home Member or in the brilliant exposition of the Honourable the Law Member the other day, which would give any other impression to this House. The whole point of the Opposition is that the powers of the High Court are being taken away,—and there is no doubt that they are being taken away. But the

question is why they are being taken away, and the facts that were adduced on behalf of this have not yet been controverted by any Member on that side. Sir, if the High Court's power is not taken away and if the High Court is asked to go into the merits of the case of the detenus who are kept without trial, then there is an obligation on the part of Government to adduce evidence and to produce witnesses to substantiate their case. It means that they have to name their witnesses and to reveal the secret sources of their information, and it is exactly that particular thing which this clause 4 wants to avoid. Sir, does any Honourable Member seriously suggest that in the present circumstances of the country it is safe for Government to have recourse to the procedure of naming witnesses and exposing them to the danger of their lives? I put this question very seriously, and I want Honourable Members in this connection to recall a very recent case, the case of the compositor Ashutosh Neogy who was assassinated like a dog because he gave evidence. When all those people who give information and who help Government as witnesses are tracked down and assassinated is it safe for Government to produce these people so long as these witnesses are not safe, inside the court as well as outside, by the pressure of public opinion? Sir, so long as terrorism is not put down, I do not think it is safe for Government to take that course unless public opinion rises to its full height. It is not that public opinion in India is in favour of terrorism, but public opinion is still afraid of these terrorists. There is no question about it. That is the reason, Sir, why witnesses cannot be exposed to the danger of their lives. That is the reason for the insertion of clause 4, and in my opinion clause 4 is only a corollary of the position taken up of detention without trial. And if this House cannot question that act of arresting people without warning and detaining them without trial, I do not understand how it is consistent for them to deny this right for which they are asking. Certainly, as the Advocate-General of Madras pointed out, what this Bill does is to bring these detenus on a par with Regulation III prisoners. If Regulation III prisoners do not enjoy the benefits of section 491, why should the detenus enjoy a similar privilege? But it can be then asked, "Why do you pass this Act? Why cannot you have all these people arrested under Regulation III and treat them as Regulation prisoners?" There is absolutely no fundamental difference between this Act and Regulation III. The difference is only administrative and financial. Regulation III prisoners are all under the control of the Government of India, whereas the detenus under this Act are under the control of the Local Government concerned; and why should the Central revenues be applied for the maintenance of persons who are detained under a local Act? Sir, for these two reasons I think we should not accept this amendment.

**Dr. F. X. DeSouza** (Nominated Non-Official): Sir, I rise to intervene in this debate and I shall not be very long. But there are certain difficulties in my mind as to the legal position that will be created if clause 4 of this Bill is enacted into law, and I should like these difficulties to be solved before I am asked to vote upon this measure. The question whether for any of the purposes mentioned in what is now section 491 of the Criminal Procedure Code it is open to the applicant still to say that he will make an application independently of that section altogether for the prerogative writ of *habeas corpus* on the civil side of the High Court, is a question which has been the subject of a severe conflict of opinion between the Calcutta High Court on the one hand and the High Courts of Madras

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and Bombay on the other. I regret I shall have to inflict upon the House a dry and technical discussion, but unless I do so it will be impossible for me or for the House to understand the serious legal anomaly that will be created in my opinion if clause 4 is enacted into law. The question was first mooted in 39 Cal. 64 whether by section 491 of the Code of Criminal Procedure, the right to *habeas corpus* has been altogether abolished, and if so whether it is competent to the Indian Legislature to do so. That question, as I say, was first mooted in that case, but it was left unanswered as it was found that the provisions of section 491 of the Code of Criminal Procedure applied in that case. The question finally came up for decision before the High Court of Calcutta in 54 Cal. 727, where the Court held, and I may add was induced to hold by the brilliant advocacy of my Honourable friend who is now the Law Member of the Government of India, that to a person detained under the Bengal Criminal Law Amendment Act, relief is not now available by a writ of *habeas corpus*, but would have been available only under section 491 of the Code of Criminal Procedure except for the provision in the Bengal Criminal Law Amendment Act of 1925. So far, therefore, as the Calcutta High Court is concerned, the position is quite clear, that that Court holds that section 491 of the Criminal Procedure Code has abrogated the prerogative writ of *habeas corpus*. But that is not the position taken up either by the Madras High Court or the Bombay High Court. In a series of decisions, the Madras High Court (in 36 Mad. 72, 45 Mad. 14, 45 Mad. 922), and the Bombay High Court in a recent decision in 50 Bom. 616, have held that the jurisdiction which was inherited by the High Court from the Supreme Court was not curtailed by the provisions of section 491 of the Criminal Procedure Code. These High Courts will therefore hold that if clause 4 is enacted into law, it will be either *ultra vires* of this Assembly, or if it is not *ultra vires*, it will be superfluous. In the case I have mentioned, 54 Cal. the learned Chief Justice remarked that the Madras High Court and the Bombay High Court had lost sight of the provisions of Act X of 1872 and of Act X of 1875, and that these provisions had not been brought to the notice of those Courts when they decided the cases in the manner they have done. Be this as it may, there is a direct conflict between the several High Courts on this important point.

That being the position, what is the result? If a Bengali detenu is confined within the limits of the appellate jurisdiction of the High Court of Calcutta, and applies for a writ of *habeas corpus*, he will be told plainly that the question is concluded by authority and the High Court of Calcutta will not interfere. But suppose, as it is now proposed to do, the detenus are transferred to a place of detention within the local limits of the appellate jurisdiction of the High Court of Madras or of the High Court of Bombay, and those Courts are moved for writ of *habeas corpus* on behalf of those detenus, what will be the position? The Courts will say "We are not debarred by the provision of the Legislature which bars the application of section 491. We have an inherent right to issue a high prerogative writ of *habeas corpus*". And they will send for the record and proceedings of the cases of those detenus and they will proceed to examine them. It therefore comes to this: if a detenu is confined within the appellate jurisdiction of the High Court of Calcutta, he cannot have his case examined at all; while a detenu confined, within the appellate



jurisdiction of the High Courts of Bombay and Madras, will have every right to have his case examined. The result will be anomalous. Before the Honourable the Mover asks this Assembly to pass a measure of this kind, I venture to submit it is the duty of Government to get uniformity of decision between the various High Courts of Bombay, Madras and Calcutta. By what machinery this is to be done, it is not for me to say. They may get a decision of the Privy Council or they may await the introduction of the Supreme Court in this country. But until uniformity is obtained, it seems to me to be futile to enact a clause of this nature in the present Bill.

So much about the technical aspect of the measure. On the merits, is it really necessary in the interests of public safety that clause 4 should be enacted into law? To any one brought up in the traditions of English jurisprudence, any measure which contemplates the prolonged detention without trial of any person is repugnant. It is, to use the words of the Honourable the Law Member, a very hard pill to swallow. If over and above that detention is added a sentence of exile, as this measure contemplates, it becomes even still more difficult to swallow it. But the Honourable the Home Member has assured us that there is a terrorist movement of a most dangerous character which threatens to undermine the very foundations of the State; and if that is so, and there is no reason to doubt what he says, it is the duty of every Member of this House to vote for a measure of this kind, because after all the safety of the State is the ultimate law. . . . .

**Mr. S. C. Mitra** (Chittagong and Rajshahi Divisions: Non-Muhammadan Rural): You give him a bad name and then hang him: that is all.

**Dr. F. X. DeSouza:** But is it necessary in the interests of public safety to enact a measure depriving a detenu of the right to move for a writ of *habeas corpus* in the High Court? I venture to submit with the utmost humility that it is not so. On the contrary I submit that to pass a measure of this kind would be to endanger public safety. It will merely deprive the public of a safety valve. For after all, what is the danger to which the Government will expose themselves by allowing recourse to the writ of *habeas corpus* in a High Court? What power will the High Court exercise? It is not true, as my Honourable friend, Mr. Sarma, just said, that the High Court will be empowered to examine witnesses. It is not true that the names of witnesses will be divulged or the machinery of detention published which is employed by the Government to get information about terrorist crime. All that the High Court will be entitled to do, if I understand the section, is to send for the papers and find out whether the forms of procedure have been correctly followed or, whether the tribunal had jurisdiction; that is all. Beyond that, the High Court will be precluded from interfering to see whether there are sufficient reasons for the detention of the detenus, because that is not the matter which is justiciable under the Bengal Criminal Law Amendment Act.

Now, is there any danger in conferring a power of this kind on the High Court? Certainly not; on the contrary it seems to me that to deprive a prisoner of the right to apply for a writ of *habeas corpus* would be a source of danger. According to the English law it is only an outlaw or an alien enemy who is not entitled to obtain a writ of *habeas corpus*: that is the English law as laid down in *ex parte* Weber, 31 Times Law Reporter, 602. If that is so, is it necessary to pass what virtually amounts

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to a sentence of outlawry on a prisoner detained under the Bengal Criminal Law Amendment Act? I venture to submit that it is not so. If a safeguard is provided in the nature of a writ of this kind, it will not in any way weaken or endanger the position of the Government; it will add moral force to the policy of repression which the Government in their own defence and in defence of the State is obliged to pursue. It will prevent the alarm which will be unnecessarily created throughout the Empire when it is announced that it has been decided to suspend the *habeas corpus* in this country.

