

20th February 1936

THE
LEGISLATIVE ASSEMBLY DEBATES

(Official Report)

Volume II, 1936

(17th February to 27th February, 1936)

THIRD SESSION
OF THE
FIFTH LEGISLATIVE ASSEMBLY,
1936



NEW DELHI
GOVERNMENT OF INDIA PRESS
1936

Legislative Assembly.

President :

THE HONOURABLE SIR ABDUR RAHIM, K.C.S.I., KT.

Deputy President :

MR. AKHIL CHANDRA DATTA, M.L.A.

Panel of Chairmen :

PANDIT GOVIND BALLABH PANT, M.L.A.

SIR COWASJI JEHangIR, BANT., K.C.I.E., O.B.E., M.L.A.

SIR LESLIE HUDSON, KT., M.L.A.

SIR MUHAMMAD YAMIN KHAN, KT., C.I.E., M.L.A.

Secretary :

MIAN MUHAMMAD RAFI, BAR.-AT-LAW.

Assistant of the Secretary :

RAI BAHADUR D. DUTT.

Marshal :

CAPTAIN HAJI SARDAR NUR AHMAD KHAN, M.C., I.O.M., I.A.

Committee on Petitions :

MR. AKHIL CHANDRA DATTA, M.L.A., Chairman.

SIR LESLIE HUDSON, KT., M.L.A.

MR. B. DAS, M.L.A.

DR. ZIAUDDIN AHMAD, C.I.E., M.L.A.

MR. M. S. ANEY, M.L.A.

CONTENTS.

VOLUME II.—17th February to 27th February, 1936.

	PAGE.
MONDAY, 17TH FEBRUARY, 1936—	
Members Sworn	909
Questions and Answers	909—90
Short Notice Questions and Answers	960—61
Death of Mr. N. O. Bardaloi	961—64
Message from His Excellency the Governor General	964
Presentation of the Railway Budget for 1936-37	964—76

TUESDAY, 18TH FEBRUARY, 1936—	
Questions and Answers	977—1016
Unstarred Questions and Answers	1016—60
Short Notice Questions and Answers	1060—61
Resolution re Extension of the same level of administration to the people of the excluded and partially excluded areas—Adopted, as amended	1061—1104
Resolution re Release of political prisoners detained without trial—Discussion not concluded	1106—12

WEDNESDAY, 19TH FEBRUARY, 1936—	
Member Sworn	1113
Questions and Answers	1113—94
Statements laid on the Table	1194—95
General Discussion of the Railway Budget	1196—1252

THURSDAY, 20TH FEBRUARY, 1936—	
Questions and Answers	1253—92
Short Notice Questions and Answers	1293—95
Nominations to the House Committee	1296

THURSDAY, 20TH FEBRUARY, 1936—contd.	
The Code of Criminal Procedure (Amendment) Bill (Amendment of sections 80, 84, 34A and 35)—Circulated	1296—1325
The Repressive Laws Repealing and Amending Bill—Discussion on the motion to refer to Select Committee not concluded	1325—42
Statement of Business	1342

MONDAY, 24TH FEBRUARY, 1936—	
Member Sworn	1343
Questions and Answers	1343—86
Statements laid on the Table	1387—89
The Railway Budget—List of Demands—Demand No. 1—Railway Board—General policy of Railway Administration	1389—1436
Stores purchase policy	1436—36

TUESDAY, 25TH FEBRUARY, 1936—	
Questions and Answers	1437—86
Motion for Adjournment re Reflections by the Honourable the Finance Member on the Members of the House with regard to certain questions admitted by the Honourable the President—Talked out	1486—93
Message from the Council of State	1521—43
The Railway Budget—List of Demands—contd.—Demand No. 1—Railway Board—contd.—Stores purchase policy	1492—1516
Grievances of third class passengers	1494
	1516

	PAGE.
TUESDAY, 25TH FEBRUARY, 1936—contd.	
The Railway Budget—	
List of Demands—contd.	
Demand No. 6E.—	
Working Expenses—	
Expenses of Traffic	
Department—	1516—21
Grievances of rail-	
way workers	1516—21
WEDNESDAY, 26TH FEBRUARY, 1936—	
Questions and Answers	1550—75
Unstarred Questions and	
Answers	1575—1618
The Railway Budget—	
List of Demands—contd.	
Demand No. 6F.—	
Working Expenses—	
Expenses of Traffic	
Department—contd.	1614—75
Grievances of railway	
workers	1614—34
Amalgamation of	
railways	1634—65
Paucity of Muslims	
in the services of	
the Madras and	
Southern Mahratta	
Railway and the	
South Indian	
Railway	1665—75
THURSDAY, 27TH FEBRUARY, 1936—	
Questions and Answers	1677—1725
Statements laid on the	
Table	1725—29
The Railway Budget—	
List of Demands—contd.	
Demand No. 7.—Rail-	
way Board—contd.	1730—79
Creation of a ministry	
or department of	
communications	1730—48
Daeco-Archa Rail-	
way	1749—69
Paucity of Muslims	
in railway services	1759—74
Policy of contracts	
on the North	
Western Railway	
—Contracts for	
loading and un-	
loading, for coolies	
and for refresh-	
ments	1774—79
Demand No. 2.—Audit	1779
Demand No. 2.—Miscel-	
laneous expenditure	1779
Demand No. 4.—Refunds	1779
Demand No. 5.—Pay-	
ments to Indian	
States and Companies	1779

	PAGE.
THURSDAY, 27TH FEBRUARY, 1936—contd.	
The Railway Budget—	
List of Demands—contd.	
Demand No. 6A.—	
Working Expenses—	
Maintenance of	80
Structural Works	
Demand No. 6B.—	17
Working Expenses—	
Maintenance and	
Supply of Locomotive	
Power	1890
Demand No. 6C.—	
Working Expenses—	
Maintenance of	
Carriage and Wagon	
Stock	1780
Demand No. 6D.—	
Working Expenses—	
Maintenance of Ferry	
Steamers and Har-	
bours	1780
Demand No. 6E.—	
Working Expenses—	
Expenses of Traffic	
Department	1780
Demand No. 6F.—	
Working Expenses—	
Expenses of General	
Departments	1781
Demand No. 6G.—	
Working Expenses—	
Miscellaneous Ex-	
penses	1781
Demand No. 6H.—	
Working Expenses—	
Electric Service	
Department	1781
Demand No. 7.—	
Working Expenses—	
Appropriation to	
Depreciation Fund	1781
Demand No. 8.—	
Interest Charges	1781
Demand No. 9.—	
Temporary With-	
drawals from Depre-	
ciation Fund	1781
Demand No. 11.—	
New Construction	1802
Demand No. 12.—	
Open Line Works	1802
Ruling re Breach of privi-	
leges of the House	
(Demand of a resolution	
from the publisher of	
Abhaya of Allah-	
abad for publishing a	
speech delivered in the	
Legislative Assembly)	1783—86
Statement of Business	1783, 1787

LEGISLATIVE ASSEMBLY.

Thursday, 20th February, 1936.

The Assembly met in the Assembly Chamber of the Council House at Eleven of the Clock, Mr. President (The Honourable Sir Abdur Rahim) in the Chair.

QUESTIONS AND ANSWERS.

REFERENCE IN CONNECTION WITH PANDIT JAWAHARLAL'S ACTIVITIES IN THE BENGAL ADMINISTRATION REPORT.

689. *Seth Govind Das: Will Government be pleased to state :

- (a) whether their attention has been drawn to the controversy, an account of which appeared in the Indian and English Press and also to the questions asked and answers given in the House of Commons with regard to the reference made in the Bengal Government's Administration Report for 1934-35, in connection with Pandit Jawaharlal's political activities in Bengal;
- (b) whether Government are aware of the repudiation made by Pandit Jawaharlal in the *Manchester Guardian*;
- (c) whether Government had any correspondence with the Bengal Government to substantiate the reference so made in their Administration Report;
- (d) whether the Government of Bengal are going to do so;
- (e) in the event of their not being able to do so, whether the Government of Bengal will be prevailed upon to express regret over the error;
- (f) whether Government had any correspondence over the matter with Whitehall;
- (g) if the answer to part (f) be in the affirmative, whether Government are prepared to lay on the table a copy of the entire correspondence they had with the Government of Bengal along with that which they had with Whitehall; and
- (h) if the reply to part (g) be in the negative, the reasons therefor?

The Honourable Sir Henry Craik: (a) and (b). Yes.

(c) to (h). The Honourable Member's attention is invited to the statement published by the Government of Bengal on January the 8th which has been communicated to the Secretary of State. There was correspondence between the Government of India, the Government of Bengal and the Secretary of State, but I am not prepared to lay it on the table.

Seth Govind Das: Are Government aware that the regret which has been expressed by the Bengal Government is not a real apology?

The Honourable Sir Henry Craik. That is a matter of opinion.

Seth Govind Das. Are Government aware that with such a regret, as the Government of Bengal expressed, the nationalist press of India and the nationalist people of India are not satisfied?

The Honourable Sir Henry Craik: No, Sir.

Seth Govind Das: Are Government going to issue a notification to the effect that the statement made in the report should be deleted?

The Honourable Sir Henry Craik: The Bengal Government have stated that in the statement issued by them.

STANDING ORDER IN THE INDIAN STORES DEPARTMENT RE SANCTION REQUIRED FOR LEAVING STATION ON SUBMISSION OF MEDICAL CERTIFICATE.

690. *Pandit Sri Krishna Dutta Paliwal: (a) Will Government please state whether the submission (not mere possession) of the medical certificate to the office concerned does confer on the Government servants the right to leave?

(b) Is it a fact that in the Indian Stores Department a Standing Order No. 193 has been issued to the effect that the Government servants cannot leave the station without the previous sanction of the department, even when they are advised by their medical attendants to leave the station on grounds of illness?

(c) If so, are Government prepared to take all responsibility for the health and safety of the life of the Government servant concerned during the period he has to wait for the sanction of the department to leave the station?

Mr. E. M. Jenkins: (a) No.

(b) Yes.

(c) I do not know what the Honourable Member means. In really urgent cases, leave is given as a matter of course.

CASES FOR MEDICAL LEAVE OF THE EMPLOYEES OF THE INDIAN STORES DEPARTMENT REFERRED TO CIVIL SURGEONS.

691. *Pandit Sri Krishna Dutta Paliwal: (a) Will Government please state the number of employees in the Indian Stores Department who went on leave on average pay on medical certificate since 1st May, 1934?

(b) Were all these certificates issued by registered medical practitioners or Government medical attendants?

(c) In how many cases such employees were asked to produce themselves before the Civil Surgeons for recommendation of leave?

(d) Against the number of cases referred to the Civil Surgeons, in how many cases was the leave recommended by the Civil Surgeons:

(i) for the period originally recommended by the medical attendant;

(ii) for the period less than that originally recommended by the medical attendant; and

(iii) for the period more than that originally recommended by the medical attendant?

(e) Are Government prepared to consider the desirability of putting a stop to the practice of frequent references of cases to Civil Surgeons?

Mr. E. M. Jenkins: (a) to (d). The collection of this information would involve a great deal of labour which would not be justified by the results.

(e) Government are not prepared to interfere, without good reason, with a discretion given by rule to the authorities empowered to sanction leave. They are satisfied that in the Indian Stores Department the discretion is not abused.

GRANT OF LEAVE TO MR. SWAMI NATHAN, A CLERK IN THE ENGINEERING BRANCH OF THE INDIAN STORES DEPARTMENT.

692. *Pandit Sri Krishna Dutta Paliwal: (a) Is it a fact that Mr. Swami Nathan, clerk, Engineering Branch, Indian Stores Department, is related to Rao Saheb V. S. Subramaniam, an officer in the same department?

(b) Is it a fact that Mr. Swami Nathan applied for a month's leave in the month of June 1935?

(c) Is it a fact that a demi-official letter was received from Rao Saheb Subramaniam in connection with the leave applied for by Mr. Swami Nathan?

(d) Is it a fact that while sanctioning his leave the remarks purporting to the following were made on the file. "Mr. Swami Nathan may be granted leave because he is the son-in-law of Rao Saheb Subramaniam"?

(e) Is it a fact that the Engineering Branch was under-staffed at the time when Mr. Swami Nathan was granted leave?

(f) Do Government propose to consider the advisability of putting a stop to such practices and to see that all Government servants are given equal opportunities to avail themselves of the leave they are entitled to?

Mr. E. M. Jenkins: (a) Yes.

(b) Mr. Swami Nathan applied in June, 1935, for leave for two months and one day from 17th June, 1935.

(c), (d) and (e). No.

(f) Does not arise.

FILLING UP OF TEMPORARY VACANCIES IN THE GOVERNMENT OF INDIA OFFICES.

693. *Pandit Sri Krishna Dutta Paliwal: Is it a fact that in those departments of the Government of India in which recruitment of the ministerial staff is made through the Public Service Commission, vacancies of more than three months' duration in the grade of typist and routine clerks are also to be filled in by the qualified candidates of the Public Service Commission?

The Honourable Sir Henry Craik: Yes.

**COMMUNAL HOLIDAYS AND CASUAL LEAVE ALLOWED TO THE STAFF IN
THE GOVERNMENT OF INDIA OFFICES.**

694. ***Pandit Sri Krishna Dutta Paliwal:** Will Government please state how many communal holidays and how many days casual leave a member of the ministerial staff of the Government of India Secretariat and its attached offices is entitled to during a year?

The Honourable Sir Henry Craik: Six communal holidays are admissible in a year to the employees of the Government of India Secretariat and attached offices which move between Simla and Delhi. Casual leave is granted as a matter of grace and not of right and is normally limited to ten days in a year though, in very special circumstances, it is within the discretion of the head of the office to extend this period.

Mr. N. M. Joshi: May I ask why a smaller number of days casual leave is given to the ministerial staff than it is to the other staff?

The Honourable Sir Henry Craik: I do not think that is the case.

Mr. S. Satyamurti: What does a holiday to Government servants cost to the tax-payer?

The Honourable Sir Henry Craik: I should think a good deal. I do not know.

**GRANT OF CASUAL LEAVE ON MEDICAL GROUNDS IN THE INDIAN STORES
DEPARTMENT.**

695. ***Pandit Sri Krishna Dutta Paliwal:** (a) Is it a fact that in most of the Government of India Secretariat and attached offices the members of the ministerial staff have to produce medical certificates in case of casual leave for more than two days on grounds of illness?

(b) Is it a fact that in the Indian Stores Department the medical certificate is required to be submitted in case of casual leave even for two days on grounds of illness? If so, why does this disparity exist in the Indian Stores Department?

Mr. E. M. Jenkins: (a) and (b). The matter is entirely within the discretion of the authority competent to grant the leave.