Sir, if the right to move for a writ of *habeas corpus* is taken away from the Bengal detenus in the manner proposed, the procedure will be very much on the lines of what used to be followed in France before the revolution by the issue of *Lettres de Cachet*. Honourable Members are aware what the effect of these *Lettres de Cachet* was. Readers of Dickin's "Tale of Two Cities" will remember how two French aristocrats of the highest honour did not scruple to resort to compass the ruin of a man against whom they had a grudge by obtaining *Lettres de Cachet* against him. They will also remember how the issue of *Lettres de Cachet* was the main cause of the *débâcle* in France of the 14th July 1789. Sir, history has a knack of repeating itself. Let us hope that similar causes will not produce similar results in this country.

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

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

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**Mr. C. C. Biswas** (Calcutta: Non-Muhammadan Urban): I have spoken so often on this Bill that I feel that I owe an explanation to the House if I rise to speak again. I find, Sir, that there is a lot of loose talk and loose thinking on the subject, and I consider it important that we should get our ideas quite clear. I quite realise that this is a question in which the legal aspects cannot be wholly dissociated from the political aspects, and that probably explains why there has been some misapprehension in the House. What I should like the House to keep in view is the precise scope of clause 4. Clause 4, it will be seen, purports merely to take away the rights under section 491 of the Criminal Procedure Code, whatever those rights are. It is obvious that if apart from section 491 there are other rights, those rights are not at all touched by this Bill. A good deal has been said, Sir, by some of my friends here that the right of *habeas corpus* is one of the "common law rights" which have come down to us from the Supreme Courts, and that it is not open to the Indian Legislature to derogate from those rights. For our present purposes I submit we need not go into that question at all, however interesting that might be. If *de hors* section 491 certain rights of *habeas corpus* are left to the subject in India, those rights will still be there notwithstanding the enactment of clause 4. It may be pointed out, however, in passing, that those rights of *habeas corpus*, assuming they exist, are not

as wide or extensive as those under section 491, because what has been referred to as common law rights of *habeas corpus* apply only within the limits of the original civil jurisdiction of the Presidency High Courts. The rights which section 491 give, on the other hand, are not limited to Presidency High Courts alone, nor are they operative only within their original jurisdiction. After the amendment of 1923, section 491 has been made applicable to all High Courts, and to the mofussil as well as to the Presidency towns proper.

Coming back, therefore, the position seems to me to be obvious that if apart from section 491, any other rights are there, we need not be under any apprehensions that those rights will be taken away by the present Bill. I am not unmindful that a different line of argument may be adopted, and it may be said that section 491, at any rate as it stood before the amendment of 1923, did not create any new rights, but merely affirmed certain rights which were there already: in other words that what was unwritten law was merely reduced to written law, so that if you repealed the written law, the unwritten law would still hold the field. Sir, if it is correct to say that written law came to take the place of unwritten law, I think it means that the unwritten law was thereby superseded, and a repeal of section 491 would therefore mean also a taking away of the rights which were declared by that section. I am not quite sure that it can be urged that merely because section 491 affirmed certain pre-existing rights, the enactment of that section meant nothing, and that if that section were repealed afterwards, it would make no difference and would in fact take away nothing. I do not think so. Sir, in any view it seems to me rather futile to argue that the Legislature which enacted section 491 has not the power to take away section 491. The Legislature is purporting to do no more than restrict certain rights which the Legislature had itself enacted. Sir, you know there is sub-section (3) of section 491, which expressly lays down that nothing in that section shall apply to persons detained under the State Prisoners Regulations. Now I do not think—I speak subject to correction—that any contention has yet been raised in any High Court that sub-section (3) of section 491 is *ultra vires* of the Indian Legislature. The argument, so far as I have been able to appreciate it from the reported cases, is simply this, that by enacting sub-section (3) you cannot detract from the common law rights of *habeas corpus*. That is all. But nowhere was it urged or held that, so far as the rights under section 491 are concerned, the Legislature cannot suspend those rights or restrict their scope or extent. If then it is competent to the Legislature to enact a provision like that, which you have in sub-section (3) of section 491, I do not see why it should not be equally open to the Legislature to enact another provision whereby the restriction is further extended by including within its scope another category of persons. Sir, from this point of view it seems to me to be idle to trouble ourselves on the question as to the competency of this House to pass legislation of the kind proposed. Nor would it serve any useful purpose to labour the other point of which so much has been made, that the rights of *habeas corpus* are fundamental rights of citizens which can on no account be interfered with. The practical question with which we are concerned, or at any rate ought to concern ourselves, is, not whether the Legislature is competent to enact clause 4, but what would be the effect of enacting it, and, in view of such effect, what should be the attitude of this House towards this amendment? The first point which I wish Honourable Members to notice is that clause

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4, if it is passed, would apply as much to persons who are detained within the province of Bengal as to those who may be removed outside Bengal.

The second point, Sir, which is of some importance is this. In practical application, this clause 4 would operate mainly in cases of arrest and detention under section 4 of the local Act and not under section 2. The other day I took the opportunity of inviting the attention of the House to the distinction between section 2 and section 4 of the Bengal Act. The position under that Act is somewhat like this. A person against whom there is some suspicion is arrested. Then he is detained in custody by the police officer concerned, while the police officer makes a report to the Local Government and he awaits the instructions of the Local Government as to how the person should be ultimately dealt with. This temporary custody would ordinarily extend to about a fortnight, but under special orders of the Local Government it could be extended to one month. By the recent amendment of this Act, which was passed by the Bengal Legislative Council last month, this period of one month was extended to two months. Then, within this period, there may come an order under section 2, or there may not. If there is no order made under section 2, the man is set at liberty. If however an order is made, then he is dealt with in accordance with the directions which may be contained in such order. The directions which may be made under section 2 are many. The person concerned may be directed to report himself to the police, or to reside within certain circumscribed limits, or he may be detained in custody in jail.

Now, Sir, when an order is passed under section 2, remitting a person to custody, there is not much point in insisting on the right of *habeas corpus* in such a case, because, assuming for the moment that that right exists, whether under section 491 or otherwise, what does it mean? It means this. The person may apply to the High Court, and the High Court, if satisfied that the custody or detention was improper or illegal, may set him at liberty. In other words, it is only when an improper or illegal custody is established, that the High Court may make an order of release under section 491. Where, however, a person is detained in custody under an order passed under section 2 of the Bengal Act, the custody will no longer be illegal custody. The terms of that section make that perfectly clear. You may take it, Sir, that when an order is made under that section, that order will be expressed in terms of that section,—and what are the terms of that section? They are these: “where, in the opinion of the Local Government there are reasonable grounds for believing that any person has acted”, and so on.

**Mr. President:** Is the Honourable Member going again to deal with the point elaborately now? He dealt with the point exhaustively on the previous occasion.

**Mr. C. C. Biswas:** I shall not, Sir, go into details as on the last occasion. What I was simply trying to point out is this, that the opinion of the Local Government being conclusive, the question of the applicability of section 491 becomes practically of no material importance. If, however, you come to section 4, here the position is entirely different, because that section authorises a police officer to arrest on mere suspicion. It is mainly in such cases that the question of *habeas corpus* will arise. The question

before this House is whether or not the House should be prepared to trust the Executive to the extent that it will allow them to exercise these powers of arbitrary arrest on mere suspicion, without claiming at the same time the right to go up to the High Court for the purpose of challenging the supposed reasonable grounds for suspicion. That is the question to which I should like my Honourable friends to address themselves. Now, Sir, what is the "reasonable suspicion" which section 4 contemplates? It is a reasonable suspicion that the person concerned is a person in respect of whom an order might lawfully be made under sub-section (1) of section 2. Now, Sir, if you repeal section 491, as is proposed in this Bill, the effect of this will be to leave a person who may be arrested on suspicion absolutely without any remedy whatsoever except at the hands of the Executive, for a period of two months. Even if at the end of two months, the Local Government should come to the conclusion that there is no case against him and he is discharged, he would still have been in custody for two months without any remedy left to him in the meantime to establish his innocence. All that is asked for on this side of the House is that the person who may be arrested in such circumstances should have the right to apply to the High Court, and the High Court should have the opportunity of judging whether there are reasonable grounds for suspicion.

Sir, supposing section 491 is allowed, I do not think there is any danger that upon such an application the High Court will go into the merits of the question elaborately, as some of my friends on the other side seem to think. What the High Court would like to know is this: whether there were any facts and circumstances from which the officer concerned could reasonably come to the conclusion that there was sufficient excuse for proceeding against the person in the way he did. The High Court will not upon such an application, as I conceive the matter, try to substitute its own judgment as to what constitutes reasonable suspicion for that of the officer. But the High Court will certainly require to be satisfied that the officer had acted in good faith.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola): Order, order. No newspapers are allowed to be read.

**Diwan Bahadur A. Ramaswami Mudaliar** (Madras City: Non-Muhammadan Urban): Sir, it was in connection with the Bengal Criminal Law Amendment Act that I was reading the newspaper.

**Mr. President:** That may be.

**Mr. C. O. Biswas:** I was saying, the High Court will require to be satisfied that the officer was justified from the facts and circumstances at his disposal in holding that there was a reasonable ground of suspicion against him. The High Court will not scrutinise those facts for itself, but merely see that there were facts from which the officer could come to that conclusion. Sir, if that be a correct interpretation of the functions of the High Court upon an application of that kind, I really do not see what danger may lie in allowing section 491 to operate.

Sir, since I last spoke on this subject, I have been looking into this question a little more closely, and I do not mind confessing that I was at one stage impressed with the argument that if an application under section 491 is allowed, it would really involve serious risks, in that it would mean that the Government would have to lay before the Court information

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which they could not do without grave danger. grave danger not only to themselves but also to the witnesses concerned. But, Sir, the scope of an application under section 491 is so limited in a case arising under the Bengal Criminal Law Amendment Act, that I do not think too much should be made of that supposed danger. Just as in a case arising under section 2 all that the Government need produce before the High Court on an application under section 491 is the order itself, so in a case under section 4 all that they need do is to apprise the High Court of the existence of certain facts and circumstances from which the officer concerned came to the conclusion that there was reasonable ground for suspicion against that man. From this point of view I would urge my friends opposite not to press for the inclusion of this section in this Bill. I realise that that would mean a discrimination, so to say, between persons who are dealt with under the Bengal Criminal Law Amendment Act and persons who are detained under the State Prisoners Regulations, but that is hardly a very convincing argument. If you have taken away certain rights which you should not have taken away from some, that is no reason why you should seek to impose a similar disability upon other persons merely for the sake of symmetry. The situation no doubt is serious, and it is up to the non-official Members to do all that they can to strengthen the hands of the Government in dealing with the terrorist menace in Bengal. All the same, there is another aspect of the matter to be considered. Supposing the Government were to accede to the popular demand in this matter, that itself would produce an accession of feeling in their favour, the moral effect of which ought not to be ignored altogether.

On the other hand, if Government persist in the attitude which I  
 3 P.M. am sorry to say they have been pursuing so long, the attitude of not giving in even on small points raised by the Opposition, the result is bound to be very unfortunate. The impression on the public mind would be that Government are out to crush all opposition, be it ever so reasonable. From that point of view, I think Government would be well advised in accepting this amendment. If after all, as the Honourable the Law Member said, where arrest is not made in accordance with law, it would still be open to the party concerned to apply to the High Court notwithstanding clause 4, the objection to delete clause 4 then loses much more of its force. With these words, I support the amendment

**The Honourable Sir Brojendra Mitter** (Law Member): I am afraid the legal arguments have somewhat befogged the issue which is before the House. What is the issue before the House? On account of the terrorist movement in Bengal, the Bengal Legislature has been compelled to pass a very drastic measure, the Bengal Criminal Law Amendment Act. It is a drastic measure which involves detention without trial. It was an unfortunate necessity which compelled the Bengal Legislature to pass that Act. The House will remember that that Act was passed not by certification but by an overwhelming majority of the Bengal Legislative Council. Therefore we start with this proposition, that an urgent and impelling necessity exists in Bengal for a measure of this character, which, as my Honourable friend Dr. DeSouza pointed out, is repugnant to people brought up in ideas of British jurisprudence. I expressed a similar sentiment on previous occasions, but in different language. There is no quarrel about that. We start with this, that there is an impelling necessity to resort to detention without trial. Now, the Bengal Government

comes to us and says, "Will you help us in carrying out this measure?". If courts are allowed to examine the merits of these cases, then the effectiveness of the measure is gone. The Bengal Legislature cannot pass any measure affecting the jurisdiction of the High Court. Therefore it is up to us to come to the assistance of the Government of Bengal in order to make their measure an effective one. That is the issue before the House. The question is, shall we help Bengal or shall we not help Bengal. When the Bill was referred to the Select Committee, I take it that the implication was that the House was willing to help Bengal but also to take care that the condition of the detenus was not made too burdensome during detention. I understood the action of the House in referring the Bill to the Select Committee meant this, that the House was willing to help Bengal in the difficulty in which she finds herself to-day. If the House is to help Bengal, how can that be done? If, as I say, you allow courts to examine the merits of the cases of detention, then the efficacy of the Bengal measure is gone. What is necessary may be said in a few words, namely, substitution of executive judgment for judicial judgment. That is the purport of the Bengal Act and that is the purport of this Bill. Unfortunate exigency compels us to substitute for a temporary period executive judgment for judicial judgment. If that be so, it is necessary that the powers of the courts to examine the merits of a case should be suspended for the period of this measure. It is not a permanent measure, it is only for a temporary period.

**Mr. S. C. Mitra:** Already the Bill has been in existence for a period of five years and now it is extended for another five years. It is temporary in that sense.

**The Honourable Sir Brojendra Mitter:** If the terrorist movement continues longer, it may be necessary to continue the measure longer. But that is another matter. I think Honourable Members opposite share our hope that the terrorist movement will soon disappear. If it does, then there will be no occasion for discussions of this character. Unfortunately we cannot run away from the fact that the terrorist movement does exist and it has got to be stamped out.

**Mr. S. C. Mitra:** Not by these measures, but in different ways.

**The Honourable Sir Brojendra Mitter:** We think that this measure may help to fight the terrorist movement. It may be that my Honourable friend Mr. Mitra is right that other methods are called for. But what those other methods are, we are not discussing at the moment. We are now discussing one of the methods.

**Mr. S. C. Mitra:** But this method does not appeal to the House.

**The Honourable Sir Brojendra Mitter:** Well, it has not been thrown out on the motion for reference to Select Committee.

**Mr. K. Ahmed** (Rajshahi Division: Muhammadan Rural): That has not been done unfortunately.

**The Honourable Sir Brojendra Mitter:** Not having thrown out the motion for reference to Select Committee, it does not lie in the mouth

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of Honourable Members to say now that this is not a proper measure. Whether it is a proper measure or not, the House has accepted the principle of the Bill. Having done so, the point before the House is whether the objections raised to clause 4 of the Bill are so great that Government should give up the clause. What are the legal arguments? I will dispose of a misconception of my Honourable friend Dr. DeSouza before I come to the points raised by Mr. Lalchand Navalrai. Dr. DeSouza seems to think that "all that the High Court can do is to send for the records to see whether detention is legal". Now, it is well known that when an application is made for *habeas corpus*, the High Court does not send for the records. What the High Court does is to issue a rule upon the person who has custody of the prisoner to show cause why that prisoner should not be set at liberty or why that prisoner should not be brought to trial. All that the person who has the custody of the prisoner, in showing cause, has to do is to show that the prisoner is in legal custody. It is not that the High Court sends for the records of the case to look into the merits in the first instance. If the person in custody cannot satisfy the High Court that the prisoner is in legal custody, it is only in that case the High Court goes further into the matter. But once it is shown that the prisoner is in legal custody, then the High Court has no further jurisdiction. The jurisdiction which section 491 gives to the High Court is only in cases where the custody is illegal and not in cases of legal custody. Therefore, it is not a question of the High Court sending for the records . . . . .

**Sir Cowasji Jehangir** (Bombay City: Non-Muhammadan Urban): Then, why include it in the Bill?

**The Honourable Sir Brojendra Mitter:** I shall not overlook any point. I shall deal with it presently. My first point is this that in the first instance, the High Court does not look into the reasonableness or otherwise of the detention. Nothing of the kind. The first thing is whether the detention is under any law or whether it is an illegal detention.

**Mr. Amar Nath Dutt** (Burdwan Division: Non-Muhammadan Rural): Then, if you are accepting it, why include this clause 4 in the Bill?

**The Honourable Sir Brojendra Mitter:** If that be so, what are the powers of the High Court? I am thankful to my Honourable friend Mr. Biswas for anticipating much of my argument. If an order is once passed under section 2 of the Bengal Act, then the jurisdiction of the High Court is gone, section 491, or the prerogative writ of *habeas corpus* or what not notwithstanding.

**Mr. Lalchand Navalrai:** What about improper detention?

**The Honourable Sir Brojendra Mitter:** I shall deal with all the points. The first argument of Mr. Lalchand Navalrai is that, apart from the powers given by section 491, the High Court has inherited the English common law powers of the Judges of the King's Bench Division, which powers were exercised by the Supreme Courts. This very question was raised in a recent case in Calcutta, and the Calcutta High Court held that, apart from section 491, the High Court has got no such power. And even



assuming that the High Courts had some such power it can only be the High Courts of Calcutta, Bombay and Madras and not the other High Courts, that is to say, only those High Courts which are the successors of the Supreme Courts. Now, so far as Calcutta is concerned, we know the Calcutta High Court has held that, apart from section 491, there is no other power. This prerogative right of *habeas corpus* does not exist in the province of Bengal at any rate. We are dealing with Bengal detenues. So long as the detenues are in Bengal, they cannot invoke any power except under section 491; they cannot invoke the prerogative right. Then supposing the Bengal detenues are transferred to another province, not in the town of Bombay or in the town of Madras. Then in any such place of transfer there is no prerogative right. All the power is contained in section 491. There is no prerogative right in Ajmer, no prerogative right anywhere else, except in the town of Bombay and the town of Madras according to the present decisions. There is no suggestion now of transferring these Bengal detenues to the town of Bombay or the town of Madras. Therefore it is more or less an academic question. But if any Honourable Member says that, assuming the Government take it into their head to transfer some of the detenues to the town of Bombay or the town of Madras, what then? To that my short answer is this, that if the prerogative right does run it will run. We are not taking away any power which any High Court may have got from any other source except section 491. Those powers are not at all affected. Therefore why quarrel about it? We are now concerned only with the powers given by section 491. Therefore all the talk about powers outside section 491, which are not affected by this Bill, need not detain us any longer. So, Sir, with regard to that prerogative right argument, I will not take any more time.

Now let us see section 491. As Mr. Biswas pointed out,—and in my submission quite correctly pointed out—if an order be made under section 2 of the Bengal Act, then section 491 has no application because, there the opinion of the executive Government is conclusive. If the detention is justified by the opinion of the executive Government, the High Court has no jurisdiction to interfere. Then that goes. What is left is the period of arrest before an order of the executive Government is passed. It is only for that short period,—be it 10 days or 15 days, the maximum is two months, if the powers under section 491 be not suspended the detenus may, after arrest and before an order of the executive Government is passed, go to the High Court. Now, look at the practical side of it. If the policy of the measure be to substitute executive judgment for judicial judgment, then allowing judicial authority to override executive judgment would be defeating the policy of this Bill, the policy of the Bengal Act. Therefore, from the view of policy, Government cannot agree to substitute judicial judgment for executive judgment. In the limited case of arrest before the order of the executive Government is passed, once the order of the executive Government is passed section 491 automatically goes. Therefore it is only when a man is in police custody but the order of the Government has not been made during that short period, he may go to the High Court for relief under section 491. For what purpose? For the purpose of determining whether his arrest has been on reasonable suspicion or arbitrary. For that purpose only section 491 would be effective.