ELIGIBILITY OF INDIANS FOR COLONIAL SERVICE.

696. ***Sardar Mangal Singh:** (a) Will Government please state whether Indians are eligible for Colonial service in all the Colonies and whether there is no bar in theory or practice against the Indians being taken in service in all the Colonies?

(b) Will Government please lay on the table of this House a copy of the rules for the recruitment to the services in the Colonies, particularly relating to the Colonies situated in Asia and Africa?

(c) Will Government please state the reasons for the discrimination against Indians in the matter of recruitment to the services in the Colonies?

(d) What action do Government propose to take to safeguard the interests of the Indians in this matter?

The Honourable Sir Henry Craik: (a), (c) and (d). So far as the Government of India are aware there is no statutory bar to the appointment of lawfully resident Indians to the Civil Services in all the Colonies, except Ceylon and Malaya. The Government of India have endeavoured in the past to secure the removal in these two Colonies of all formal disabilities on the entry of Indians into their public services but without success.

(b) No copies of rules for recruitment to the services in the Colonies are available.

Sardar Mangal Singh: Is it not the rule that candidates must be natural born British subjects of pure European descent on both sides?

The Honourable Sir Henry Craik: Rule for what?

Sardar Mangal Singh: For eligibility for service in the Colonies.

The Honourable Sir Henry Craik: No. My information is that there is no bar to the recruitment of Indians resident in those Colonies, except in Ceylon and Malaya.

Sardar Mangal Singh: I am quoting from the rules. It is clearly laid down that candidates must be natural born British subjects of pure European descent on both sides.

The Honourable Sir Henry Craik: What rule?

Sardar Mangal Singh: Cadetship in Malaya, Hongkong and other places.

Mr. Lalchand Navalrai: May I know why this distinction is made in the two Colonies mentioned by the Honourable Member?

The Honourable Sir Henry Craik: I have said that the Government of India have endeavoured in the past to get these distinctions removed but without success.

Mr. T. S. Avinashilingam Chettiar: Is there any similar disability placed upon Malaya and Ceylon in this country.

The Honourable Sir Henry Craik: I do not think there is.

Mr. T. S. Avinashilingam Chettiar: If Government have corresponded with those countries and they have not received a favourable reply, will they consider the advisability of placing similar restrictions in this country?

The Honourable Sir Henry Craik: That is one method of dealing with the matter. I will consider that.

BAN ON THE KIRPANS.

697. ***Sardar Mangal Singh:** (a) Will Government please state whether the Local Government consulted the Government of India before issuing the orders under section 144, putting a ban on the *kirpan*?

(b) Are Government aware that there was a great feeling of resentment prevailing amongst the Sikhs against this direct interference with the Sikh religion?

(c) Are Government prepared to issue instructions to all the Local Governments not to put any restriction on *kirpan* carried and possessed by a Sikh?

The Honourable Sir Henry Craik: (a) The order prohibiting temporarily the carrying of all arms in public within the limits of the Lahore Municipality was issued by the District Magistrate. The Government of India were not consulted.

(b) and (c). Government are aware that there was a feeling of resentment among the Sikhs on account of this order, but Government do not accept the suggestion that this order was a direct interference with the Sikh religion, since it was made clear in the order that it was intended to apply only to such *kirpans* as were capable of being used as weapons, and further that it only related to the carrying of arms in public. The imposition of the ban, which was not intended to interfere with any religious obligation, asserted a principle which the Government of India agree with the Government of the Punjab in regarding as vital, namely, the right of a District Magistrate in times of disorder to disarm all members of the public if he considers it necessary to do so. Government are not prepared to issue any instructions to Local Governments in such a matter.

Sardar Mangal Singh: Was there any size fixed in the prohibition order with regard to the *kirpans*?

The Honourable Sir Henry Craik: As far as I know, not specifically, but it was stated that *kirpans* capable of being used as weapons were not to be carried in public.

Mr. Lalchand Navalrai: Is not a knife also a weapon which may be used for that purpose.

Mr. President (The Honourable Sir Abdur Rahim). That is a matter for argument.

Mr. Lalchand Navalrai: I am simply asking whether knives were prohibited, because they can also be used as weapons.

The Honourable Sir Henry Craik: As far as I know, the order was that *kirpans* capable of being used as weapons were prohibited. Whether any particular *kirpan* is or is not capable of being used as a weapon is a matter for the decision of the Courts.

Sardar Mangal Singh: Is the Honourable Member aware that, even during the martial law days, similar restrictions were not imposed on *kirpans*?

The Honourable Sir Henry Craik: That was a long time ago, but my recollection is that the carrying of *kirpans* was prohibited in 1919, though I cannot say for certain.

Sardar Mangal Singh: I would remind the Honourable Member that he happened to be the Chief Secretary of the Punjab Government, and that, when there were serious riots in Lahore and orders under section 144 were issued against all kinds of arms, *kirpans* were not touched?

The Honourable Sir Henry Craik: I believe that is correct of the riots of 1927.

Sardar Mangal Singh: Do Government not think that the District Magistrate under section 144 is not authorised to legislate? He is only to regulate the conduct of citizens or for a particular locality, but he cannot legislate. The wearing of *kirpans* is a right conferred upon the Sikhs by the Legislature and the District Magistrate has no right to take away that right.

The Honourable Sir Henry Craik: That seems to be argument and not a question. The point raised is a constitutional and legal one on which I am not prepared to express an opinion.

Sardar Mangal Singh: May I advise the Government to issue suitable instructions to different Provincial Governments when there is a different law about *kirpans* in different Provinces? For instance, in the Punjab, I can keep a *kirpan*, but if I go into Sind, I am a criminal and I am hauled up before a Court. May I ask why this anomaly is maintained by the British Government?

The Honourable Sir Henry Craik: That is an entirely different matter and does not arise out of any answer I have given.

FINANCIAL HELP TO AGRICULTURE BY THE RESERVE BANK OF INDIA.

698. ***Prof. N. G. Ranga:** Will Government be pleased to state:

- (a) what the recommendations made by Mr. Darling were regarding the manner in which the Reserve Bank of India can and ought to help to finance agriculture, and
- (b) what action has been taken by the Bank on those lines?

The Honourable Sir James Grigg: (a) and (b). I would invite the attention of the Honourable Member to the reply given to his question No. 322 on the 12th September, 1935, and also to the replies given to Mr. Akhil Chandra Datta's questions Nos. 196 and 197 on the 10th February, 1936. I also draw the Honourable Member's attention to the remarks of the Reserve Bank on its Agricultural Credit Department in its annual report.

Prof. N. G. Ranga: Will Government consider the advisability of publishing these reports of Mr. Darling?

The Honourable Sir James Grigg: I have answered questions on that point: the reports were made to the Reserve Bank and it does not lie with Government to publish them.

Prof. N. G. Ranga: Will Government place at least the recommendations of Mr. Darling on the table of this House?

The Honourable Sir James Grigg: I have just said that, as the reports were made to the Reserve Bank, it is not within the competence of the Government to place them before this House.

CO-OPERATIVE TRAINING AND EDUCATION.

699. *Prof. N. G. Ranga: Will Government be pleased to state:

- (a) the recommendations made by Mr. Darling for the expenditure of rupees ten lakhs out of the Rural Development Grant on Co-operative Training and Education;
- (b) what action has been taken on those recommendations;
- (c) how Government propose to apportion that grant among the various provinces; and
- (d) whether the Provincial Co-operative Federations and All-India Federation of Co-operative Training Institute are going to be given any grants or subsidies to better enable them to carry on their educational work?

Sir Girja Shankar Bajpai: (a) Mr. Darling's recommendations related primarily to the training of the co-operative staff and to the educating of members of co-operative societies in the principles of co-operation. The amount set apart by the Government of India for the purpose is Rs. 15 lakhs.

(b) and (c). Mr. Darling's suggestions have been brought to the notice of Local Governments and, as already stated, a sum of Rs. 15 lakhs has been set apart for implementing those recommendations. Actual distribution of the money will be made on the basis of the membership of primary societies in each province.

(d) The matter is for Local Governments to consider.

Prof. N. G. Ranga: Have Government received any reports from the various provinces on the recommendations of Mr. Darling?

Sir Girja Shankar Bajpai: Sir, Local Governments were asked to submit to the Government annually reports on the training scheme which they were to put into operation. The first annual reports have not come in yet.

Prof. N. G. Ranga: Have any Provincial Governments submitted any of their schemes for the training of their co-operative staff as well as the members of the primary co-operative societies?

Sir Girja Shankar Bajpai: Mr. Darling's recommendations were made after consulting Local Governments.

CADETS TRAINED ON THE "DUFFERIN".

700. *Prof. N. G. Ranga: Will Government be pleased to state:

- (a) if it is a fact that some of the cadets trained on the S.S. "Dufferin" are suffering from unemployment;

- (b) whether some of them were refused employment by the steamship companies trading in the Indian ports;
- (c) if so, how many have been trained on the S.S. "Dufferin", since its inception, how many are unemployed, and how many have complained of neglect at the hands of the European Steamship Companies;
- (d) if it is a fact that representations have been made to Government from Bombay that Government shall impose a condition upon the P. & O. and Orient Steamship Companies, at least that they shall engage a certain number of trained Indians on their ships; and
- (e) if so, what action Government propose to take in this regard?

The Honourable Sir Muhammad Zafrullah Khan: (a) and (c). Since the establishment of the "Dufferin", 181 cadets have completed their training and taken their passing-out certificates. As regards the number of *ex*-cadets who are unemployed, I would refer the Honourable Member to the reply given by me to part (a) of Mr. Asaf Ali's starred question No. 456 on the 14th February. So far as Government are aware only one cadet has complained of neglect in the matter of employment.

(b) So far as Government are aware shipping companies engaged in the coasting trade of India have not refused to employ *ex*-"Dufferin" cadets.

(d) Representations have been received by Government from one or two Indian commercial bodies at Bombay urging them to introduce a condition regarding the employment of *ex*-"Dufferin" cadets as officers in their agreements with shipping companies who are in receipt of payments for the carriage of mails.

(e) Attention is invited to my reply to parts (e) and (f) of Mr. Asaf Ali's question referred to above.

AERIAL BOMBARDMENT ON THE NORTH-WEST FRONTIER.

701. *Prof. N. G. Ranga: Will Government be pleased to state:

- (a) if bombing from the air is still going on on the North-West Frontier;
- (b) how many times were such air-bombing operations carried on since the adjournment of the House upon this question was discussed in the Simla Session of the Assembly;
- (c) how many bombs were let down;
- (d) what the causes were that completed, on each occasion, the military authorities to carry on these air-bombing operations;
- (e) what the casualties were; and
- (f) what is the approximate cost of these operations?

Mr. G. R. F. Tottenham: (a) No. There has been no bombing since the conclusion of the operations of last September.

(b) Air bombing was continued for about three weeks after September 4th as part of the operations then in progress.

(c), (d) and (e). The air operations during this period were designed to deny a large area of country to gatherings of hostile tribesmen, thus covering the advance of troops and facilitating the building of the road in safety. A prolonged task of this kind—as would also have been the case if artillery could have been used for the same purpose—necessitated the use of a large amount of ammunition, and about 2,500 bombs were dropped during the period in question for the above purpose. The operations, thus, were not designed to inflict human casualties and it is doubtful if any were caused by the bombs. At any rate, from the nature of the case, it is impossible to give any official information on this point.

(f) The complete cost of the operations has not yet been compiled.

Prof. N. G. Ranga: Has any attempt been made to ascertain how much damage was caused by these bombing operations and how many people were actually killed or injured?

Mr. G. R. F. Tottenham: No, Sir. In the circumstances, it is almost impossible to ascertain the number of casualties, because, if casualties are caused, the tribesmen invariably take away the bodies and say nothing about it. Any information we do get is in the nature of rumours coming from casual informers who may come across.

Mr. T. S. Avinashilingam Chettiar: Have Government made any inquiries of the tribesmen?

Mr. G. R. F. Tottenham: No, Sir. One does not ordinarily make inquiries from the enemy against whom one is fighting as to the number of their casualties.

Prof. N. G. Ranga: Are bombing operations carried on without any relation at all to the amount of damage caused to the people on whom these bombs are thrown?

Mr. G. R. F. Tottenham: I am afraid I cannot quite understand the Honourable Member.

Prof. N. G. Ranga: Are these bombing operations carried on without any relation whatsoever to the hurt and damage caused to the people on whom these bombs are thrown?

Mr. G. R. F. Tottenham: Sir, bombs were not thrown on people and in order to inflict human casualties,—as I have already explained at considerable length. The bombs were thrown on a certain area to prevent people coming into that area, and the amount of bombing was calculated for that purpose; they were not dropped for the purpose of inflicting casualties on women and children or peaceful inhabitants.

Prof. N. G. Ranga: Are these operations carried on without any idea of the cost of these operations?

Mr. G. R. F. Tottenham: The cost of the operations is incidental to the operations themselves. We do not, when we are fighting, take into account what it is going to cost; we have to carry out such operations as may be necessary to achieve the object in view.

Mr. S. Satyamurti: May I know if Government propose to carry on these bombing operations, without having any means of ascertaining the damage to human life which they may cause, and do they not consider that considerations of humanity at least must make them realise the consequences of these operations to human life, before they embark on these operations?

Mr. G. R. F. Tottenham: As I have already said, we always take such precautions as are possible, by giving ample warning so as to avoid inflicting casualties on non-combatants. I do not think we can do more than that.

Mr. S. Satyamurti: How can Government satisfy themselves that these precautions which they say they take for minimising casualties on human life are effective, since they have no information as to the effect of these operations on human life?

Mr. G. R. F. Tottenham: We have every reason to believe that the warnings are fully understood and acted upon by the inhabitants of the villages that are bombed, and we have no reason to believe that any large loss of life has been caused by these operations.

Mr. S. Satyamurti: Do Government realise that their example of bombing from the air and similar operations upon people in the frontier who are not actually fighting is being copied by the Italians in Ethiopia and making the struggle there more grim and more inhuman?

Mr. G. R. F. Tottenham: As I have said, we do not bomb the populations of the villages on the Frontier.

Prof. N. G. Ranga: Is it the policy of the Government of India to carry on these bombing operations whenever they think them to be necessary?

Mr. G. R. F. Tottenham: Yes, Sir. We shall continue to carry on these operations whenever we think them to be necessary.

Prof. N. G. Ranga: Is it not a fact that this House recommended to the Governor-General in Council that such operations should be stopped?

Mr. G. R. F. Tottenham: The House recommended that the policy of bombing women and children should be stopped, and I explained to the House that it is not the policy of Government to bomb women and children.

Mr. T. S. Avinashilingam Chettiar: Have Government satisfied themselves that women and children have not been bombed?

Mr. G. R. F. Tottenham: We take every possible precaution to avoid doing that.