Now look at the risk. Mr. Biswas says there is no risk in that. He says all you need do is to place the facts and circumstances before the

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High Court which may support the arrest on the ground that it is an arrest on reasonable suspicion. But, Sir, Mr. Biswas ought to know that placing facts and circumstances requires that you must also disclose the sources of your information. An affidavit giving information is worthless unless you give the source of your information; and I will recall to Mr. Biswas the judgment of Sir Lawrence Jenkins on that point. Therefore, when Mr. Biswas light-heartedly said that all that the executive need do was to place facts and circumstances before the court, he forgot that it meant disclosure of your whole case, disclosure of the sources of your information, disclosure of the names of your witnesses. The very mischief which we are trying to avoid is done. Sir, to put it shortly, in the case of detention, the High Court cannot interfere; in the case of arrest before an order is made the High Court may interfere. But in such case of interference all the mischief which we are trying to avoid will inevitably happen. Therefore, from the point of view of policy, it is impossible for the Government to accede to the amendment, unless we are prepared not to assist the Government of Bengal in adopting measures which they consider necessary in fighting the terrorist movement. If this House genuinely wishes to help Bengal in stamping out terrorism, then I submit that we ought to make their measure an effective measure and not nullify it.

**Mr. Gaya Prasad Singh** (Muzaffarpur *cum* Champaran: Non-Muhammadian): Have any of these detenus been proved to be connected with terrorist activities?

**The Honourable Sir Brojendra Mitter:** They have been proved to the satisfaction of the executive Government; they have not been proved to the satisfaction of a court of law because their detention is without trial.

**Mr. S. C. Mitra:** Have not the Government said repeatedly that this is not a penal measure but a preventive measure and that there is no sufficient proof against the detenus?

**The Honourable Sir Brojendra Mitter:** That is quite true. It is intended to be a preventive measure and is not intended to be punitive. All that is intended is this that when the executive Government, upon information in their possession, think that certain people are connected with the terrorist movement they should not be allowed to remain at liberty, in the best interests of the State. Honourable Members may agree or may not agree as to any particular case. But the executive Government, who are charged with the responsibility of seeing that the State is not exposed to terrorist outrages, have to satisfy themselves that the particular person is connected with the terrorist movement; and it is only in such a case that an order of detention is made. As to whether in any particular instance power has been abused or not, there may be difference of opinion. But what I say is this. The policy of these extraordinary measures is that the executive Government, upon information which they cannot disclose, must satisfy themselves that persons whose liberty is sought to be restrained, in the larger interests of the State, are connected with the terrorist movement and, once detained, they should not be brought to trial, for reasons which on the last occasion I submitted to the House.

(At this stage Mr. President vacated the Chair which was taken by Sir Cowasji Jehangir.)

My Honourable and learned friend, Mr. Navalrai's next argument was that section 491(3) was *ultra vires*. I may remind my Honourable friend that in 1925 the Bengal Criminal Law Supplementary Act was passed to supplement the Bengal Act of 1925. In that Act there was a clause identical with clause 4 of the present Bill. That law was in existence from 1925 for five years. During these five years hundreds of people were arrested and detained without trial. Did any one of them raise a question that 491(3) which was reproduced in the supplementary Act of 1925 was *ultra vires*? . . . .

**Mr. Lalchand Navalrai:** Is that a bar to raising it now?

**The Honourable Sir Brojendra Mitter:** No. In 54 Calcutta, the effect of section 491 was gone into in great detail; and it was never suggested by any lawyer—and there are astute lawyers in Calcutta as there are in Sind—no one ever thought of raising the contention that 491(3) was *ultra vires*.

**Mr. Lalchand Navalrai:** Especially as the Honourable Member was appearing on the other side!

**The Honourable Sir Brojendra Mitter:** There are many good lawyers there; Mr. Biswas would have been the first to raise it if there was anything in it. Apart from that whether section 491(3) is *ultra vires* or *intra vires*, is it for this House to declare . . . .

**Diwan Bahadur A. Ramaswami Mudaliar:** Am I to understand that there was a section similar to clause 4 in the Criminal Law Amendment Act which the Central Legislature passed in 1925?

**An Honourable Member:** This House rejected it and the Council of State passed it.

**The Honourable Sir Brojendra Mitter:** It was certified.

**Diwan Bahadur A. Ramaswami Mudaliar:** This House refused it.

**The Honourable Sir Brojendra Mitter:** All I meant to say was that such an Act was in force; and although it was in force for five years, this point was never raised by any lawyer to my knowledge. . . .

**Mr. B. Sitaramaraju** (Ganjam *cum* Vizagapatam: Non-Muhammadan Rural): How many of these detenus are rich enough to go to a court of law?

**The Honourable Sir Brojendra Mitter:** In the case of these detenus, wealth is no consideration because there are many enterprising lawyers who take up these cases without any fee. I need not detain the House much longer on this *ultra vires* argument. What I say is this; whether it is *ultra vires* or *intra vires* is for the court to pronounce; it is not for the Legislature to pronounce. All that the Legislature needs to consider is this, that section 491(3) was enacted in 1923 by the Central Legislature—I do not think it was certified: it was repeated in 1925 in the supplementary Act of 1925, and that is all that is sought to be done now. It

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is nothing new; if it was *ultra vires*, it had the sanction of the Central Legislature and has been on the Statute-book since 1923. It was passed by the Central Legislature. . . .

**An Honourable Member:** By the Council of State, I think?

**The Honourable Sir Brojendra Mitter:** As a Member of the Council of State I should say that the Council of State is as much a part of the Central Legislature as this House is. . . .

**Mr. B. V. Jadhav** (Bombay Central Division: Non-Muhammadan Rural): That is just it.

**An Honourable Member:** Why have you got a nominated President there?

**The Honourable Sir Brojendra Mitter:** Change the constitution; but at the present moment that argument has no validity.

There is only one other point with which I shall deal. If section 491 is not suspended, what would be the effect? I have submitted already that to a certain extent we shall be making the special instrument which the Bengal Act provides ineffective by compelling the executive to disclose the names of witnesses and the methods by which terrorism is being fought. It is that risk which we seek to avoid. Under section 491, what can the High Court do? Under (1)(a) of that section, the High Court can order that the prisoner be brought up before the Court to be dealt with according to law; that is to say that the prisoner be brought up for trial. Now, since the whole idea is detention without trial, that power would certainly be inconsistent with the policy of the Bill. The next is that the person in custody be set at liberty. That again would be absolutely inconsistent with the whole policy of the Bill. The Bill is a measure to restrict liberty and not to set a person at liberty. The third is that the person be brought before the Court to be examined as a witness. On that I gave an assurance on the last occasion that if such a contingency arises, if the High Court wants a particular detenu to be examined before it, the Government will not stand in the way. . . .

**Mr. Lalchand Navalrai:** Does it mean or not that the High Court kneels before the executive there?

**The Honourable Sir Brojendra Mitter:** The rest of section 491 deals with trial in one court or another. Therefore it comes to this: to admit the operation of section 491, would be to nullify *pro tanto* the effectiveness of the measure which the Bengal Government have passed and which the Bengal Government want us to supplement. The policy of this particular legislation, which is an unfortunate necessity, demands that the operation of section 491 should be suspended for the temporary period for which this measure has been passed. In this view of the case, I am afraid the Government cannot agree to letting in section 491 for the limited purpose of examining the cases of persons under arrest before the order of the executive Government has been passed. To admit the operation of section 491 in such cases would be really to destroy the effectiveness of the whole of this exceptional measure.

**Mr. K. Ahmed:** Sir, the amendment before the House is that clause 4 be omitted from the Bengal Criminal Law Amendment (Supplementary) Bill of 1930. It runs, as the proposer has said, like this, that clause 4 be omitted and clause 5 be re-numbered as clause 4. But, Sir, anticipating a defeat, he wants to move his next amendment, which says that clause 4 be omitted and that this clause shall remain in force for one year only. Mr. Chairman, when the Bill was on the Legislative anvil after the first stage, I interjected and pointed out to you that though this House referred the Bill to a Select Committee, it came back from the Committee even without the alteration of a comma or a fullstop, and the Bill was not altered in any way. Now, the measure has come back from the Select Committee which was composed of eminent jurists like my friend Sir Hari Singh Gour and Mr. Raju, even without a scratch, the Bill as it was originally drafted has been kept on, and it has come before us at the second stage. After that preliminary stage, it was passed by the unanimous voice of this House that it should be referred to the Committee and this Bill is now being taken into consideration and we find certain amendments. The question is whether at this stage these amendments are worthy of being considered by this House. I am afraid, Sir, unless the other side wants to give the impression of being less intelligent, unless the other side have forgotten their sense of duty as Members of this Assembly, this House cannot possibly put up with that sort of non-sense any further. ("Hear, hear" from the Nationalist Benches.) I hope, Sir, Honourable Members will allow me to place my viewpoint before the House. If Members are interfering with my common right of speech, they will be losing their own prestige. Allow me, therefore, to say that when the question of propriety, when the question of validity or invalidity of certain amendment crops up, it is for this House to listen very carefully to what each Member says and consider the whole question seriously and decide the matter once for all. I shall not say anything more on this.