Mr. S. Satyamurti: What is the precaution they take?

Mr. G. R. F. Tottenham: By giving ample warning that certain targets are going to be attacked by bombing from the air.

Mr. President (The Honourable Sir Abdur Rahim): Next question..

CONDITION OF WORKERS ENGAGED ON LAND AND IN COTTAGE INDUSTRIES.

702. ***Prof. N. G. Ranga:** (a) Are Government aware of the fact that the Workmen's Compensation Act and Factory Act do not apply to the workers engaged on land and in cottage industries?

(b) If the reply to part (a) be in the affirmative, what action do Government propose to take to help them?

(c) Are Government prepared to consider the advisability of investigating into their conditions of employment and life and ascertain the remedial measures, necessary for their uplift?

Sir Girja Shankar Bajpai: (a) Generally speaking, yes.

(b) and (c). The question of investigating the conditions of workers on the land and in cottage industries is primarily the concern of provincial Governments. As the Honourable Member is no doubt aware, the Government of India are making grants-in-aid of about Rs. 5 lakhs and Rs. 1 lakh per annum for a period of five years for the development of handloom weaving industry and sericultural industry, respectively. They also propose, subject to the vote of this Assembly, to make a grant of Rs. 5 lakhs spread over five years for the benefit of the cottage and small scale woollen industries.

Prof. N. G. Ranga: Are Government aware of the fact that there is a regular factory system of employment in several of these cottage industries, and, in view of that, the application of the provisions of the Factory Act to these industries is badly needed?

Sir Girja Shankar Bajpai: That is my Honourable friend's opinion. I have no doubt that if the circumstances are as he has said, the Local Governments, whose concern it is, will look into the matter.

Prof. N. G. Ranga: Is it not a fact that it is primarily the duty of the Government of India to think of extending the scope of the Workmen's Compensation Act and the Factory Act, and not that of the Provincial Governments?

Sir Girja Shankar Bajpai: In this matter the Government of India cannot take action in advance of the capacity of the Local Governments.

Prof. N. G. Ranga: Is it then a fact that the initiative lies with Provincial Governments, and it is only on the advice or request of the Provincial Governments that any extension of the scope of these two Acts will be considered by the Government of India?

Sir Girja Shankar Bajpai: The position is that this question was brought to the notice of all the Local Governments in 1935 in a letter dated the 30th April, and it is now for the Local Governments to take such action as they consider desirable.

LAND REVENUE POLICIES AND SYSTEMS PREVAILING IN THE PROVINCES.

703. *Prof. N. G. Ranga: Will Government be pleased to state :

- (a) whether they are aware of the G. O. published by Lord Curzon on the Land Revenue Policy of Government;
- (b) if so, what are its special features;
- (c) what action has so far been taken by various provinces to give effect to the assurances given therein;
- (d) whether Government have tried to review the condition of the provincial land revenue systems either before or after the inauguration of the Mont-Ford Reforms;
- (e) if so, what were the general conclusions arrived at, as a result of that review; and
- (f) if not, whether Government propose to consider the advisability of reviewing the present position of the land revenue policies and systems prevailing in different provinces and suggesting any alterations or modifications in the light of the sufferings of the peasants during the economic depression, or in the light of the growth of the various aspects of the central and provincial systems of taxation and their varying incidence upon different classes of people?

Sir Girja Shankar Bajpai: (a) The Honourable Member presumably refers to the Resolution of the Governor General in Council, No. 1, dated the 16th January, 1902. If so, the answer is, yes.

(b) A Curzonian quality of diction.

(c) So far as the Government of India are aware, the suggestions contained in the Resolution have been acted upon by Local Governments.

(d) Provincial land revenue systems came under the review of the Government of India in 1926-27 in connection with the recommendations of the Indian Taxation Enquiry Committee, and again in 1929 in connection with a Conference of Revenue Members held in that year.

(e) On the earlier occasion it was decided to take no immediate action in view of impending constitutional changes. In view of the changed constitutional position since 1921, the review in 1929 resulted mainly in suggestions to Local Governments regarding administrative practice.

(f) The Honourable Member will appreciate, that considering the constitutional position, particularly the expected inauguration of Provincial Autonomy in the near future, the Government of India cannot undertake a review of the 'present position of land revenue policy'. In regard to Centrally Administered Areas, the Honourable Member's attention is invited to the relevant portion of the Honourable the Finance Member's speech made in this House on the 14th February, 1935, on the Resolution on taxation policy moved by Dr. Ziauddin Ahmad. As regards the effect of the economic depression on the peasantry, the Honourable Member is no doubt aware that the Local Governments concerned have taken steps, by means of remission of land revenue and otherwise, to help the cultivator. Some account of this would be found in my speech in this House on the 6th April, 1934, on Rai Bahadur Lala Brij Kishore's Resolution on a committee of enquiry into agricultural distress.

Seth Govind Das: Do Government think that Provincial Governments have done enough for giving remissions to the peasantry?

Mr. President (The Honourable Sir Abdur Rahim): That is a matter of opinion.

Prof. N. G. Ranga: In view of the fact that the Taxation Enquiry Committee, which reported in 1926-27, was precluded from making any recommendations in regard to the land revenue, will Government consider the advisability of publishing the suggestions made by the conference of Revenue Members of all the Provinces held in Delhi?

Sir Girja Shankar Bajpai: Yes, Sir. But I have already informed Honourable Members that the recommendations made by the Revenue Members' Conference of 1929 were of a purely administrative character. They did not touch large questions of land revenue policy.

Prof. N. G. Ranga: Will Government at least consider the advisability of publishing these suggestions even if they are of a purely administrative character, because they may be of very great use to the peasants?

Sir Girja Shankar Bajpai: I do not think it is necessary to publish these recommendations because they were communicated to Local Governments.

Mr. S. Satyamurti: Have Government considered, or do they propose to consider, the question of bringing within the scope of the Income-tax Act agricultural incomes, in view of the present parlous position of the finances in the Centre as well as in the Provinces, under the expected Reforms?

The Honourable Sir James Grigg: No, Sir. Under the new Constitution, taxation of agricultural incomes is a matter for the Provincial Governments.

Mr. S. Satyamurti: Is this Act then like the laws of Medes and Persians? May I ask the Honourable the Finance Member whether in view of the parlous position of finances—he knows, none better—both of the Central and of the Provincial under the expected Reforms, whether Government will not consider the question, especially in view of the fact that income-tax has to be remitted by half to the Provinces, of bringing agricultural income within the scope of all-India income-tax?

The Honourable Sir James Grigg: The Honourable Member's question consists of two parts. As regards the first part, I am not well acquainted with the laws of Medes and Persians. As regards the second part, I think the Honourable Member had better await the review of Indian finances which will result from Sir Otto Niemeyer's enquiry.

Mr. S. Satyamurti: Will the results of that enquiry be placed before the House so that Government may have the benefit of our suggestions?

The Honourable Sir James Grigg: I cannot say that now.

Sir Muhammad Yakub: Is it not a fact that agricultural incomes are already taxed heavily by means of payment of land revenue to the extent of more than 40 per cent?

The Honourable Sir James Grigg: I understand it is not admitted that land revenue contains any element of taxation.

Sir Muhammad Yakub: Do Government propose to encourage Communism by levying further tax on landlords?

The Honourable Sir James Grigg: I have already answered that question by saying, no.

Prof. N. G. Ranga: Is it not a fact that the Simon Commission recommended the imposition of an income-tax on incomes from land specially zamindari incomes?

The Honourable Sir James Grigg: There are a good many of the recommendations of the Simon Commission which have not been adopted.

Mr. S. Satyamurti: What is the proportion of tax which zamindars, under the permanent settlement, pay as land revenue to the tax, which they will have to pay if they were under ryotwari system?

The Honourable Sir James Grigg: I want notice of that.

Prof. N. G. Ranga: Is it not a fact that landlords, under the permanent settlement, are exempt today from the payment of income-tax upon all their incomes?

Sir Girja Shankar Bajpai: Broadly stated, that is correct.

Mr. S. Satyamurti: Then, where does the "Communism" of Sir Muhammad Yakub come in here?

ORGANISATION OF LIFE, FIRE AND CATTLE INSURANCE FOR THE BENEFIT OF PEASANTS.

704. *Prof. N. G. Ranga: Will Government be pleased to state:

- (a) if they are aware of any countries where the Governments have attempted to organise life, fire and cattle insurance for the benefit of peasants;
- (b) if so, what are those countries;
- (c) whether such insurance schemes have been successful; and
- (d) whether Government are prepared to consider the advisability of preparing and carrying out schemes for such state enterprises of insuring the various assets of the peasants?

The Honourable Sir Muhammad Zafrullah Khan: (a), (b) and (c). Government have no detailed information regarding any State schemes of insurance carried out specifically for the benefit of peasants in other

countries. In India there are in some provinces a large number of co-operative societies for cattle insurance, the formation of which has been rendered possible by the Co-operative Societies Act of 1912.

(d) No.

Prof. N. G. Ranga: Are Government aware that the Mysore Government has organised a cattle insurance scheme for the peasants?

The Honourable Sir Muhammad Zafrullah Khan: No, Sir.

FIXATION OF THE MINIMUM PRICE OF SUGAR-CANE.

705. *Prof. N. G. Ranga: Will Government be pleased to state:

- (a) in which provinces the minimum price of sugar-cane to be paid to the growers of sugar-cane has been fixed;
- (b) when they were fixed;
- (c) for what period they were fixed; and
- (d) what procedure is adopted in fixing or revising such prices?

Sir Girja Shankar Bajpai: (a) The United Provinces and Bihar and Orissa.

(b) to (d). Notifications of the Local Governments which contain the desired information will be found in the Library of the House.

Prof. N. G. Ranga: Are Government aware of the fact that the Madras Government have withdrawn their regulations regarding the fixation of minimum prices for sugar-cane in that Province?

Sir Girja Shankar Bajpai: I am not aware that Madras Government had made any regulations.

Mr. N. M. Joshi: May I ask whether the Government of India will consider the question of fixing minimum wages being paid to the workers in the sugar factories?

Sir Girja Shankar Bajpai: I do not think that arises out of this question.

Prof. N. G. Ranga: What is the usual procedure adopted in fixing minimum prices?

Sir Girja Shankar Bajpai: The Local Government concerned enquires into the local conditions and then prescribes the minimum price.

Prof. N. G. Ranga: Before any such procedure is adopted or revised, are the Government of India consulted?

Sir Girja Shankar Bajpai: No, Sir. The Government of India are not consulted because the Government of India are not in a position to decide what rate of price is suited to the special conditions prevailing in a particular Province.

Prof. N. G. Ranga: Is it in accordance with the policy of the Government of India and the rules laid down by them that these minimum prices have come to be fixed in these various provinces?

Sir Girja Shankar Bajpai: The Government of India have general power of supervision in regard to rules that are made for the fixation of prices, and the Local Governments forward to them the prices which they actually fix. Hitherto, to the knowledge of the Government of India, no circumstances have arisen to justify their interference.

Seth Govind Das: Is this work being done by the expert of the Government of India who is posted at Cawnpore?

Sir Girja Shankar Bajpai: I gather that the Government of the United Provinces make use of the services of the sugar technologist who is maintained by the Imperial Council of Agricultural Research; but the Government of Bihar and Orissa, as far as I know, do not utilise his services.

Mr. N. M. Joshi: When the Government of India take steps to fix the minimum prices of sugar-cane for the benefit of the growers of the sugar-cane, do they not expect the growers of sugar-cane to pass on the benefit to the workers on the sugar-cane fields?

Sir Girja Shankar Bajpai: My Honourable friend does not seem to appreciate the fact that a good many of the growers of sugar-cane are workers on the fields themselves.

Mr. N. M. Joshi: May I know what they propose to do where the workers are not the owners of the sugar-cane?

Sir Girja Shankar Bajpai: There I presume that the conditions are not such as to justify any interference by the Government of India.

Prof. N. G. Ranga: Will Government try to ascertain whether any representations have been made by the peasants of Madras to the Madras Government that minimum prices should be fixed and that the recent action of the Madras Government in rescinding their orders regarding minimum prices should be withdrawn?

Sir Girja Shankar Bajpai: If my Honourable friend would bring to my knowledge the representations to which he refers, and if I find that any action by the Government of India in the nature of transmitting those representations to the Madras Government is called for, I will consider what we can do.

Mr. N. M. Joshi: May I ask whether the Government of India will make an inquiry regarding the wages paid to the workers on the sugar-cane fields?

Sir Girja Shankar Bajpai: The position really is that, if we take up the investigation of wages paid with regard to a particular crop, we cannot stop there; it has got to extend to every other crop, and it seems to me that that is primarily a matter for Local Governments.

INCOME OF PEASANTS FROM AGRICULTURAL PRODUCE.

706. *Prof. N. G. Ranga: Will Government be pleased to state:

- (a) if they are aware of the great increase in the income of the farmers in the United States of America, as reported in the *Statesman* of the 21st December, 1935;
- (b) if so, whether there has been any increase or fall in the total annual income from agricultural produce of the Indian peasants since 1929;
- (c) if so, how much increase or fall per annum during these years;
- (d) who has made those estimates; and
- (e) if no such estimates have so far been made, whether Government realise the importance of getting such estimates made by some competent authority?

Sir Girja Shankar Bajpai: (a) Government have seen the report.

(b) and (c). Government regret that data that would enable parts (b) and (c) to be answered are not available; indeed it is extremely doubtful whether it is possible to make even a rough estimate of the total annual income from agricultural produce as statistics of production are very far from complete and price statistics are unsatisfactory.

(d) In view of the answer to parts (b) and (c) this does not arise.

(e) The initiative will rest primarily with Local Governments.

Prof. N. G. Ranga: In view of the fact that the Government of India publish every year their report on agricultural statistics, do Government consider it impossible to ascertain the total value of agricultural produce in this country?

Sir Girja Shankar Bajpai: The fact that the Government of India publish certain statistics does not mean that they collect those statistics. They publish what the Local Governments supply to them.

UNEMPLOYMENT PROBLEM.

707. *Prof. N. G. Ranga: Will Government be pleased to state whether they are prepared to conduct an enquiry into the incidence and remedial measures needed to combat unemployment not only among the educated middle classes, but also among the peasants and labour on land in at least the centrally administered areas?

Sir Girja Shankar Bajpai: The matter has been considered in certain aspects by the Central Advisory Board of Education; the Government of India are now engaged in considering the recommendations of the Board and Local Governments will shortly be addressed on the subject.

Prof. N. G. Ranga: With regard to labour on land and the unemployment prevailing among those classes, what steps do the Government of India propose to take to ascertain the incidence and the remedial measures for unemployment amongst those classes, that is, labour on land?

Sir Girja Shankar Bajpai: That matter has been discussed before and the Government of India's attitude has been that the problem, apart from the fact that it is for Local Governments, is too vast really to be tackled by them.

Mr. S. Satyamurti: Have Government considered the report of the Unemployment Committee in the United Provinces?

Sir Girja Shankar Bajpai: The report of the Unemployment Committee in the United Provinces was submitted to the Government of the United Provinces and not to the Government of India.

Mr. S. Satyamurti: Will the Government of India send for the report of that Committee which was presided over by Sir Tej Bahadur Sapru, an *ex-Member* of the Viceroy's Executive Council and one of the most distinguished men in India, and consider the very useful suggestions made therein?

Sir Girja Shankar Bajpai: My Honourable friend seems to suggest that the Government of India are not conscious of the importance of the report or the eminence of the Chairman of the Committee. That is not true at all. It was because of the realisation of the eminence of the gentleman in question that he was appointed a member of the Central Advisory Board of Education, and I can assure my Honourable friend that the Board had the benefit of what Sir Tej Bahadur had to say on the subject of educational reconstruction in relation to the problem of unemployment.

Mr. S. Satyamurti: But will Government send for that report, read it, have the benefit of those suggestions, and then address the Local Governments for taking those suggestions into consideration?

Sir Girja Shankar Bajpai: A copy of the report, as far as I know, has been received in the department concerned and will undoubtedly be studied.

LAND REVENUE SYSTEMS PREVAILING IN THE CENTRALLY ADMINISTERED AREAS.

708. ***Prof. N. G. Ranga:** Will Government be pleased to state:

- (a) the nature and rate per acre, of various systems of land revenue prevailing in the centrally administered areas;
- (b) whether the peasants of Ajmer-Merwara have made representations to relieve them of the exactions now being made by the various intermediaries between themselves and Government; and
- (c) what action has been taken to properly settle their rents or rates of assessment in cash?

Sir Girja Shankar Bajpai: (a) I would refer the Honourable Member to Summary Table, No. 6 in Volume I of the publication entitled Agricultural Statistics of India, 1932-33, which gives the latest available information.

(b) and (c). The question of the relations between the Istimrardars of Ajmer-Merwara and their tenants is under the consideration of Government. I would invite the Honourable Member's attention to the replies given by me to Maulvi Syed Murtuza Sahib Bahadur's starred question No. 1112 on the 28th March, 1935, and the supplementaries arising out of it, and by Sir Aubrey Metcalfe to Pandit Sri Krishna Dutta Paliwal's starred question No. 669 on the 19th February, 1936.

Prof. N. G. Ranga: What progress has been made by the Government of India in the consideration of this particular question since March, 1935?

Sir Girja Shankar Bajpai: Something more than chronological.

EFFECT OF THE IMPOSITION OF IMPORT DUTY ON BROKEN RICE.

709. ***Prof. N. G. Ranga:** Will Government be pleased to state:

- (a) the prices of paddy, rice and broken rice, in different parts of the Madras Presidency for every month since the imposition of the import duty on broken rice, and for the corresponding months during the three previous years;
- (b) the monthly or quarterly quantities and values of the imported rice, broken rice and paddy, before (i.e., since 1931) and after the imposition of the import duty on broken rice; and
- (c) the respective quantities of rice, broken rice and paddy which have been imported since 1931, from Siam, Indo-China, Japan and other countries?

The Honourable Sir Muhammad Zafrullah Khan: (a), (b) and (c). I lay on the table two statements furnishing the information as far as available. I might add that imports of broken rice were not separately recorded previous to April, 1934, and monthly or quarterly figures of its imports prior to this period are not available. Annual figures of imports of rice, including broken rice, and of paddy for the years 1931-32 to 1933-34 are available in the Annual Statement of Sea-borne Trade of British India for the year 1933-34, copies of which are in the Library.

I may, with your permission, Sir, add that on two previous occasions there have been supplementaries put to me on this matter. The supplementary question on one occasion was, "What is the position of Government with regard to imposing a duty on paddy and rice? Is it the position that Government do not intend to impose any duty?" It has been brought to my notice by an Honourable Member that the reply by me was that that was the present position. All I meant by that was that there is no such duty at present. Subsequently I answered another supplementary question and said that the question was still under consideration. That is the exact position. The present position is that there is no duty on rice and paddy; there is a duty on broken rice. The question whether there should or should not be a duty on rice and paddy is under the consideration of Government. Till Government have come to a decision they cannot say what the decision is likely to be, as no decision has yet been arrived at.

Statement showing imports into India of Rice, Broken Rice and Paddy from Foreign Countries.

	Quantity.			Value.		
	Rice.	Broken rice.	Paddy.	Rice.	Broken rice.	Paddy.
	Tons.	Tons.	Tons.	Rs.	Rs.	Rs.
1934.						
April .	1,200	31,064	3,049	82,831	16,63,050	1,40,201
May .	3,257	13,523	3,739	2,45,804	7,29,612	1,84,874
June .	1,670	12,950	15,884	1,23,413	7,15,993	7,44,661
July .	5,325	10,284	5,600	3,19,591	5,43,473	2,66,006
August .	6,098	18,010	10,517	3,99,559	10,67,498	4,93,208
September .	7,465	12,223	10,159	5,22,791	8,04,143	5,15,126
October .	4,637	35,552	22,676	3,22,483	23,98,583	12,36,460
November .	4,874	23,592	8,459	4,59,027	14,99,393	4,88,019
December .	5,646	29,073	26,093	5,00,010	19,44,700	13,25,986
1935.						
January .	1,459	4,396	1,517	99,421	3,09,165	76,372
February .	3,142	13,213	3,935	2,78,247	10,30,684	2,13,569
March .	6,012	27,758	..	4,82,911	22,10,678	..
April .	912	4,518	1,442	70,697	3,58,302	89,500
May .	508		10,548	47,138		6,39,144
June .	4		7,363	855		4,12,300
July .	506	..	8,484	47,066		5,15,589
August .	755	9,035	14,876	77,863	5,87,417	9,40,167
September .	664	11,930	15,855	58,803	7,90,139	9,50,277
October .	1,300	5,942	20,704	1,15,052	3,78,700	11,77,048
November .	1,880	10,150	7,495	1,83,177	6,87,619	4,87,755
December .	2,993	8,179	5,619	3,10,126	5,47,239	3,41,196

*Imports into British India by Sea.***1—Whole rice.**

	From							
	Siam.		French Indo-China.		Other Countries.		Total.	
	Tons.	Rs.	Tons.	Rs.	Tons.	Rs.	Tons.	Rs.
1934.								
April	500	37,110	25	1,750	675	(a) 82,831	1,200	82,831
May	3,195	2,40,932	39	3,018	23	1,854	3,257	2,45,804
June	1,657	1,21,494	..	..	13	1,919	1,670	1,23,413
July	228	16,377	4,391	2,62,104	706	(b) 41,110	5,325	3,19,591
August	5,893	3,84,436	197	13,162	8	(c) 1,961	6,098	3,99,559
September	7,149	4,94,335	301	26,307	15	(d) 2,149	7,465	5,22,791
October	2,135	1,40,387	2,497	1,81,181	5	(e) 915	4,637	3,22,483
November	3,424	3,43,373	1,442	1,14,057	8	(f) 1,597	4,874	4,59,027
December	2,870	2,68,031	2,751	2,29,173	25	(g) 2,806	5,646	5,00,010
1935.								
January	1,453	98,160	..	..	6	(c) 1,261	1,459	99,421
February	1,306	1,17,170	1,832	1,60,344	4	(c) 733	3,142	2,78,247
March	2,594	2,30,250	3,414	2,51,802	4	(c) 859	6,012	4,82,911
April	300	18,900	607	50,904	5	(h) 893	912	70,697
May	500	45,540	..	..	8	(c) 1,598	508	47,138
June	..	6	..	..	4	(c) 849	4	855
July	500	45,842	..	..	6	(c) 1,224	506	47,066
August	750	77,000	..	..	5	(c) 863	755	77,863
September	453	41,489	205	16,199	6	(i) 1,115	664	58,803
October	401	37,367	892	76,138	7	(j) 1,547	1,300	1,15,052
November	1,673	1,63,511	200	18,256	7	(c) 1,410	1,880	1,83,177
December	2,988	3,08,982	..	..	5	(k) 1,144	2,993	3,10,126

(a) Japan 672 tons valued at Rs. 43,519.

(b) Japan 705 tons valued at Rs. 40,924.

(c) Entirely from Japan.

(d) Japan 8 tons valued at Rs. 1,162.

(e) Japan 4 tons valued at Rs. 760.

(f) Japan 6 tons valued at Rs. 1,432.

(g) Japan 6 tons valued at Rs. 913.

(h) Japan 4 tons valued at Rs. 705.

(i) Japan 5 tons valued at Rs. 842.

(j) Japan 6 tons valued at Rs. 1,242.

(k) Japan 4 tons valued at Rs. 980.

Imports into British India by Sea.

2. Broken rice.

	From							
	Siam.		French Indo-China.		Other Countries.		Total.	
	Tons.	Rs.	Tons.	Rs.	Tons.	Rs.	Tons.	Rs.
1934.								
April	28,895	15,41,802	2,168	1,21,153	1	95	31,064	16,63,065
May	12,507	6,75,483	515	30,783	(a) 501	23,346	13,523	7,29,612
June	12,377	6,84,384	573	31,609			12,950	7,15,993
July	9,888	5,20,249	396	23,224	..		10,284	5,43,473
Aug.	17,328	10,13,383	682	54,115			18,010	10,67,498
Sept.	11,727	7,68,815	496	35,328	..		12,223	8,04,143
Oct.	35,252	23,77,452	300	21,131	..		35,552	23,98,583
Nov.	22,348	14,17,481	1,244	81,912	..	..	23,592	14,99,393
Dec.	24,517	16,40,571	4,555	3,04,065	1	64	29,073	19,44,700
1935.								
Jan.	4,179	2,90,265	217	18,900	..		4,396	3,09,165
Feb.	12,918	10,06,620	295	24,064	..	..	13,213	10,30,684
March	22,095	17,33,852	5,513	4,64,361	150	12,465 (a)	27,758	22,10,678
April	3,918	3,15,348	600	42,954	..	..	4,518	3,58,302
May		41	..	..	..			41
June			..	..	..			..
July		..	..	..	..		..
Aug.	9,035	5,87,417	..	..	..		9,035	5,87,417
Sept.	11,930	7,90,139	..	..	..		11,930	7,90,139
Oct.	5,792	3,69,594	150	9,106	..	..	5,942	3,78,700
Nov.	9,602	6,45,941	547	41,580	1	(a) 98	10,150	6,87,619
Dec.	7,696	5,15,447	482	31,720	1	(a) 72	8,179	5,47,239

(a) Entirely from Japan

*Imports into British India by Sea.***3. Paddy.**

	From							
	Siam.		French Indo-China.		Other Countries.		Totals.	
	Tons.	Rs.	Tons.	Rs.	Tons.	Rs.	Tons.	Rs.
1934.								
April .	1,386	62,332	1,663	77,869			3,049	1,40,201
May .	3,439	1,70,536	300	14,322		16	3,739	1,84,874
June .	5,750	2,60,190	10,133	4,84,433	1	38	15,884	7,44,661
July .	3,101	1,50,355	2,499	1,15,628		23	5,600	2,66,006
August .	1,881	1,00,133	8,636	3,93,067		8	10,517	4,93,208
September	6,218	3,17,769	3,940	1,97,276	1	81	10,159	5,15,126
October .	7,405	4,17,224	15,268	8,19,024	3	212	22,676	12,36,460
November	4,030	2,21,705	4,427	2,66,150	2	164	8,459	4,88,019
December	5,320	2,77,358	20,772	10,48,560	1	68	26,093	13,25,966
1935.								
January .	1,517	76,372					1,517	76,372
February .			3,935	2,13,569	..		3,935	2,13,569
March .	..				..		..	..
April .			1,442	89,500	..		1,442	89,500
May .	..	6	10,548	6,39,125	..	13	10,548	6,39,144
June .			7,360	4,12,128	3	(a) 172	7,363	4,12,300
July .	5,073	3,18,611	3,411	1,96,978		..	8,484	5,15,589
August .	550	33,836	14,326	9,06,331	..	..	14,876	9,40,167
September	5,358	3,04,076	10,497	6,46,178	..	23	15,855	9,50,277
October .	3,247	1,56,775	17,456	10,20,231	1	42	20,704	11,77,048
November	3,535	2,25,711	3,960	2,62,044		..	7,495	4,87,755
December	837	49,592	4,782	2,91,604	..	..	5,619	3,41,196

(a) Entirely from Japan.

Prices of Rice and Paddy at different centres in Madras. (Last week of each month.)

In Rupees per maund = 82 2/7 lbs.

	Coimada Boiled (Madras City).		Rangoon raw broken A (Madras City).		Rangoon Milchar (Calcutt).		Rangoon raw broken rice (Calcutt).		Raw rice Rangoon (Cochin).		Slam A Special (Ex-duty) (Cochin).		Saigon Paddy at Cuddalore.	
	1933.	1934.	1933.	1934.	1933.	1934.	1933.	1934.	1933.	1934.	1933.	1934.	1933.	1934.
April	3-01	3-88	3-55	2-55	2-18	3-21	2-41	2-54	3-53					
May	3-14	2-94	3-48	2-77	2-16	3-22	2-48	2-66	3-41	2-32	2-26	2-22	2-42	3-88
June	3-07	2-94	3-41	2-59	2-40	3-26	2-66	2-66	3-47	2-51	2-26	2-27	2-03	3-34
July	3-01	2-94	3-48	2-67	2-55	3-30	2-73	2-73	3-59	2-60	2-38	2-37	2-22	3-38
August	3-07	3-39	3-60	2-79	3-03	3-35	2-73	2-73	3-50	2-51	2-58	2-37	2-51	3-46
September	3-01	3-51	3-28	2-64	2-84	3-22	2-85	3-09	3-56	2-38	2-82	2-34	2-61	3-29
October	2-94	3-39	3-54	2-57	2-72	3-30	2-85	3-09	3-65	2-41	2-88	2-27	2-56	3-35
November	2-94	3-26	3-41	2-55	2-84	3-22	2-85	3-03	3-34	2-58	2-76	2-27	2-53	3-33
December	2-94	3-02	3-09	2-42	2-84	3-09	2-73	2-79	3-40	2-51	2-70	2-42	2-80	3-38
January	3-29	3-01	3-10	2-91	2-25	3-42	3-03	2-73	2-66	2-88	2-51	2-51	2-32	2-99
														Not avail- able.
														Not avail- able.

Seth Govind Das: How long will Government take to reach at some definite conclusion in this matter?