Mr. Chairman, as you know, at the preliminary stage my friend, Mr. Raju, who is a great lawyer from Madras, said that this clause affecting the liberty of the people should be omitted and, that the liberty of the people should not be curtailed as it is against the spirit of law. Now, Sir, the law should be accurate. I challenge anybody here to say if Government are not right in suggesting a clause like this, which has the same effect or the same sum and substance as section 491 of the Indian Penal Code, which was amended in 1923 when, in spite of this writ of *habeas corpus*, it was extended to the Presidencies of Calcutta, Bombay and Madras, in fact it was extended to all parts of India, even to a place like Ajmer; that was the amendment in the year 1925 passed on the floor of the House. Now, the question how that clause 4, which is the sum and substance of section 491 of the Criminal Procedure Code, remains in this piece of legislation. The Government think, as the Honourable the Law Member has said, that on account of the terrorist movement in the country, they should take legal action to crush the movement and restore normal conditions. That is the essence, that is the object for which this piece of legislation has been brought forward. Mr. Chairman, when you were speaking at the preliminary stage, our party people, some of them very intelligent men, were quite right in asking how the sum and substance of section 491 can be brought by means of section 4 into this Bill, and that it ought to be omitted, and you yourself said that it was against the objects and reasons. You told me you had read the same of the original Bill.

[Mr. K. Ahmed.]

Sir, the objects and reasons of this Bill are clearly set out. I shall read to the House, as I interjected on the first day of the introduction, the Statement of Objects and Reasons as it then stood :

"Clause 4 of the Bill on the analogy of section 491 (3) of the Criminal Procedure Code, 1898, bars jurisdiction under the powers conferred by that section."

Therefore, the Government have clearly set out the objects and reasons for this measure; that is to say, they want to remove from the Presidency jails of Calcutta, detenus to any other adjoining provinces, and they want to take power for this purpose in spite of section 491. That is to say, Government want to bring under the clutches of the law the terrorist and the terrorist movement. Now, I am not responsible for this piece of legislation. It has been brought here by the executive who had information from the Government of Bengal that they wanted to crush this movement. I know nothing about these terrorists. It is not in my sphere. They are shooting people and killing people and if that happens how can you blame the Government. Do you want that there should be no law and order? That is the reason why the Bill contains clause 4. Unless you give powers to the police or the executive, how you are going to handle these terrorists who will not allow a witness to go to the witness box. (*An Honourable Member*: "What do you say?") I want to know what the Honourable Members on the other side think about it. Let them discharge their duty and my duty will come next. The Bill in its essence is quite right, and I am here to see that this piece of legislation is passed in this Assembly. The question is how are you going to assist the police and the executive who will arrest and detain these people. Now, in England, the law is the same for everybody whether he is a street beggar or a merchant prince or a Member of Parliament. He has got the right enunciated by my friend from Karachi. There is a recent case decided about three or four days ago. It appeared in the *Statesman* or the *Englishman* or the *Hindustan Times*. There was a young lady who was taken into custody. She applied to the High Court for an inquiry under section 491 of the Criminal Procedure Code questioning the conduct of the police in detaining her and she wanted her liberty because no human being can be kept within the jail precincts without trial.

Now, Sir, this motion will probably be defeated and the Mover has another amendment restricting the operation of the clause for one year only. As the Law Member said if the revolutionary spirit is crushed, then this clause will not be necessary. As the High Court of Calcutta recently held, section 491 will have no application against the executive or the police in cases where persons are detained without trial. Now, Sir, you know that section 4 of the Criminal Amendment Act of 1925 says :

"The power of the Local Government under sub-section (1) of section 11 of the local Act to direct by order in writing shall be deemed to include a power to order in writing made with the previous sanction of the Governor General in Council and such person shall be committed to custody in any jail in British India and for all or any of the purposes of the local Act, the orders so made shall be deemed to be an order made under section 11 of that Act and the provisions of that Act shall apply accordingly."

Exactly, Sir, the Bengal Government is authorised by that Act to detain any persons and section 491 will have no application; exactly, Sir, the Judges of the High Court only a couple or three days ago passed that

order that section 491, that is, the writ of *Habeas Corpus*, will not lie against the executive in detaining these persons. My friend, Dr. De Souza, forgot for a moment the Statement of Objects and Reasons of this Bill, but came forward as a benefactor and put forward the plea that, well, under the common law in Bombay and Madras—he cited 50 Bombay at page 616—well, there was a time when 50 Bom. applied; probably my Honourable friend was then one of the Judges, or probably a practitioner or probably one of the Sessions Judges and as such he might have been reading the ruling of the High Court, but may I ask him what was the state of things then when I. L. R. 50 Bombay 616 was published and a copy thereof was sent to my Honourable friend for his edification and experience in the matter? What was the state of things? Was it the same as it is to-day in Bombay or in Calcutta? Was there any application? Could not the Judges of the Calcutta High Court read that ruling? Did not the advocate acting on behalf of an applicant, who wanted a writ of *Habeas Corpus* under section 491 of the Criminal Procedure Code, against the jailor of Alipore jail, Calcutta, present an application that the person on behalf of the applicant should be produced before the Judges within such and such a time in order that evidence might be recorded or, that in the alternative, she might be tried according to law? Certainly, Sir, the case quoted by my friend. Dr. DeSouza, has no application to or bearing on the subject, under discussion. That being so, I cannot help thinking that my Honourable friend, Dr. DeSouza, made a hopeless mistake in applying I. L. R. 50 Bom. at page 616.

I am waiting to hear what my friends of the Independent Party are thinking about the question, namely, whether the Government is or is not in a position to bring into the present Bill clause 4. Sir, my friend, Mr. Sitaramaraju has submitted a note of dissent and has therein stated that section 491 is a section which could not be included in the Bill.

(At this stage Mr. President resumed the Chair.)

Sir, my friend is not a lawyer, and he wants to know how that section 491 in clause 4 of the Bill will be included in the main Bill. To-day we find, Sir, that the Bill was perfectly right and to-day the amendment is a moot question. I do not know whether it will be passed or not passed. I do not mind which way they decide it, but as far as the validity of the question is concerned, the Government are perfectly right in bringing in that clause 4, because they want to protect their police officers and the executive in order that 491 may not apply against the executive deterring the persons in question from certain crimes in the province. Sir, if that is correct, I suppose I do not like to go any further than that, because if it is the decision of the Assembly then, they will decide the matter; and as far as I am concerned, I have gone so far and I do not like to go any further, except that if the Government would be right in crushing the terrorist movement by bringing this piece of legislation, so that section 491 of the Code of Criminal Procedure will have no application in order that sufficient help should be given to the executive to detain these persons, so that they may not terrorise the people at large, I suppose the Government are on the unpopular side on account of that, because my friends on the opposite side may be thinking that the foundation stone of freedom in the country as enunciated by the British Law in England is

[Mr. K. Ahmed.]

being taken away, but why? It should not be forgotten what are the circumstances to-day. There are people terrorizing the people at large, killing brave and meritorious and devoted and faithful servants the members of the I. C. S., killing the police, killing the peaceful and law-abiding people in order that something in their mind may come true, in order that they may have the moon at once. Sir, if that is the object, if that is the objective, then it is a good sign for these poor lads to realize that they after all are not so tall as to raise their little fingers and become independent in the twinkling of an eye. If then the Hindu Mahasabha thinks that they will thus have the monopoly over all India, they are mistaken. As far as I am concerned, of course to err is human, I do not think it right to go far as is proposed here, but I am asking this, that if that is not possible

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**Bhai Parma Nand** (Ambala Division: Non-Muhammadan): Why do you not mention the Muslim League also?

**Mr. K. Ahmed:** Sir, that is not a League which wants suzerainty over all India like the Hindu Mahasabha . . .

**Mr. President:** Please restrict yourself to the subject before the House.

**Mr. K. Ahmed:** I know this is quite relevant, as is also the reference of my Honourable friend. I am simply referring to the objects with which the terrorist movement has come into being, and those are the very reasons why the Government have brought forward this piece of legislation in order to crush out the terrorist movement. It is for the Assembly to consider whether it will pass the motion or not, but, Sir, as regards the propriety of the course of action of the Government, I think they are justified in bringing forward this Bill, and I should be delighted to hear the Leader of the Opposition or the Deputy Leader at least in reply to the points I have raised in my speech.