The Honourable Sir Muhammad Zafrullah Khan: I am unable to say at this stage, but they are pursuing the matter as fast as they can.

Prof. N. G. Ranga: Are Government aware of the fact that within the last week there were large imports of rice into the Bombay market, and, as a result of that, the price of rice in Bombay as well as in Delhi has been very much depressed?

The Honourable Sir Muhammad Zafrullah Khan: I made a detailed statement the other day with regard to that in answer to a short notice question.

DISSATISFACTION OF MADRAS PEASANTS ON THE INADEQUATE IMPORT DUTY ON BROKEN RICE.

710. ***Prof. N. G. Ranga:** (a) Are Government aware of the fact that the peasants of the Madras Presidency expressed, when they marched to the Collectors' Offices on the 21st of November and on the 7th of December, their dissatisfaction with the inadequate import duty on broken rice, and have demanded the increase of that import duty and its extension to paddy and rice also?

(b) If so, what action do Government propose to take to help and satisfy the peasants?

The Honourable Sir Muhammad Zafrullah Khan: (a) From the information at the disposal of Government it would appear that a body of 200 peasants accompanied by Mr. Satagopachariar and the Honourable Member himself made such a representation to the Collector of Tanjore.

(b) The question of the duty on rice is at present receiving the consideration of Government.

Prof. N. G. Ranga: Are Government aware of the fact that these marches have taken place in 22 districts and in 38 places, and at all these places thousands of peasants have asked for the extension of this import duty to paddy and rice also?

The Honourable Sir Muhammad Zafrullah Khan: I am not specifically aware of the fact, but I am prepared to take it from the Honourable Member that such marches have been organised.

Prof. N. G. Ranga: Have Government tried to collect information from the Madras Government, since this question was given notice of, as to the real state of things?

The Honourable Sir Muhammad Zafrullah Khan: Government are trying to collect all relevant facts bearing on this question, in order to enable them to arrive at a decision.

RESULTS OF INVESTIGATIONS INTO THE COST OF CULTIVATION OF DIFFERENT CROPS.

711. *Prof. N. G. Ranga: Will Government be pleased to state:

- (a) when they propose to publish the results of the investigations carried on during the last few years by the Imperial Council of Agricultural Research into the cost of cultivation of different crops in different provinces; and
- (b) the reason for the delay in publication?

Sir Girja Shankar Bajpai: (a) Consideration of the question of publication will be taken up when the investigation is complete.

(b) As the investigation covers a period of about 8½ years it is expected that the collection of primary data will be finished by about September, 1936, but checking and compilation will occupy some time more.

Prof. N. G. Ranga: How much more time?

Sir Girja Shankar Bajpai: That I cannot say, Sir,

Mr. M. Ananthasayanam Ayyangar: May I know if the cost of cultivation of sugar-cane in the Madras Presidency has been arrived at?

Sir Girja Shankar Bajpai: The two crops with which they are experimenting are cotton and sugar-cane.

Prof. N. G. Ranga: Will it take another three years and six months to publish the results of the investigations?

Sir Girja Shankar Bajpai: My Honourable friend need not be so gloomy.

TRADE NEGOTIATIONS WITH THE REPRESENTATIVES OF THE AUSTRALIAN GOVERNMENT.

712. *Prof. N. G. Ranga: Will Government be pleased to state:

- (a) what stage has been reached by their trade negotiations with the representatives of the Australian Government;
- (b) what were the imports and exports which were being considered in those negotiations;
- (c) what Indian interests were consulted by Government;
- (d) whether the peasants were consulted at all; and
- (e) whether Government will consult this House before coming to any agreement with the Australian Government?

The Honourable Sir Muhammad Zafrullah Khan: (a) There have been no negotiations between the Government of India and representatives of the Australian Government.

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

Prof. N. G. Ranga: Is it not a fact that certain representatives of the Australian Government interviewed the Honourable the Commerce Member recently?

The Honourable Sir Muhammad Zafrullah Khan: I do not know exactly whether they were representatives of the Australian Government, but certain representatives of Australian Commerce, who visited the country lately, called on me.

Prof. N. G. Ranga: What were the representations made by them to the Honourable the Commerce Member? What was the nature of the conversations he had with them?

The Honourable Sir Muhammad Zafrullah Khan: They made no particular representations to me.

Mr. M. Ananthasayanam Ayyangar: Is the Honourable the Commerce Member aware that the Australian Government imposes a prohibitive duty on coir and mats which are sent from the South of India?

The Honourable Sir Muhammad Zafrullah Khan: No, Sir, I am not aware of it.

Mr. J. Ramsay Scott: Was not one member of the deputation a member of the Department of Commerce of Australia?

The Honourable Sir Muhammad Zafrullah Khan: He may have been, I do not remember details.

Mr. J. Ramsay Scott: Will the Honourable Member take it from me that he was?

The Honourable Sir Muhammad Zafrullah Khan: I have no reason to doubt the Honourable Member's statement.

CONCESSIONS GRANTED TO MILITARY TRAFFIC ON RAILWAYS.

713. ***Prof. N. G. Ranga:** Will Government be pleased to state (i) the special concessions granted on railways to the military traffic in men and luggage; and (ii) the estimated cost of such concessions?

The Honourable Sir Muhammad Zafrullah Khan: I would refer the Honourable Member to the reply given on the 7th February, 1936, to Seth Govind Das's question No. 150.

TOUR IN SALOONS BY RAILWAY OFFICERS.

714. ***Prof. N. G. Ranga:** Will Government be pleased to state (i) which officers of the Railways are permitted to tour in saloons; (ii) the special reasons for placing saloons at their disposal; (iii) the mileage covered by these saloons during the last year; (iv) the estimated cost of running such saloons; and (v) the estimated savings accruing to the railways if only first class free passes are granted to such officers?

The Honourable Sir Muhammad Zafrullah Khan: (i) All Gazetted officers on State-managed Railways and officers of corresponding rank on Company-managed Railways, and also certain subordinate supervising officials.

(ii) Saloons are essential for the efficient discharge of their duties, which frequently necessitate their travelling by goods trains, changing at junctions at inconvenient hours, stopping at stations at which there are no rest houses or other suitable accommodation, and inspection *en route* of signals, station yards, etc., work which cannot be done when travelling in an ordinary railway carriage.

(iii) to (v). The information is not available and its compilation would involve more time and labour than would be commensurate with any use to which it could be put.

Mr. S. Satyamurti: May I ask one question? Why does he think that the computation of the estimated cost of running such saloons will not be useful to him in dealing with railway finance, especially in view of what he said yesterday that every little helps? Will he, therefore, be good enough to compute the estimated cost of keeping and running such saloons?

The Honourable Sir Muhammad Zafrullah Khan: Without computing the cost, I am perfectly certain that, if these saloons were discarded and these officers were asked to travel by ordinary first class or second class carriages, as the case might be, they would certainly not be able to perform their duties within the time in which they now perform them, and it would be necessary to add to the staff, and this will cost a great deal more than the amount it now costs to run these saloons.

Mr. President (The Honourable Sir Abdur Rahim): Next question.

DEVOTION OF THE RURAL DEVELOPMENT FUND TOWARDS FACILITIES FOR THE DEPRESSED CLASSES.

715. *Prof. N. G. Ranga: (a) Are Government aware that no special mention is made in the Government report upon the Rural Development Fund of the desire of Provincial authorities, excepting those of Bihar and Orissa and Madras, to devote any portion of this fund to the provision of any facilities for the depressed classes?

(b) If so, are Government prepared to consider the advisability of directing the Local Governments to devote appreciable portions of the funds set apart for water-supply, sanitation, tanning, coir-making and other industries, drainage facilities and village welfare, and also of the District Magistrates' discretionary funds, for the benefit of the depressed classes?

The Honourable Sir James Grigg: (a) I am sure the Provincial Governments will take into account the needs of the depressed classes. The mere fact that these classes have not been specifically mentioned by some of the Provinces does not necessarily mean that their needs will be ignored.

(b) The Government of India must leave this to the discretion of the Local Governments.

Prof. N. G. Ranga: Is it not the view of the Government of India that definite instructions should be issued to Local Governments that a satisfactory portion of the Rural Development Grant should be spent upon the improvement of these facilities for the depressed classes?

Mr. President (The Honourable Sir Abdur Rahim): That is a matter of opinion.

The Honourable Sir James Grigg: That is the question I have already answered.

EXPENDITURE OF THE RURAL DEVELOPMENT GRANT IN THE PROVINCES.

716. *Prof. N. G. Ranga: (a) In view of the fact that Government wish to see that the sums placed at the disposal of the District Magistrates in Bengal are "to be spent only on supplementary projects within the intention of the Crore Grant" and that the direction in which such funds should be spent in Madras, Burma, Central Provinces and North-West Frontier, is indicated in the Government report, do Government propose to see that similar conditions are imposed upon the discretion of the District Magistrates or Commissioners in other provinces also?

(b) Will Government state whether any funds are usually placed at the disposal of the District Magistrates, apart from the contributions from the Rural Development Fund? If so, on what objects have they been generally expending such sums?

(c) Are Government aware that the District Magistrates in Madras Presidency have in many places made handsome grants to the founding of tennis clubs and such other institutions, catering for the convenience of urban middle classes?

(d) Do Government propose to confine the expenditure in Madras Presidency of the discretionary grants to the six items mentioned on page 5 of the Government Report on the Rural Development Grant?

The Honourable Sir James Grigg: (a) and (d). The Government of India have no reason to believe that sums placed at the disposal of District Magistrates out of the crore grant are spent, or are intended to be spent, on objects other than those for which the crore grant was made. They, therefore, see no need for further instructions.

(b) and (c). The Government of India are aware that certain Provincial Governments place discretionary grants in the hands of certain local officials. It is for Provincial Governments to control their disbursement.

Seth Govind Das: Do Government think it advisable to instruct these Provincial Governments to ask their District Magistrates to take the public opinion also before they spend these sums?

The Honourable Sir James Grigg: To the best of my knowledge, most of the Provincial Governments placed their proposals for spending these grants before the Legislatures of their provinces.

Prof. N. G. Ranga: In view of the fact that, in the report published by the Government of India, it was stated quite clearly on what objects the Collectors in Madras, Burma, the Central Provinces and the North-West Frontier Province should spend these discretionary grants, could not Government consider the advisability of issuing similar instructions to the Collectors in the other provinces?

The Honourable Sir James Grigg: The Government of India did not issue instructions in the case of Madras, or the other provinces mentioned in the Honourable Member's question.

SUBSIDIES TO SEED STORES IN THE UNITED PROVINCES.

717. ***Prof. N. G. Ranga:** In regard to the proposed subsidies to "privately managed seed stores" and "local retail shops" in order to distribute improved seed and, "to induce them to sell articles of local manufacture" in the United Provinces, are Government prepared to give these subsidies from out of the Crore Grant to *swadeshi* shops, or the shops maintained by the All-India Village Industries Association, or the All-India Spinners Association or the Co-operative Stores or Co-operative Credit Societies, wherever such stores are prepared to carry out these functions?

The Honourable Sir James Grigg: The Government of India do not propose to interfere with the discretion of the Local Government in the matter.

Prof. N. G. Ranga: Will the Government of India please consider the advisability of bringing to the notice of other Provincial Governments this attempt being made by the United Provinces Government in giving subsidies to *swadeshi* shops?

The Honourable Sir James Grigg: I do not wish to overrate the interest which the outside world takes in these questions, but surely the fact that Honourable Members have asked questions will come to the notice of the Local Governments concerned.

Prof. N. G. Ranga: Will it be brought to the notice of Local Governments?

The Honourable Sir James Grigg: I think the fact that the Honourable Member has asked a question will be sufficient notice to the Governments concerned.

Mr. M. Ananthasayanam Ayyangar: May I know if any kind of scrutiny is exercised by the Central Government as regards the way in which the moneys are spent, if really the moneys are spent at all?

The Honourable Sir James Grigg: If the Honourable Member means by scrutiny whether we keep in touch with the Provinces by means of inspection in order to see that the money is spent properly, the answer is in the negative.

Prof. N. G. Ranga: Do Government receive any periodical reports?

Mr. President (The Honourable Sir Abdur Rahim): Next question.

ENTRUSTING OF VILLAGE COMMUNICATION AND OTHER PUBLIC UTILITY FUNDS TO LOCAL BOARDS OR COUNCILS.

718. ***Prof. N. G. Ranga:** Will Government state why the funds for the development of village communications in Bihar and Orissa for rural water-supply, village roads, and village sanitation in Assam, are proposed to be

administered by the District Magistrates, instead of the Local Boards, which are availed of for the purpose in the Madras Presidency and whether Government propose to consider the advisability of entrusting this work to the Local Boards or Councils, subject to the supervision of the District Magistrates?

The Honourable Sir James Grigg: The Government of India do not propose to interfere with the discretion of Local Governments in this matter.

EXPENDITURE OUT OF THE RURAL DEVELOPMENT GRANT.

719. *Prof. N. G. Ranga: Will Government be pleased to give an account of expenditure so far made on different aspects of rural reconstruction by the various provinces out of the Crore Grant and to state whether any, and if so which, provinces have spent what sums in the various directions in which the Crore Grant has been utilised in order to supplement the work made possible by the Crore Grant?

The Honourable Sir James Grigg: Provincial Governments have been requested to send a report by the beginning of March showing the progress of schemes financed from the Crore grant. The expenditure to be incurred from provincial revenues to supplement the work is a matter within the discretion of Local Governments, and the Government of India do not consider it necessary to call for any information on this point.

OVERCROWDING IN THIRD CLASS CARRIAGES ON THE MADRAS AND SOUTHERN MAHRATTA RAILWAY.

720. *Prof. N. G. Ranga: (a) Will Government be pleased to state:

- (i) if they are aware of the fact that considerable congestion and overcrowding are experienced by third class passengers on Madras and Southern Mahratta Railway between Nellore and Samalkot, Cumbum and Machilipatam, converging on Bezwada during the paddy transportation and harvesting seasons (i.e., July-August, December-January) owing to the movements of large masses of labour to and from the paddy-raising tracts;
- (ii) whether no steps are being taken to increase the accommodation; and
- (iii) if so, whether special workmen's trains, if possible and whenever necessary, will be run and additional third class carriages attached to all trains during these seasons?

(b) Are Government aware of the fact:

- (i) that during the paddy transportation and harvesting seasons in the Andhra Districts large numbers of workers including women and children move to and from the dry tracts;
- (ii) that no steps are taken at any of the Railway Junction Stations (Tenali, Bezwada, Samalkot, Nidadavote) to provide special and adequate waiting room and water-supply facilities for those thousands of workers;

- (iii) that this want of attention on the part of the Railway authorities to the ordinary needs of the workers has forced them to stay for a day or two on the canal banks in hot sun without any shelter or privacy and cook their food;
- (iv) that this failure of the Railway authorities has often been resulting in the outbreak of cholera, etc., owing to congested living of workers in the open and on the dirty canal banks and the drinking of the muddy and polluted canal water; and
- (v) if so, whether suitable and special waiting room accommodation and water-supply and latrine conveniences will be provided to these workers during the agricultural seasons at the railway junctions?