**Mr. S. C. Mitra:** Sir, I had no mind to take part in the discussion of this amendment because I thought, as the Honourable the Law Member said, it dealt merely with legal matters, and from the legal side my friend, Mr. C. C. Biswas, has dealt with the question very elaborately; but yet, when the Honourable the Law Member himself went out of his way and placed it on a political issue, I must say something. In a constitutional Government there are three well-defined functions, viz., the executive, the judiciary and the Legislature and all the three should be well balanced, and that the appropriate functions of any one should not be predominated by another. I think even in our college

4 P.M. days we read of this. Now, the executive in this Government has succeeded in crushing the Legislature entirely. They are ruling this country by means of Ordinances and certification. They are now making an attempt even to crush the judiciary. The High courts have the power to supervise the actions of the subordinate judiciary and to see that the



liberty of the people is not endangered without proper trial. I think in the American constitution there is provision that the head of the judiciary presides over the Senate when there is a trial for impeachment of the President. Sir, in all the civilised countries the constitution provides to keep the three component parts of the Government within their limits, but unfortunately in India the executive is all in all. Fortunately, the Honourable the Law Member has made that point quite clear; he wants to take away all the powers of the judiciary. Let them say that there is war in the country and therefore they are ruling the country under martial law. Why should the Honourable the Law Member go out of his way and apologise that it is a temporary measure? They have tried these temporary measures now for the last 7 years and they are now going to try one for another 5 years, and yet they call it a temporary measure. I wish however to make it quite clear again that I am not against your taking any steps to root out terrorism from this country. But my contention is that by these means you cannot root out terrorism. It is not right that you should call innocent people "inveterate terrorists". It was the Leader of the House who was referring the other day to my Honourable friend Mr. Ghuznavi as taking advantage of the privilege of the House. Sir, the Honourable the Home Member himself is taking this undue advantage, because I challenge him to call any of these detenus inveterate terrorists out of this House, and I shall see how soon he can go to his Scottish home without being placed before a court of law for libelling innocent persons. Sir, it is very easy to call a man an inveterate terrorist and mislead this House in order to get passed certain laws to eradicate the national spirit from the land. Sir, even the Law Member said that there is some risk in putting the detenus before courts of law. What is the risk? You can have the trials in camera. There were big cases of conspiracy for waging war, *etc.*, in Chittagong and other similar cases which were all regularly tried and ended in punishment. Yet we often hear the old argument that if there is an open trial there is a danger to the witnesses and other people. My main contention is that the Government can devise any means it likes to eradicate the evil of terrorism but the method they have adopted is a wrong method. These measures will not really help Government to root out terrorism from this land.

Sir, Indian people have the greatest confidence in British justice. Even that is being shaken now and thereby the very foundation of the British Empire is being shaken. His Excellency the Viceroy is a mere constitutional Governor General and he is simply dittoing what is pressed by the Honourable Sir James Crerar and Mr. Emerson. It is this unthinking Executive that is actually undermining the foundations of the British Empire. Sir, up to this time, people had great confidence in British justice; even the detenus, excluding the very poor people, could run to the High Court with some hope and confidence. But I cannot understand the mentality of the Executive. They wish to have all the powers to themselves destroying the Judiciary and the Legislature as if they are the only intelligent people in the whole of India. They want to crush the Legislature which is now a helpless body. They are also attempting to crush Judiciary.

My friend, the Deputy Leader of my Party, was referring me to certain passages in the *Hindu* about this very question of *habeas corpus* in the

[Mr. S. C. Mitra.]

Calcutta High Court. But I do not wish to go into the legal side of the question. From the constitutional standpoint, I say that you should not interfere with the Legislature or the Judiciary. As regards the amendment under discussion, I made it quite clear even when Mr. Sykes moved his amendment that Government are now trying to take the detenus out of the jurisdiction of the chartered High Courts. The Judiciary in these places has not the plenary and inherent powers of the chartered High Courts to restore the detenus to liberty even when they are imprisoned illegally. So the powers of the High Courts under Section 491 should not be interfered with.

**Sardar Sant Singh** (West Punjab: Sikh): Sir, after listening to the debate on clause 4 of the Bill, one is tempted to say something, especially after the speech which has been made by my Honourable friend Mr. K. Ahmed. He is a lawyer of the Calcutta High Court. (Mr. K. Ahmed questioned the pronunciation of the word "lawyer".) All right, I will call him a Barrister. He tried to support the Honourable the Law Member in a way which should call forth from the latter the remark "God save me from my friends". As a matter of fact, he has spoken as if he was a part of the police force. He was speaking with the authority of a constable who is dealing with a person whom he suspects to have committed an offence. My friend Mr. K. Ahmed in fact has pleaded that because the executive wants the power, the power should be given to them. If we are here to give the power to the executive simply because they ask for it, then the sooner we disperse the better for all concerned. Sir, we are here to see that the executive do not get more powers than ought to be given them in any civilised administration. That is the main object of our coming here. We are here to keep a vigilant eye over the executive. If they try to trespass upon the jurisdiction of the civil tribunals, it becomes our business, nay, our duty, to tell them: "Thus far and no further". We are of course here to strengthen their hands in eradicating any evil that props up its head in the country, but such a power must necessarily be of a temporary and emergent nature. Now, Sir, the terrorist movement came into existence some time in the early days of the partition agitation in Bengal. Since then, the Executive have been grasping at power after power ostensibly for the purpose of crushing this movement but so far it has not succeeded in doing so. Take, for instance, this Bengal Criminal Law Amendment Act, the supplementary of which we are discussing today. We know that this Act was first passed, rather certified, by the executive of the Bengal Government in 1925. It is seven years now, and the Government have not succeeded in crushing this movement. Rather what at present they say is, "In Bengal we have not been able to crush this movement for seven years, we now want to send them outside Bengal". If in seven years, they have not been able to crush this movement, is it not high time to revise their policy? Is it not reasonable to ask them, Sir, to think twice before we enlarge the further powers of Government in this respect? They are acting in the manner that the despots of old acted. People suffered from a grievance, which found expression in several ways. Instead of taking steps to remove the cause of grievance, persons giving expression to the grievance were persecuted and prosecuted, which resulted in further intensifying the discontent. The result was that in

course of time both the despot and the Empire were swallowed up by that grievance. Similar is the phenomenon that is being seen today in India. For over a quarter of a century, from 1906 onwards, we have been trying to crush the revolutionary movement by methods which have been taken objection to by all serious minded people and by those people who whole-heartedly co-operated with the Executive in crushing that movement. The Government have failed to listen to them. The Executive went on in their mad career of getting more power and more power and still more power. If that power did not succeed, why not give a chance to the other side, why not listen to their advice and try to remove the cause which has given rise to this terrorist movement? The Government are not doing that. Even now we find in the settlement of the constitutional issue, the agents of the Government are raising side issues, some safeguards, some provisions, some 'ifs' and some 'buts' always with a view to postponing the settlement. The real grievance of the people is that they are not granted liberty in their own country, that they are not allowed to develop in their own manner. That is the real grievance. Instead of meeting the real grievance, instead of removing the real grievance, the Executive come forward and say "Look here, Sardar Sant Singh does not remain quiet, let us now send him to jail without trial". They may succeed in sending Sardar Sant Singh to jail without trial, but they are raising a resentment and bitterness in the minds of the relations of Sant Singh that is bound to recoil on their own heads later on. This is not the way of dealing with the situation. What is the latest method? The latest method is embodied in clause 4, and that is that the writ of *habeas corpus* should no longer be available to the persons detained under the Bengal Criminal Law Amendment Act. There seems to be some confusion as to the importance of the writ of *habeas corpus* in maintaining the rule of law in the country. What is the writ of *habeas corpus*? It is a redress, a relief against the illegality committed by the executive. The law is there; the law gives certain powers and defines these powers within the words of a section. The law arms you with certain power; if you use that power according to the law, the writ of *habeas corpus* cannot harm you. If, on the contrary, you abuse the letter of the law, or pretend to use the law against the liberty of any individual, at once the aggrieved party goes to the High Court, makes an application for a writ of *habeas corpus* to issue, and the High Court examines whether the actions of the Executive are within the law or without the law. It is a matter of history how many persons have been detained in jails and in lunatic asylums on the alleged ground that they were criminals and lunatics, how many of them were released later on by the High Courts on finding that this lunacy was not real, but it was only a pretence for detaining a man on account of jealousy or enmity of his enemies. How many times has not the High Court set aside the orders of the executive on the ground that they were illegal. If history abounds in such instances, where the High Court has found their attitude to be illegal, is it, Sir, unfair to suppose that the executive commits illegal acts? What is the check on the high-handedness of the executive? What legal sanction do you give to the people for the protection of their liberties? The only thing that is available for the redress of their grievances is the writ of *habeas corpus*. Its suspension can only be justified by the gravest emergency. Either we, on this side of the House, do not understand the meaning of the word "emergency" or the meaning of this word "emergency" has been widened to such an extent by the executive in India

[Sardar Sant Singh.]

that it has lost its real significance. The term "emergency" has been utilised as a pretence for grasping more power by the executive. Similarly here you appeal in the name of emergency. But may I ask how long is this emergency going to last? From 1925 up till now this emergency has lasted, and yet you are not satisfied . . . . .

**Mr. President:** The Honourable Member should address the Chair. He is now addressing the Members on the opposite Benches.

**Sardar Sant Singh:** I beg your pardon, Sir. How long is this emergency going to last, Sir, I ask the Honourable Members sitting on the Government Benches. This state of affairs has lasted for seven years now and during these seven years, the Government have not been able to get rid of this terrorist movement. Now, the Government are not in a position to give us any indication as to when they are going to end this emergency. If it has come to stay, as the Honourable the Law Member was constrained to admit, this will go on till the terrorist movement is crushed. In that case, my submission is that it becomes all the more our duty to oppose this measure. We oppose the executive for they are not adopting a course which is in the best interests of the country, or even in their own interests. The Honourable the Home Member may leave the shores of India one of these days, but he will be leaving behind a heritage of bitterness and resentment. He would have created a sense of vindictiveness and a sense of revenge in the people which will not be useful and which will not be in the best interests of the country or of the administrators. Therefore, my submission is that before they should proceed with clause 4, and before they persist in keeping this clause in the Bill, they should think twice whether they are furthering their own interests. Herein comes again the question whether the point that the Select Committee **did not** make any change in the Bill should furnish them with an argument that this House stands committed to the principle of the Bill. This is an argument, Sir, which has no force at all. It is unfortunate that the Select Committee should not have gauged the volume of opposition in the House. The very fact that this Bill has been debated for over four or five days goes to show that this side of the House is very much opposed to the principle underlying the Bill. The only thing which this House now insists upon is that protection should be given to the detenus by way of moving the High Court in cases where wrong persons or innocent persons have been detained without even following the procedure laid down in the Bill itself. It is a very ordinary and simple method by which the executive on the other side can please the Opposition by conceding this much to the Opposition. Therefore I will appeal once more both to the Honourable the Home Member and to the Honourable the Law Member to reconsider their position and see if they cannot bring themselves to accede to the amendment for the omission of clause 4.