The Honourable Sir Muhammad Zafrullah Khan: (a) and (b). I am not aware of the facts to which the Honourable Member refers but I shall convey the suggestions in his question to the Agent, Madras and Southern Mahratta Railway, for his consideration.

RECRUITMENT OF ENGINEERS, SUB-ENGINEERS AND ENGINEERING SUPERVISORS ON RAILWAYS.

721. ***Prof. N. G. Ranga:** Will Government be pleased to state:

- (i) the method of recruitment now availed of for appointing Engineers, Sub-Engineers, Engineering Supervisors in the Railways;
- (ii) how many of such officers are annually recruited for the State Railways;
- (iii) whether they have considered the question of recruiting them in the order of merit from among the candidates, who annually appear for the I. R. S. examination conducted by the Public Services Commission, in view of the fact that as many as 200 fully qualified engineers appear at that examination, held to recruit only six Engineers; and
- (iv) whether they are prepared to consider the advisability of announcing their intention of recruiting new entrants into the subordinate services also on an All-India basis through the competitive examination in November next?

The Honourable Sir Muhammad Zafrullah Khan: (i) Recruitment to the Indian Railway Service of Engineers for the State-managed Railways is made in accordance with the recruitment regulations in force from time to time. A copy of the recruitment regulations issued in April, 1935, is in the Library of the House.

As regards the recruitment to subordinate services I would refer the Honourable Member to the rules for recruitment and training of subordinate staff on State-managed Railways, a copy of which is in the Library of the House.

(ii) The total number of officers recruited to the Indian Railway Service of Engineers during the years 1934-35 was five. The same number is being recruited in 1935-36 but the number to be recruited in future depends on the vacancies to be filled from time to time.

As regards the subordinate engineering establishment Government have no information as the matter is within the competence of Agents of State-managed Railways and recruitment is made direct by them.

(iii) and (iv). Government do not consider it practicable to centralise recruitment to subordinate Railway services on an all-India basis.

RESUMPTION OF HALF ANNA POST CARD AND ONE ANNA ENVELOPE.

722. *Prof. N. G. Ranga: Will Government be pleased to state:

- (i) the number of post cards purchased by the public and the revenues derived therefrom one year before and ever since the price of a post card was raised from six pies to nine pies;
- (ii) similar figures for the sale of the one and a quarter anna envelope and one anna envelope;
- (iii) whether it is not a fact that the total revenues from the post-card traffic and the combined one anna and anna and quarter anna traffic are (a) less than in the past, and (b) not even as high as was anticipated;
- (iv) whether they are aware of the general public demand for the resumption of half anna post card and one anna envelope; and
- (v) what the estimated gain or loss to Government will be, if such a reduction in rates is made, and if due allowance is made for the resulting increase in traffic and revenues?

Mr. E. M. Jenkins: No separate account is maintained of the number of embossed post cards or embossed envelopes purchased by the public or of the revenue derived from them. The large quantities of cards and envelopes of private manufacture which are used make it impossible to give the Honourable Member accurate information in reply to his questions. Such figures as it is possible for me to give must be taken subject to this caution.

(i) The post card rate was raised from $\frac{1}{2}$ anna to $\frac{3}{4}$ anna from the 15th December, 1931. The number of embossed post cards issued from treasuries to post offices during the year 1930-31 was 398.5 millions and their value was 124.5 lakhs. The corresponding figures for subsequent years were:

	No.	Value in rupees.
1931-32	289.9 millions	91.9 lakhs.
1932-33	273.7 "	128.2 "
1933-34	271.3 "	127.2 "
1934-35	251.4 "	117.8 "

(ii) The $1\frac{1}{4}$ anna embossed envelope was introduced from the 15th December, 1931, and the one anna envelope from the 1st April, 1934. The issues of embossed envelopes from treasuries and their value, excluding the surcharge intended to cover the cost of manufacture, were:

	No.	Value in rupees.
1930-31	92.5 millions	57.8 lakhs.
1932-33	33.9 "	26.5 "
1933-34	32.3 "	25.2 "
1934-35	52.6 "	34.2 "

(iii) No separate account of the revenue derived from the post card traffic and the letter traffic in the one anna and one and a quarter anna category is maintained. I regret I am not, therefore, in a position to reply to the Honourable Member's question. The total estimated volume of the post card and letter traffic in different years is given in the Annual Report of the Director-General for the year 1934-35, a copy of which is in the Library of the House.

(iv) Government are aware that there is a demand for a reduction in the postage rates on post cards and letters.

(v) I would refer the Honourable Member to the debates in this House on the 3rd of April, 1935.

Mr. President (The Honourable Sir Abdur Rahim): In the opinion of the Chair, in future, a statement like that need not be read out, but should be laid on the table of the House.

Seth Govind Das: How much will it cost if separate accounts for post cards traffic and envelope traffic are kept?

Mr. E. M. Jenkins: I shall require notice of that question.

EXPERIMENTAL VILLAGE POST OFFICES.

723. *Prof. N. G. Ranga: Will Government be pleased to state:

- (a) the number of experimental village Post Offices that are now working in different provinces;
- (b) the number of those opened since last April;
- (c) whether they have any programme for establishing any such additional offices during the next five years;
- (d) if so, how many per annum; and
- (e) whether they are prepared to raise the upper limit of permissible loss on a village Post Office?

Mr. E. M. Jenkins: (a) and (b). Figures relating to different provinces are not readily available, but a statement giving the information for the different postal circles is laid on the table of House and it is hoped that this will meet the Honourable Member's requirements.

(c) and (d). Government have not laid down any definite programme for the opening of a fixed number of new post offices in the next five years; but such offices will be opened according to the public needs and the funds that are available for the purpose.

(e) The question of raising the permissible limit of loss in the case of individual post offices is under the consideration of Government.

Number of experimental Village Post Offices.

Name of Postal Circle.	Number existing on 31st January, 1936.	Number opened since last April.
Bengal and Assam	20*	19*
Bihar and Orissa	14	15
Bombay	38	30
Burma	17	9
Madras	50	43
Punjab and North-West Frontier	51	37
Central Circle	10	9
United Provinces	8†	7†
Sind and Baluchistan	10	11

* In addition to these offices orders have been issued to open 12 more offices in February 1936.

† In addition to these offices, orders have been issued to open 19 more offices.

Prof. N. G. Ranga: Out of the 400 experimental post offices that were promised to be opened during this year, how many have been established so far and how many more have to be established?

Mr. E. M. Jenkins: The number of post offices opened since 1st April, 1935, is included in the statement that is being placed on the table of the House. I regret that the figures have not been totalled; but the total will be clear from the statement.

PROBLEMS FACING SHIPPING AT THE ALLEPPEY PORT.

724. ***Mr. S. Satyamurti:** Will Government be pleased to state:

- (a) whether they have perused the pamphlet published by the Alleppey Chamber of Commerce on the problems facing shipping at that Port;
- (b) whether they have considered the representations made therein; and
- (c) whether they propose to take any action thereon; if so, what; if not, why not?

The Honourable Sir Muhammad Zafrullah Khan: (a) Yes.

(b) Yes.

(c) Government do not propose to take any action in the matter.

Mr. S. Satyamurti: Did they ask for any information from the shipping interests concerned, before they made up their minds not to take any action?

The Honourable Sir Muhammad Zafrullah Khan: No, they did not: but they do not see what action they can possibly take to relieve the situation.

Mr. S. Satyamurti: Have Government considered that these Indian shippers have no grievances at all? Have they come to any such conclusion?

The Honourable Sir Muhammad Zafrullah Khan: No: I have not said that they have no grievances or that they do not suffer any inconveniences: but after considering the pamphlet I do not see what action Government can usefully take in the matter: Government, therefore, do not propose to take any action.

Mr. S. Satyamurti: Will Government bring this to the notice of the various shipping companies there, so as to avoid these complaints in future?

The Honourable Sir Muhammad Zafrullah Khan: I have not the slightest doubt that, having regard to the state of coastal shipping, any kind of complaint with regard to lack of shipping at a particular port would be eagerly met by the companies themselves.

FILM PROPAGANDA AGAINST INDIA IN FOREIGN COUNTRIES.

725. ***Mr. S. Satyamurti:** (a) Will Government be pleased to state whether they have perused the communication of Mr. Subash Chandra Bose from Vienna, published in the *Bombay Chronicle* regarding film propaganda against India in foreign countries?

(b) Have Government taken, or propose to take action, as suggested therein?

(c) Do Government propose to make representations to the Committee for Intellectual Co-operation of the League of Nations on this and allied matters?

The Honourable Sir Henry Craik: (a) and (b). I have seen the Press report in question and, in accordance with the assurance given by me on the 16th September last, in the concluding portion of my answer to Dr. Banerjee's question No. 377, will take such steps as are possible to stop the exhibition of such films regarding India if the Honourable Member will furnish me with further particulars about them.

(c) I am considering these suggestions.

Mr. S. Satyamurti: With reference to the answer to clause (c), may I know if Government are considering the question, apart from prohibiting the entry of such films within the British Commonwealth of Nations, of prohibiting them in other countries through the machinery of the League of Nations?

The Honourable Sir Henry Craik: I have said that I am considering that suggestion.

INDIANS IN IRAQ.

726. ***Mr. S. Satyamurti:** Will Government be pleased to state:

(a) whether they have perused the accompanying communication from Basrah regarding Indians in Iraq;

- (b) whether they have made any enquiries and what the result of those enquiries is; and
- (c) whether they propose to take any action to protect the interests of Indians in Iraq?

Sir Aubrey Metcalfe: (a) Yes.

(b)—(c). The Honourable Member's attention is invited to the statement made by me on the floor of the House on the 4th February, 1936, in connection with the adjournment motion moved by Mr. Datta relating to the position of Indians in Iraq. Since then the position has not undergone any change.

HEALTH PROBLEM OF THE EMPIRE AND INDIA.

727. ***Mr. S. Satyamurti:** Will Government be pleased to state:

- (a) whether they have perused the speech of Mr. Hingorani on "Health Problem of Empire and India";
- (b) whether they have considered the points raised by him and whether they propose to take any action thereon; and
- (c) whether they have under consideration any scheme for improving the health of the people?

Sir Girja Shankar Bajpai: (a) Yes.

(b) and (c). Mr. Hingorani's suggestions, which bear on the improvement of the health of the people, fall within the scope of action of Local Governments.

Mr. S. Satyamurti: I ask Government why they keep up these central departments and the Director of Public Health if, every time a question is asked, they say it is the concern of the Provincial Governments.

Sir Girja Shankar Bajpai: The Public Health Commissioner with the Government of India has certain co-ordinating functions which I can explain to the House: but he cannot interfere with the administration of Public Health in the provinces.

Mr. S. Satyamurti: Is not one of these co-ordinating functions—whatever that phrase may mean—to bring to the notice of Local Governments suggestions for the improvement of the health of the people which are made by people who can talk with authority on such subjects?

Sir Girja Shankar Bajpai: My Honourable friend wished to know whether the Government of India were intending to take any action. If his wish is that Mr. Hingorani's speech should be forwarded to Local Governments I am prepared to comply with that.

Mr. S. Satyamurti: I may suggest more respectful attention to the question: the question is this:

"(c) whether they have under consideration any scheme for improving the health of the people."

It does not mean that they should carry out any scheme: my suggestion is that they should forward this scheme to the authorities who can carry out the scheme and my question is, have Government considered this scheme, and, if they consider it good, will they send it on to the Local Governments, and whether they will help the Local Governments at all?

Sir Girja Shankar Bajpai: My answer which was, if I may venture to say so, framed with respectful regard to the question of my Honourable friend—that was the phrase he used—is perfectly sound: all that it says is that this is a matter for Local Governments. If my Honourable friend wishes us to undertake an academic consideration of schemes of this kind, that does not carry us very far, does it?

Mr. S. Satyamurti: May I know what are the duties of the Director of Public Health? Is it not one of his duties to examine schemes for improving the health of the country, and, if he considers them sound, to send them on to Local Governments? Is he doing that?

Sir Girja Shankar Bajpai: No. It is not the function of the Public Health Commissioner with the Government of India to examine every public health scheme.

Mr. S. Satyamurti: Does he examine any public health scheme at all?

Sir Girja Shankar Bajpai: Any public health scheme that the Government of India are undertaking themselves, or which may be referred to the Government of India for advice by the Local Governments.

Mr. S. Satyamurti: May I take it, therefore, that the Government of India never take the initiative in addressing Local Governments on all India problems, affecting the health of the people?

Sir Girja Shankar Bajpai: That would be perhaps too wide a statement.

Mr. S. Satyamurti: What is the narrow statement?

Sir Girja Shankar Bajpai: The narrow statement is that ordinarily the Government of India leave the initiative to Local Governments.

Mr. S. Satyamurti: To do nothing?

(No answer.)

ALLEGATIONS FROM THE GENERAL SECRETARY OF THE RAILWAY WORKER'S ASSOCIATION, MORADABAD.

728. *Mr. S. Satyamurti: Will Government be pleased to state:

- (a) whether their attention has been drawn to the allegations contained in the letter from the General Secretary of the Railway Workers' Association, Moradabad, dated the 14th November, 1935;
- (b) whether they have examined the complaints mentioned therein, and what the result of that examination is;

- (c) whether they have taken or will take any step to put down the corruptions, if found to exist;
- (d) the reasons why the Association has not been recognised by the Railway Administration; and
- (e) whether Government propose to take steps to remove the grievances mentioned therein?

The Honourable Sir Muhammad Zafrullah Khan: (a) Yes.

(b) and (e). The allegations are of a very sweeping nature: there is a history behind them. Government regret their inability to make enquiries into such sweeping allegations.

(c) Government have no reason to believe that corruption is rampant as alleged. Government invariably take action in any specific cases of corruption that come to their notice.

(d) Government understand that the Workers' Association is of recent origin but the question of its recognition is under the consideration of the Agent, East Indian Railway.

Mr. S. Satyamurti: Do I understand the Honourable Member to say that, unless a complainant brings forward full evidence from A to Z satisfying the Government that the man is guilty, they will make no inquiries at all?

The Honourable Sir Muhammad Zafrullah Khan: No, Sir; the allegations must be specific, and such facts must be cited as to indicate a *prima facie* case into which an inquiry might usefully and profitably be made.

Lieut.-Colonel Sir Henry Gidney: Is the Honourable Member aware of the fact that this Association has repeatedly addressed the Agent of the East Indian Railway for recognition and its efforts have proved futile?

The Honourable Sir Muhammad Zafrullah Khan: I am not aware of that fact.

INDIANS IN IRAQ.

729. ***Mr. S. Satyamurti:** Will Government be pleased to state:

- (a) whether they have perused the accompanying letter on "Indians in Iraq"; and
- (b) whether they have examined the allegations contained therein; and if so, what the result of the examinations is; and what action, if any, they propose to take thereon?

Sir Aubrey Metcalfe: (a) Yes.

(b) The Honourable Member's attention is invited to answer given by me to parts (b) and (c) of his question No. 726.

SHORT NOTICE QUESTIONS AND ANSWERS.

NEXT ELECTIONS FOR THE COUNCIL OF STATE.

• **Pandit Nilakantha Das:** Will Government be pleased to state :

(a) when they propose to hold elections to the Council of State and when they propose to dissolve the same;

12 Noon

(b) whether they propose to create a separate constituency in the next elections for the Council of State for the Orissa Province; if not, why not; and

(c) whether a separate constituency is being provided for Orissa by an Order in Council, which is just being placed before the Parliament; if not, why not?

The Honourable Sir Nripendra Sircar: (a) The general election to the Council of State will be held shortly after the expiration of the life of the Council which has been extended up to the 10th June, 1936.

(b) and (c). The Honourable Member is referred to Article 21 of the Government of India (Constitution of Orissa) Order, 1936, the effect of which, subject to the proviso to rule 4 of the Council of State Electoral Rules, is, that until those rules are amended by competent authority all relevant constituencies will retain their existing territorial extent, and no new constituencies will be created. Government have, after careful consideration, reached the conclusion that considerable complication and no commensurate advantage would attach to a readjustment of constituencies in the light of the new provincial boundaries and they consequently do not propose to amend the Electoral Rules so as to alter the position created by the Order in Council. They are, however, considering whether they should use the powers conferred by the proviso to rule 4 of the Electoral Rules so as to divide the 3-Member Bihar and Orissa (Non-Muhammadan) Constituency into two constituencies comprising respectively the existing division of Orissa and the remainder of the existing province of Bihar and Orissa and returning respectively one and two members. The Honourable Member will, of course understand that it is only the period preceding Federation during which constituencies will overlap provincial boundaries.

Mr. B. Das: Is the Honourable Member aware that the province of Bihar and Orissa will get an additional Hindu seat whereby there will be four Members to the Council of State elected from Bihar, one Muslim and three Hindus? Will that not facilitate the Honourable Member's procedure which he described just now?

Mr. G. H. Spence: I don't follow the Honourable Member's reference to the Muhammadan constituency. The position is this. The non-Muhammadan constituency returns in rotation two and three Members. This time it will return three Members. The proposition under consideration is that, under the proviso to Rule 4, this 3-Member constituency, the non-Muhammadan constituency, should be divided into two constituencies, one comprising Bihar and returning two Members, and the other comprising Orissa and returning one Member. The one Member Muhammadan constituency cannot, in the nature of things, be divided into two constituencies returning half a Member each.

**NOMINATED MEMBERS FOR THE ORISSA AND SIND LEGISLATIVE COUNCILS
DURING THE TRANSITION PERIOD.**

Pandit Nilakantha Das: (a) Is it a fact that the draft Order in Council, regarding the transitional administration in Sind and Orissa, provide for advisory councils consisting of 25 and 20 members to be nominated by the respective Governors of Sind and Orissa during the transition period?

(b) Is it a fact that in the Government of India Act, 1935, the number of members fixed for the Legislative Councils, both in Orissa and Sind, is 60 each, and is it a fact that the population of Orissa is more than double that of Sind?

(c) If so, will Government be pleased to state the reasons for fixing 20 nominated members for the new province of Orissa against the quota of 25 nominated members fixed for Sind during transition period. Do Government propose to take immediate steps for moving His Majesty's Government to remedy this differential treatment to the two provinces? If not, why not?

(d) Will Government be pleased to state whether the Governor and his nominated Council will have the power to pass measures of legislation and if so, will such measures find a permanent place in the Statute Book?

(e) If not, what will be the period during which such measures will be enforced and what will be the procedure for the repeal of such laws when the provincial legislative councils are brought into existence?

(f) Are Government aware that at present the tracts of Sind and Orissa enjoy advantage of electing representatives to the Legislative Councils of Bombay and Madras and Bihar and Orissa? If so, will Government be pleased to state the reasons for denying that privilege to the inhabitants of those places as soon as such tracts are made into separate provinces?

(g) Will Government be pleased to state the reasons why the future Governors of the proposed provinces of Sind and Orissa should not be given the powers to devise some sort of elective methods for the election of members and from Legislative Councils during transitional period?

(h) Do Government propose to take immediate steps to move His Majesty's Government to include a definite provision in the draft Order in Council by which the Governors would be directed to adopt elective system in the selection of members for the transitory Councils in the two provinces in place of the nominated system suggested in the draft Order? If not, why not?

(i) Do Government also propose to take immediate steps to move His Majesty's Government to include definite provisions setting forth directions to the Governments in the matter of making legislative measures, etc., during the transition period?

The Honourable Sir Nripendra Sircar: (a) Yes.

(b) Yes. By "Legislative Councils" the Honourable Member presumably means "Legislative Assemblies".

(c) The maximum strength of the Advisory Council for Sind has been fixed with due regard to the number of members at present representing Sind in the Bombay Legislative Council, who will vacate their seats

on that Council when the new Province is created, and whom the Governor may nominate to the Advisory Council. Similarly the maximum strength of the Advisory Council for Orissa has been fixed with due regard to the number of members now representing the Orissa Division in the Bihar and Orissa Legislative Council and to the number of those now representing on the Madras Legislative Council areas which will be transferred to Orissa, who will vacate their seats when the Province of Orissa is created. Government see no reason why the strength so fixed for the two Provinces should be altered.

(d) No.

(e) The question does not arise.

(f), (g), and (h). The *interim* constitution for these Provinces will last only until the introduction of Provincial Autonomy. During this transitional period it will be essential for the two Governments to concentrate on administrative reorganisations consequent on their separation from their parent Provinces and to prepare the new Provinces for the advent of Provincial Autonomy. The interval before Provincial Autonomy is likely to prove none too long for the solution of administrative problems even if the whole attention of the new Governments is directed to this end. It is, therefore, not considered desirable to introduce a system of administration based on elective methods, during this transitional period.

(i) No.

Mr. B. Das: May I enquire if these nominated members of the Advisory Councils will still be styled as M.L.C.'s, or do they lose that title after Orissa is separated from Bihar and Sind is separated from Bombay?

The Honourable Sir Nripendra Sircar: I have not considered that point, but I do not see how they can be called M.L.C.'s. They may be called M.A.C.'s. (Laughter.)

Mr. B. Das: Does not that show that these gentlemen do not represent the interests of the people of Orissa or Sind, but that they are only nominated members, as there are nominated members on the other side of this House?

The Honourable Sir Nripendra Sircar: If it does show that, of course it shows that. If it does not, then it does not. (Laughter.)

Pandit Nilakantha Das: May I take it that they are there only to help in the reorganisation of the administration and for nothing else during this transition period?

The Honourable Sir Nripendra Sircar: I have nothing to add to the answer I have given.

Sir Muhammad Yakub: Will it be eligible for the present Members of the Legislative Assembly coming Bihar and Orissa and from the province of Sind to hold the post of a Minister in their own province during the transitory period, as well as to sit in the Legislative Assembly as Members of this Assembly? (Laughter.)

NOMINATIONS TO THE HOUSE COMMITTEE.

Mr. President (The Honourable Sir Abdur Rahim): I have to announce that I have made the following nominations to the House Committee:

- (1) Dr. G. V. Deshmukh *vice* Mr. Deep Narayan Singh—deceased,
 - (2) Rai Bahadur Sir Satya Charan Mukherjee as an additional member.
-

THE CODE OF CRIMINAL PROCEDURE (AMENDMENT) BILL.

[AMENDMENT OF SECTIONS 30, 34, 34A AND 35.]

Mr. President (The Honourable Sir Abdur Rahim): The House will now resume consideration of the following motion moved by Sardar Sant Singh on the 13th February, 1936:

“That the Bill further to amend the Code of Criminal Procedure, 1898 (Amendment of sections 30, 34, 34A and 35), be circulated for the purpose of eliciting opinion thereon.”

Mr. R. M. MacDougall (Burma: Nominated Official): Sir, this Bill proposes to make important changes in the administration of criminal justice, and, for that reason, when I received a notice of it, I turned to the Statement of Objects and Reasons expecting to find in it an analysis of the statistics of these Courts supporting the contention that special power magistrates dispose of their cases in an unsatisfactory way. I expected also to find reasoned arguments supporting the view that the proposals in this Bill were those best calculated to secure the objects which the Honourable Member has in view. I turned over to the next page and I found it blank. I turned over another page, and I found, across the middle of the page, half a dozen lines of very small print. With your permission, Sir, I shall read the Statement of Objects and Reasons.

“These provinces having acquired the status of Governor's province, such a discrimination shall no longer be permitted. The accused charged with serious offences are not satisfied with the trial held before magistrates who are especially empowered under these sections.”

The House will notice that the Statement of Objects and Reasons stresses the dissatisfaction of the accused, not the dissatisfaction of the public:

“In most cases, the magistrates, in their zeal to show, what they term good disposal, hurriedly proceed with the trial, with the result that cool and calm consideration of the facts of the case is not possible as is actually the case in Sessions trials. As the administration is being reformed, it is desirable that standard of judicial administration be also raised in these provinces in order to inspire greater confidence in the Courts.”

Incidentally, I note the implication that the standard of administration is going to be higher than that of the Courts, a compliment to the new Government of India Act, which we appreciate, coming as it does from a Member on the other side of the House. As the Statement of Objects and Reasons contains no objects and no reasons, I awaited with some interest the Honourable Member's speech on the second reading. I expected to find that in it he would supplement the deficiencies of the Statement of Objects and Reasons. Here, again, I was disappointed. We were favoured with a disquisition on the abstract desirability of separating

the judicial and executive functions, and we were treated to a diatribe directed against the conduct, character and general qualifications of certain unnamed magistrates in the Punjab. Facts and figures there were none; reasoned arguments there were none; in fact, in the words of an illustrious statesman of legendary reputation, there was nothing at all which would "add a touch of versimilitude to an otherwise bald and unconvincing narrative".

Now, Sir, when I refer to facts and figures, Honourable Members of this House will, I think, fully understand what I mean. We have on this side a good many Members who are magistrates. In other parts of the House, we have a good many gentlemen whose daily avocation it is to appear before the Courts. We are all familiar with the Indian Law Reports. We all know that, on the table of practically every Bar Room in the country, there are lying those hundreds of unofficial publications that contain the reports of "unreported" cases. Even the daily papers feature every case in which, if I may use such an expression, a High Court Judge lets himself go at the expense of any of the subordinate Courts. Consequently, if there really were all the abuses in the special power magistrates' Courts, which are presupposed by this Bill, the Honourable Member would not have had the slightest difficulty in finding scores of instances to back up his view. In actual fact, however, he has not quoted one single case: and that he has not done so may be ascribed to one of two reasons. Either he has searched through the reports in vain and found nothing which was sufficiently adapted to his purpose, or else he has not taken the trouble even to make any enquiry into the matter at all. Now, Sir, if the former is the explanation, the proper course would be for this House to reject this Bill without more ado. If the latter is the explanation, then the Honourable Member should take the permission of this House to withdraw it and not re-introduce it until he has provided himself with sufficient facts and figures to back up his case.

I turn now to the Bill itself, and the first point which I should like to draw attention to is the extremely paradoxical nature of the proposals. Let me explain a little more clearly what I mean. There is, as between cases tried by first class magistrates and cases tried in the special power magistrates' Courts, very little difference except as regards the seriousness of the offences tried. Whereas in the first class magistrates' Courts you have magistrates trying cases say, of simple hurt, cheating and house-breaking, you have in the special power magistrates' Courts cases of grievous hurt, criminal misappropriation and dacoity. The only difference between the two classes of cases is the seriousness of the offence. The offences tried in the special power magistrates' Courts are not in any way different in kind. The evidence that is tendered there is not more complicated than that offered before a first class magistrate, nor is the decision any more difficult to arrive at. In fact, there are many cases, once we go outside the province of the Indian Penal Code,—there are many cases in first class magistrates' Courts which are of very considerable difficulty. I can recall to mind a case under the Indian Electricity Act, for instance, which was tried by a magistrate in Rangoon some two or three years ago. The prosecution arose out of the death of an innocent passer-by who happened to catch hold of a stay-wire on a pole supporting the line joining the electric main belonging to the supplier and the installation of the consumer. The magistrate, a very junior first class magistrate, but a very capable magistrate, had to decide, in the first place, whether the line which was leaking and which was responsible for the stay-wire being

[Mr. R. M. MacDougall.]

live was a service line under the terms of the Act or the rules. He had also to decide whether, in view of the fact that although the switch was in a locked box, of which the key was in the possession of the electric supplier, the consumer was, in those circumstances, criminally liable or the supplier. He had then to decide whether in the event of recording a conviction, the supplier, namely, the company, should be convicted, or the company's employee whose personal responsibility it was to see that these installations were in thorough order. I mention this, though it is not strictly relevant to the present discussion, to show that first class magistrates very often have to try extremely difficult cases and that special power magistrates are not confronted with anything more difficult than you are likely to have in first class magistrate's Courts.

Moreover, many of the cases in special power magistrate's Courts are cases which, in the ordinary way, could be tried by almost any magistrate at all, were it not for the operation of section 75 of the Indian Penal Code. Perhaps I should explain for the information of Members of this House who are not familiarised, by their daily employment with the provisions of the Criminal Law, that section 75 is the section under which you have to prove the previous convictions of a habitual criminal before you can pass on him an enhanced sentence. These cases, therefore, are ordinarily sent to the special power magistrates, so that, once the previous convictions have been proved, the magistrate can forthwith pass the necessary enhanced sentence. Now, Sir, the paradox lies in this that, whereas reformatory action in penology generally proceeds by taking for its object, in the first instance, persons who have either stumbled accidentally into crime or who have yielded to crime under great stress, the Bill proposes to pick out precisely those persons who are accused of all except the most serious offences in the criminal calendar,—including also a number of persons who are, by the very nature of the case, habitual criminals,—and to confer on them what the Honourable Member regards as concessions. In other words, whereas the proverb used to read "You might as well be hanged for a sheep as for a lamb", the Honourable Member would amend it to read "Steal a lamb and get committed to jail; steal a sheep and half kill the shepherd, and get committed to Sessions".