**Several Honourable Members:** The question may now be put.

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

The motion was adopted.

**The Honourable Sir James Crerar** (Home Member): Mr. President, I have already addressed the House so many times, not only with regard to the general provisions of this Bill but with regard to the specific issues which arise on this particular clause, that I think it is quite unnecessary for me to indulge in reiteration. It is less necessary since the issues that have been raised on the debate upon this clause have been predominantly of a technical legal character. Apart from the fact that it is not my particular province to deal with technical points of jurisprudence, they have been so completely dealt with by my Honourable colleague the Law Member so fully elucidated by other Honourable and learned gentlemen present, that I do not propose to deal with them. I propose to touch only very briefly on two points of what I may call the executive aspect of the question. It has been pointed out by my Honourable colleague the Law Member that the most important respect in which this amendment would impinge upon the Bill and the Act which it seeks to supplement is in respect of section 4 of the local Act, that is to say, the Bengal Criminal Law Amendment Act, which gives the police powers to detain up to a limit of 15 days, and which gives the Local Government power to order further detention pending the issue of an order under section 2. Now, the point I wish to make is this, that the provision in the local Act is in practice a provision of the most vital importance. The main purpose of the Act being indeed preventive and not punitive,—as was pointed out by the Law Member,—one of the most important directions in which prevention ought to be obtained is the prevention of an immediately impending terrorist outrage. And what has happened over and over again is this, that the police have obtained intimation from sources of a secret character of such an intention. The prompt arrest of two or three of the persons on that reasonable suspicion, which is referred to in the Act, has made it possible on more occasions than one to prevent the occurrence of such an outrage. It is also of very great importance indeed in dealing in a preventive manner—apart from the actual commission of an impending or known to be impending outrage—with the newly growing terrorist organisations or branches of existing terrorist organisations. What I wish to make clear to the House is that what I am now urging upon them is not a theoretical point but a practical one. It is a point which by experience has been found to be one of the greatest importance in practice if this local Act is to be given effect to properly; and it is for that reason,—regarding it purely from the practical point of view—that we are unable to accept the amendment to exclude this clause. I desire finally to point out that since the local Legislature and the Local Government have asked us to assist them in giving effect to this Act, this is one of the most important points involved and it is with regard to this particular point that I am particularly desirous that the House should discharge what I regard to be its duty and its responsibility, by enabling the Local Government to exercise effectively the powers under their own local Act.

Sir, I oppose the amendment.

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

“That clause 4 be omitted and clause 5 be renumbered as clause 4.”

The Assembly divided:

# AYES—33.

Abdur Rahim, Sir.  
Azhar Ali, Mr. Muhammad.  
Bagla, Lala Rameshwar Prasad.  
Bhuput Sing, Mr.  
Biswas, Mr. C. C.  
Das, Mr. B.  
Gunjal, Mr. N. R.  
Hari Raj Swarup, Lala.  
Jadhav, Mr. B. V.  
Jehangir, Sir Cowasji.  
Jog, Mr. S. G.  
Joshi, Mr. N. M.  
Lahiri Chaudhury, Mr. D. K.  
Lalchand Navalrai, Mr.  
Liladhar Chaudhury, Seth.  
Maswood Ahmad, Mr. M.  
Mitra, Mr. S. C.

Mudaliar, Diwan Bahadur A. Raina-  
swami.  
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.  
Shafee Daoodi, Maulvi Muhammad.  
Singh, Mr. Gaya Prasad.  
Sitaramaraju, Mr. B.  
Thampam, Mr. K. P.  
Uppi Saheb Bahadur, Mr.

# NOES—63.

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. R. S.  
Banerji, Mr. Rajnarayan.  
Bhargava, Raj Bahadur Pandit T. N.  
Bhore, The Honourable Sir Joseph.  
Clow, Mr. A. G.  
Cosgrave, Mr. W. A.  
Crerar, The Honourable Sir James.  
Dalal, Dr. R. D.  
Dumasia, Mr. N. M.  
Fazal Haq Piracha, Shaikh.  
Fox, Mr. H. B.  
French, Mr. J. C.  
Gidney, Lieut.-Colonel Sir Henry.  
Graham, Sir Lancelot.  
Gwynne, Mr. C. W.  
Howell, Sir Evelyn.  
Ishwarsingji, Nawab Naharsingji.  
Ismail Ali Khan, Kunwar Hajee.  
Jawahar Singh, Sardar Bahadur  
Sardar.  
Lal Chand, Hony. Captain Rao Baha-  
dur Chaudhri.

Megaw, Major General J. W. D.  
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.  
Pillai, Mr. N. R.  
Rafiuiddin Ahmad, Khan Bahadur  
Maulvi.  
Raghubir Singh, Kunwar.  
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.  
Sher Muhammad Khan Gakhar,  
Captain.  
Sykes, Mr. E. F.  
Tin Tut, Mr.  
Wajihuddin, Khan Bahadur Haji.  
Young, Mr. G. M.

The motion was negatived.

**Rao Bahadur B. L. Patil:** Sir, the next amendment that stands in my name reads thus:

"That to clause 4 the following be added at the end:

"This clause shall be in force for one year only'."

My previous amendment having been thrown out, it remains for me to make an appeal to this House at least to restrict the operation of the clause for one year only. I will, however, shortly state my reasons as

to why I am moving this amendment after having failed with regard to my first amendment. My first reason is this: that we are on the eve of constitutional reforms, and it would be unfair and unwise on our part to legislate for a period for which the operation of this clause will be extended. We are all hoping that tremendous changes are going to happen. In these circumstances I think that it would be wise on our part to limit the operation of the clause only for one year.

My second reason for pressing this amendment for the acceptance of this House is this: of course it is said in high authoritative quarters that when the State is in danger, the high prerogative writ of *habeas corpus* may be suspended; but it should be suspended only for a short time and for a limited period, and that should be done only by the Legislature. I do not know exactly where that has been said, but I remember that is the proposition laid down by Lord Shaw in one of his judgments, and he has quoted from Blackstone. That is my second reason why the operation of this clause should be restricted to one year only; and I make an appeal to this House. . . .

**An Honourable Member:** Make your appeal to the other side. This side is always with you.

**Rao Bahadur B. L. Patil:** I make my appeal both to this side as well as the other, because I fear that many Honourable Members will not be in their seats at the time of voting. For these two reasons I move this amendment.

**The Honourable Sir James Orerar:** Mr. President, the Honourable gentleman who has moved this amendment had two main grounds: in fact two sole grounds as I understood him; first that India is on the eve of big constitutional reforms, and second, any suspension of the *habeas corpus* powers of the High Court should only be for a very limited period. I have a great deal of sympathy with both of those points of view. But what I would ask the House to regard is the practical aspect of the business. In the first instance, a proposal of this kind will not be reasonable unless we had some reasonable prospect that the exceptional conditions which require exceptional legislation are reasonably likely to be terminated within one year. Secondly, it is obviously a matter of the greatest importance that the supplementary legislation should be co-extensive and co-terminous in time with the local Bill which it proposes to supplement. If within the period which the local Act has still to run conditions did improve so much, if the terrorist movement in Bengal became extinct, then obviously the conditions necessitating the legislation would have ceased, and I have no manner of doubt that the local Legislature would repeal its own enactment and our own supplementary Act could cease to operate. But till those conditions are realised, I do not think it is reasonable for the Honourable Member opposite to expect us to accept an amendment limiting the operation of this important operative clause, which the House has already repeatedly accepted, to one year.

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

"That to Clause 4 the following be added at the end:

"This clause shall be in force for one year only."

The motion was negatived.

**Mr. President:** The next amendment is from Mr. Sitaramaraju.

**Mr. B. Sitaramaraju:** Sir, I move:

"That to clause 4 the following proviso be added—'Provided, however, that the procedure laid down in the Act has been complied with'."

In moving this amendment it is not necessary for me to speak at any great length, nor it is necessary for me to refer to the inherent powers of the High Courts after the very elaborate discussion we have had on the subject. My amendment, as I have just now read, does not seek to modify any of the provisions of the Bill itself notwithstanding the fact that it is a proviso, because the proviso says, you can have the Act as you will, and if you must have this drastic legislation, have it by all means, but if you want to have this legislation, then give a guarantee to the people that in case even this lawless law is not complied with, and if there has been a detention illegally made under the colour of this Act, there is a provision in the law itself to safeguard the citizens from such illegal detention. That is my proviso, and therefore I do maintain that the proviso does not modify any of the provisions of the Bill itself notwithstanding the fact that it is a proviso. It only seeks to show that by barring legal proceedings which you want under clause 4, we should be assured that, in case the procedure laid down in the Bengal Act has not been complied with, there will be available to the citizen the remedy provided under section 491 of the Criminal Procedure Code. One would have thought that there could be no possible objection on the part of Government to a proviso like this, because the Government have the legislation they want; and I do not think that any reasonable man on the Government Benches can contend that there should also be a power reserved to the executive to exceed the bounds of law. Notwithstanding the very pointed questions asked by our Deputy Leader, Sir Cowasji Jehangir, and by our Leader, Sir Abdur Rahim, earlier on this debate, the Honourable the Home Member would not allow himself to be drawn out on that day. We wanted very much to know what possible objection there could be for Government to accept a provision like this. The question was specifically asked and the Honourable the Home Member, if I remember aright, said that he would disclose his views on the matter only when this amendment was moved. But the Law Member was not silent likewise. Sir, I must at this stage congratulate the Honourable the Law Member for the very refreshing candour with which he dealt with the subject, and I must also congratulate another gentleman on the Government Benches,—my Honourable friend, Dr. DeSouza, for the very correct view he has taken in the matter.

**Mr. S. C. Mitra:** And the great Barrister Mr. Kabiruddin Ahmed? (Laughter.)

**Mr. B. Sitaramaraju:** What does that show? I am using almost the exact words of the Law Member. He said that the whole clause is revolting to him as it would be to any lawyer. All the implications involved in it are revolting to everybody who is fed on English jurisprudence, equity and common justice. Therefore, I am really thankful to the Honourable the Law Member for the candour with which he has stated the position, namely, that he is guided more by a policy to enact this



legislation than by reason. He said that the purpose of this Bill is to substitute the executive will for judicial judgment. I may be permitted to say, Sir, with equal candour that if there is any grain of self-respect on this side of the House, then we should not be a party to a thing which seeks to substitute executive will for judicial judgment. But I do sympathise with the Honourable the Law Member because he is quite helpless and because he is guided by a policy over which he candidly said he has no control. However, Sir, in sympathising with him, I cannot but express my regret that, great lawyer as he is, the Honourable the Law Member has advanced an argument which, I am sure, he would on reflection find that it is not at all an argument that he of all people could have or should have advanced. He said that if the detention is legal, the High Court will not interfere; if the detention is illegal, then there is nothing that can prevent the High Court from interfering. And before I deal with the specific points raised by him I must now refer to another remark which he made earlier in the debate. It is with reference to the opinion expressed by Sir Alladi Krishnaswami Aiyer—another great lawyer from Madras—on this provision in the Bill. Honourable Members of this House are perfectly aware that the Honourable the Law Member has himself quoted with approval the remarks of Sir Alladi Krishnaswami Aiyer, the Advocate General of Madras, on the point . . . . .

**The Honourable Sir Brojendra Mitter:** Will you please raise your voice; I find it very difficult to hear you.

**Mr. B. Sitaramaraju:** He read the references to the regulations under section 491, Criminal Procedure Code, which were made in that opinion. I would like to quote the following few lines from Sir Alladi Krishnaswami Aiyer's opinion:

"If the conditions of the statute are satisfied, the detention is lawful and the High Court will not exercise the jurisdiction under section 491 of the Criminal Procedure Code. If, on the other hand, the detention is unlawful because the conditions of the Statute have not been fulfilled or the order has not been passed save by the proper authority, there is no reason why the subject should be deprived of his remedy under section 491 and the opportunity of obtaining relief in any part of the British Empire."

In view of the approval with which the Law Member has quoted Sir Alladi Krishnaswami Aiyer, I hope the same approval would be accorded to this which I consider to be the important relevant operative portion of his opinion on the question before us, although he stated in that paragraph that the only redeeming feature of this objectionable law is that it was once allowed to be incorporated in a similar way. I do not think that can be cited as an argument which was advanced by Sir Alladi Krishnaswami Aiyer in favour of the clause. This is all that was said, and that was the portion quoted by the Law Member. Here it is:

"I realise that there is this thing to be said in favour of the retention of clause 4, that section 491 already contains a provision to the effect that the remedy under the section is not available to persons detained under certain regulations, and so forth."

This was quoted as Sir Alladi's approval in answer to the point which was then raised by Sir Cowasji Jehangir. Reading the whole passage, even the Law Member with all the brilliancy of the advocacy which he can bring to bear upon it cannot make it other than a mere commonplace

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of advocacy on his part. Further, the Honourable the Law Member made mention about the sanction of this Legislature. This House never sanctioned it, and if the Council of State sanctioned it we know what the Council of State is composed of.

**The Honourable Sir Brojendra Mitter:** I protest against it.

**Mr. B. Sitaramaraju:** Coming to that point that if the detention is lawful, then the High Court will not interfere and if the detention is unlawful, then the High Court cannot be prevented . . . . .

**The Honourable Sir James Orerar:** Will the Honourable speaker speak a little louder? We find it difficult to follow him.

**Mr. President:** The Chair also finds it difficult to follow the Honourable Member.

**Mr. B. Sitaramaraju:** I am sorry I have been inconveniencing Honourable Members. If the detention is legal, then the High Court cannot interfere. This is a correct proposition with which we have no quarrel. As regards the other that if on the other hand the detention is illegal, then the High Court cannot be prevented from interfering. I would like to say that this requires some more elaborate explanation than what the Honourable the Law Member has given. If I remember aright, he was advancing the argument in answer to my friend Mr. Navalrai that the powers of a High Court are no more than the powers mentioned under section 491, and therefore if we are to be deprived of the powers vested in us under section 491 we are deprived of all. But if the general rights and privileges of the High Court are untouched and real, clause 4 itself would be without any effect. The Honourable the Law Member said, referring to the Calcutta case he mentioned the other day, that those powers are rendered ineffective by these provisions. I submit that the Honourable the Law Member cannot have it both ways. To put it in another way, it must be admitted, and I think that is sufficiently admitted by the Honourable the Law Member himself, that in cases where there has been illegal detention, even under the colour of this Act, then it is right that the victims of that illegal detention should be provided with some remedy. I think therefore that it can be assumed that illegal detention requires to be provided against. Section 491 is a remedy. If they are deprived of that there must be a remedy available. Now admitting that there is a remedy available to a person illegally detained somewhere in law, then I would like to ask where is this remedy to be found if we are deprived of section 491, for under sub-section (b) of section 491 there is a specific provision made that the High Court would interfere where there has been a case made out of illegal detention. That being so, it is incumbent upon the Law Member to tell us for if these powers under section 491 are to be barred under clause 4, there must be a remedy available to a citizen to safeguard against that illegal detention. To my mind there is none. If there is one elsewhere, section 491 would not specifically provide a remedy for illegal detention. If there is illegal detention, then sub-section (b) is the only provision applicable. Now, if the whole of section 491 is taken away and debarred from being used,

then there must be another power vested somewhere. The Honourable the Law Member has not told us where that power exists. If I remember aright, in the course of the discussion on the last clause, he said that the general powers of the High Court could be made available for that purpose. If that is correct, then it would be open to the same objection which the Honourable the Law Member himself raised for rejecting clause 4. Therefore the position comes to this, this proviso is either necessary or not necessary. If it is necessary, then we must certainly have it. Assuming for the moment that it is not necessary and that there is a power reserved for the people elsewhere by which they can take action for illegal detention under this Act, assuming that such a power exists, which I deny, then this proviso could be considered at the worst only superfluous. May I respectfully ask the Law Member whether, by adding a proviso which is not objectionable on the ground that people illegally detained under the Act should be provided with a proper remedy, if it is only superfluous, it would offend the aesthetic sense of the draftsman of the Government who has drafted this Bill to add a proviso like this, and that a serious doubt has arisen and the point has been argued on the floor of the House by Honourable Members who are acquainted with the practice and procedure of law in this country.

Then there is another point. Taking the question also on its merits, what is this after all which we want? We say, let the Government have this law, drastic as it is, but let us have the proviso also, which says that even this lawless law should be complied with and where it is not a remedy should be made available to the people. Is it the contention of the Government that even if action is illegally taken under this Act by officials, they should have their own way? If that were the contention, then I would respectfully ask the Home Member as well as the Law Member. "Why have this Act at all?". I would tell them, "Suspend all laws altogether for the matter of that", because if it is the wish of the executive that no law should be respected by their officials, with what decency can anybody say that there should be any laws at all? Let them rule without laws and suspend all laws. Sir, in my humble opinion I think

that this proviso is the acid test of the *bona fides* of the Government (Hear, hear), as to whether, under the subterfuge and colour of this Act, they want their subordinate officials to take the law into their hands and do whatever they please, without there being any remedy available to the party aggrieved, without there being any right available to the ordinary citizen to question the vagaries of the Government's subordinate officials.

**Mr. S. C. Mitra:** You can see the Honourable the Home Member.

**Mr. B. Sitaramaraju:** Sir, in all fairness to the Honourable the Law Member it must be said—to use his own words—that the whole thing is revolting from the point of view of a lawyer to him as well as to all of us. To us it is even more so, and I would respectfully request the Honourable the Law Member not to let the Government stultify themselves by taking shelter under the proposed legislation without offering a remedy even when their subordinate and higher officials have exceeded and abused the powers given to them by this House.

Before I conclude, I would like to say one thing more, and that is this. In the course of the Budget speech the Honourable the Finance Member the other day accused my Honourable friends from Bombay of

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sustaining a passion for self-inflicted injuries. Since then I have discovered that the malady is not confined at all to Bombay but it has been creating ravages in the ranks of the Government themselves.

**Mr. S. C. Mitra:** That is also from Bombay; Sir James Crerar is a Bombay Civilian.

**Mr. B. Sitaramaraju:** Sir, these Ordinances, these drastic laws, whatever may be the hardships that they entail on the people, however much the people suffer, ultimately recoil on the Government which promulgates them. I say, Sir, every *lathi* blow given, every drastic legislation under the colour of law, even with the sanction of the Legislature like ours, that has been made here, is injurious to the prestige, good name and authority of the Government themselves. If not now, at least in the days to come it must recoil, and therefore I would say that that passion for self-inflicting injuries ascribed to the Bombay people is more in evidence here with the Government than it is anywhere else. Sir, I move.

The Assembly then adjourned till Eleven of the Clock on Wednesday, the 30th March, 1932.