Having complained that the Honourable Member in charge of this Bill did not bring in any facts and figures, it is incumbent upon me to avoid the risk of the same reproach. I have, therefore, worked out some figures relating to the Courts and made some estimates relating to the proposals embodied in the Bill. I propose now with your permission, Sir, to lay them before the House. I can speak of course with personal experience of only one province, namely, the province of Burma in which it is my privilege to serve, but I have no reason to suppose that conditions are any different elsewhere. In Burma, in the year 1934, there were 4,031 cases tried by special power magistrates and there were 128 magistrates who actually tried them. I have been unable to find separate figures for the duration of these cases, but I find that in the District Magistrates' Courts where, in addition to cases involving the exercise of special powers, there are good many cases tried under summary powers, the average duration was 30 days. I think, therefore, that we should be justified in assuming that the average duration of special power cases is not less than 30 days. Now, Sir, I cannot regard 30 days as showing that these cases are disposed of hastily. If it is not stretching the imagination too much I should

like to ask the House to picture the Honourable Member who is responsible for this Bill and myself jointly charged with an offence before one of these Courts. As we plodded along to the Court in the third or the fourth week of our detention, to receive the demi-semi-ante-penultimate instalment of our trial, I do not think that in our conversation we should dwell on the undue haste with which the magistrate was disposing of our case and, I think, that if we heard that his superior officers were doing their best to make him get on with the job quicker, we should be extremely thankful.

Now, Sir, a word as to the officers who preside over these Courts. It so happens that it was my privilege to be Registrar of the High Court of Judicature in Rangoon from early in 1923 to the middle of 1925, and I can speak from personal recollection of the way in which officers were selected for the conferment of special powers under section 30. In the first place, no officer was given special powers except on a recommendation from the High Court. Then too, the High Court laid down certain conditions which must be fulfilled. The first of these was that the officer must have not less than three years' experience as a first class magistrate. As Honourable Members are aware, there are many appointments, both in the civil judicial service and in the executive where an officer does not exercise any criminal powers at all. In such a case, the High Court insisted that the officer be transferred to a post where he would exercise his first class powers, for a sufficient period, to guarantee that he had recovered his knowledge of the Criminal Law and was capable of exercising criminal powers in important cases. The next step was to call for a batch of recent and serious cases tried by the magistrate. Not less than six were always called for and these were examined by one of the Honourable Judges of the High Court personally. It was not done by the Registrar or Assistant Registrar or anybody of that sort. It was done by one of the Honourable Judges personally. If he was satisfied, that the officer was fit for special powers, he said so and the Chief Justice, after reading through his notes on these cases and looking up the previous character of the officer concerned, made the recommendation. In that way, not only was it guaranteed that the officers, presiding over these Courts, were men with the necessary experience but also that they were men who had a particular aptitude for Criminal Law.

Now, Sir, as I explained earlier, there were 128 men presiding over Special Power Magistrates' Courts in the year 1934. Of that number, no less than fifty-five were members of the judicial service. These men all hope to become, not merely Assistant Sessions Judges, but District and Sessions Judges, and there is no doubt that most of them will achieve their ambition before many years have passed. Now, the experience which they gain in the trial of these important cases is going to be of immense value to them when they rise to the Sessions Court. I do not wish to stress that point, Sir; it is an incidental benefit. It is an important benefit, but I do not stress that; the point which I wish to stress is this: that, as members of the judicial service, not only are they under the judicial control of the High Court but they are under its administrative control as well. It is to the High Court that they look for advancement, and it is from the High Court that they take their instructions, and I can assure Honourable Members of this House that the instructions of the High Court are extremely stringent in the matter both of procedure and of the strictness of proof that the law of evidence requires. The remaining officers are admittedly members of the civil executive service, but, in

[Mr. R. M. MacDougall.]

the majority of cases, they are not holding executive posts; they are whole-time additional magistrates, and as their appeals go either to the Sessions Judge or, in many cases, direct to the High Court, they are not in any way under executive control. They look for their future promotion to the High Court and not to the executive and they regard themselves, and are regarded by the executive and police, as independent Criminal Courts, before which cases have to be completely proved according to the strictest rules of evidence.

Now, Sir, I have shown, first of all, that these proposals are unnecessary; that in these Courts, cases are not, as alleged, tried hurriedly; that the magistrates are not, as alleged, ignorant and ill-educated; and that they are not, as alleged, under executive influence. I should like now to show, by facts and figures, that the cost of carrying out the measures, which are embodied in this Bill, would be so enormous as to make them impracticable. I explained that in the year 1934 the number of cases tried was 4,031; that was comparatively speaking a low figure. In 1932 it was over 4,800. Now, I think Members of this House, who have experience of Courts, will agree with me that to try over four thousand cases by Sessions, you will require something like 30 Assistant Sessions Judges. That would mean 135 cases to each Court. I think I am right in saying that most Sessions Courts sit only five days a week for the trial of cases. Sunday is, of course, a holiday, and Saturday is spent on the various miscellaneous duties which have accumulated through the week: so that, there are available five days a week for fifty-two weeks, or 260 days a year. From that you will have to deduct holidays, which by custom in the case of Sessions Courts are longer than they are in the case of magistrates' Courts. I do not know exactly what is the figure for the number of days that these Assistant Sessions Judges sit in a calendar year but I doubt if it will exceed 220,—that is allowing 40 days apart from Saturdays and Sundays for public holidays, court holidays and gaps between the different Sessions. That is to say, there will be something less than two days for the trial of each case, and, in that time, the Sessions Judge has not only to hear the evidence for the prosecution and the evidence for the defence; he has to read very voluminous proceedings beforehand and he has to write the judgment after. I think, therefore, that it is reasonable to say that we should require at least 30 Sessions Courts. Now, these Courts would naturally be situated at the headquarters of the thirty busiest districts of the province. I can assure Honourable Members that there is no accommodation in the court houses in Burma now for additional courts of that nature. You will require a court-room, you will require a chamber for the judge, you will require an office room in which registers and library books and so forth can be kept and in which they can be kept locked up at night, you will require a room for keeping exhibits (which in Sessions cases are sometimes a little unsavoury) and you certainly require in Lower Burma, where there is extremely heavy rain for six months in the year, a room for the members of the Bar, to wait in when not actually in Court; I think Honourable Members on the other side of the House will agree with me in all this. I do not think we can provide that accommodation and furnish it with the requisite conveniences even on a modest and unpretentious scale for less than Rs. 25,000. Now, 30 courts at a cost of Rs. 25,000 each involves a capital expenditure of Rs. 7½ lakhs: and I can assure the House that the Province of Burma has not got that Rs. 7½ lakhs to pay its debts much less to spend on unnecessary Courts.

Even if, by the bounty of the Government of India or by some other miraculous method, we were to get the money required for these Courts, there is still large recurring expenditure which we should have to face. For 30 Sessions Courts we should require 30 Assistant Sessions Judges, and on some cadre or other we should have to carry a leave and training reserve for these men. Obviously they are not born possessed of the experience and training required to enable them to take their places on the Bench straight away. I estimate a reserve of four for that purpose. They will all be men of a certain seniority, middle seniority I suppose, and, I think, it would be reasonable to say that their salary would be somewhere in the neighbourhood of, certainly not less than, Rs. 500 a month, or Rs. 6,000 a year. Now for 34 men on Rs. 6,000 a year the cost is Rs. 2,04,000. Then each Court will have to have a clerk, whose pay would run to about Rs. 60 a month or Rs. 720 a year. 30 clerks would thus cost us Rs. 21,600. There are also other costs. Each Court will require one *chaprassi* and possibly two, it would also require additional process serving staff because you cannot undertake the trial of all these additional Sessions cases without having additional processes to serve. Each Court would require also to subscribe to the Indian Law Reports; it would require stationery; and it would require a very considerable sum for stamps and postage because, in Courts where appeals lie to the High Court, there is naturally very heavy expense on stamps for sending proceedings (which are often bulky) to the High Court. There is also other expenditure: thus, an officer may be transferred and another officer may be sent to take his place. I make no attempt to guess the cost of these items: but I put them down at Rs. 1,000 in each Court annually. That is another Rs. 30,000. Now, I come to what is a very large item indeed and that is witness fees. I have explained that the number of cases in 1934 was 4,031 and that that is a lower figure than we have had for some years. I think it is reasonable to say that in 4,000 cases, you may expect 40,000 witnesses, or ten for each case,—that is five for the prosecution and five for the defence. I do not think that is an over-estimate; if anything it is an under-estimate. What would be the fees for these witnesses? I have explained that these Courts would be constituted at the headquarters of districts and as Honourable Members are aware, Burma is a large country of very large distances and very difficult communications. Witnesses coming into headquarters not only have a railway journey, or a bus journey or a taxi journey or something of the sort, but sometimes they will have also a couple of days journey by boat in Lower Burma or by cart in Upper Burma. The figure of Rs. 2-8-0 which I have allowed for each witness, is, therefore, a low figure, but even so, for 40,000 witnesses, we have to set apart another lakh of rupees. Thus on the judicial budget alone we have an increase in the cost amounting to Rs. 3,55,600 annually. That, however, is not the end of the story. If you are going to have 30 new Courts, there must be somebody to prosecute, and you therefore, require 30 new Court Prosecuting Officers. These are paid on the police budget and as they have to have legal qualifications as well as a certain seniority in the prosecution department of the police, I do not think you can expect them to come for anything less than Rs. 100 a month: that is Rs. 1,200 a year, thus making on the police budget another Rs. 36,000 annual expenditure. Moreover, these 30 new Courts will involve Court escorts, because you are going to have numerous prisoners tried there and there are not enough men available now to take these

[Mr. R. M. MacDougall.]

men to the Courts unless you increase the staff. Again, you are going to have prisoners brought in from distant out-stations to headquarters to stand their trial at the Sessions. I estimate that we would require something between three and six men in each district, head constables and constables. For 30 such Courts, therefore I do not think it is an over-estimate (in fact I think it would be an under-estimate) to say that we should require 100 head constables and constables, at an average pay of Rs. 20 per month, each or Rs. 240 per year, you have another item of Rs. 24,000 per annum on the police budget. That, with the Rs. 36,000 per annum on Court Prosecuting Inspectors, raises our police budget by Rs. 60,000 a year. Even so, Sir, the matter does not end there. You have 4,000 special power cases and in many of these cases, you have more than one accused person and in some of the cases you have five or six accused. I think, therefore, it would be an under-estimate rather than an over-estimate to say that we should have 5,000 additional prisoners under trial, if we adopted the scheme proposed in the Bill under discussion. Now, the average duration of a Sessions trial in Burma, in 1934, was 38 days. That means we are going to have 5,000 men kept in custody for 38 days and that means additional prison charges for 1,90,000 man-days per year. The cost of rations in the jail department is very low. By favourable contracts in 1933-34 they cut down the cost of feeding prisoners in jails to just over one anna per head per day. But these men are not all kept in prisons. Many of them have to be detained in police lock-ups where the feeding is done by contract, and when you have to do a thing like that by outside contract, you cannot get the same favourable rates. The rates, so far as I remember, run to something like four annas per head per day. Any how, we may average it at two annas per head per day and you have a further expenditure, in the jail department for feeding these men, to the extent of Rs. 23,750. The total expenditure I estimate to be Rs. 4,39,850, say Rs. 4,40,000. There are moreover, other incidental expenses which I have no means of estimating. There is one large item which sticks out straightaway. Government are responsible for providing quarters for their police officers; consequently, if you recruit another 30 Court Prosecuting Inspectors and another 100 head constables and other ranks, you require to provide additional quarters for them all, and that would add appreciably to the cost of the new building programme. Then there are the travelling expenses of these escorts when bringing the prisoners from out-stations to the headquarters where the prisoners have to stand their trial and the cost of sending the escorts back. I have no means of computing this. Another item is this. It is necessary that when a case is under trial the investigating staff should be present in Court. They have to be there not only to give their own evidence, but they have to be there in case a point arises, later on, in the course of the hearing of the case when they may be recalled to clear up any difficulties that might arise. Now, Sir, generally the investigation of a case is conducted by a team of officers; there are usually the sub-inspector in-charge and probably one head constable with one or two constables. On any given day, therefore, there would be in Court, on duty in respect of each case, one Sub-inspector and one head constable and probably one or two constables. Moreover, it is possible that those who were on duty on the previous day would be engaged in travelling back to their respective stations on that day and that the men who are to be in Court the next day are engaged in travelling up to headquarters. In this way, you may have three investiga-

ting teams withdrawn from their proper work on any given day. All these things add to the work of the police and while I could not say that any increase in the staff would be immediately necessary, it is obvious that this must add force to any demand made by the police department for an increase in staff in districts where they are already considered to be fully employed.

Now, Sir, I hope I have shown not only that these proposals are unnecessary and uncalled for but that they are prohibitively expensive. I would ask the House whether it is justifiable to incur enormous expenditure on what must be regarded as quite the most undeserving section of the population when the law abiding community is in dire need of extended services in the matter of education, public health and other nation-building activities. To that there can only be one answer, and that is a very emphatic "No" (Applause.)

Captain Rao Bahadur Chaudhri Lal Chand (Nominated Non-Official):

Sir, I cannot help admiring my Honourable friend from Lyallpur for his courage in coming before the House within less than two years of his former Bill on this very subject having been rejected by this House. This House then gave a clear verdict against this Bill inasmuch as 49 Honourable Members voted against the Bill and only 27 having voted for it. I am sorry that my Honourable friend is not in his seat today. It seems better sense has prevailed and he himself is convinced of the utter futility of his move and so he has preferred to conduct some section 30 case in the Court of a magistrate with enhanced powers whom he was condemning the other day. The more honourable course for him, as has been suggested by the previous speaker from Burma, would have been to withdraw this Bill. Probably he could then oblige the Honourable Member, Mr. Satyamurti, better than by absenting himself. Sir, his persistence and courage has reminded me of the story of a gentleman whose habit was to attend parties and feasts, but he never cared whether he was welcomed at a place or not. Invitation was immaterial to him and he used to go uninvited. People had been tolerating him for some time, but at one place he was noticed by the host as occupying a place reserved for the chief guest. The host came to him and whispered in his ears that there was no arrangement for him, and that, therefore, he had better go out. At this, there was no alternative for this gentleman but to walk out. Some of his friends noticed this, and, while sympathising with him, felt sorry at this insulting conduct of the host. This gentleman, however, was not at all sorry, and he most magnanimously replied: "You feel sorry, because I have been asked to go out? The host has been particularly kind to me, and I feel pleased at his behaviour, for, in other places, I have been receiving beating also". So the Honourable the Mover has acted like a perfect sport in coming to this House again after his defeat at Simla in 1933 and absenting himself when he was not welcome here. He seems to have been encouraged by the fact that the Opposition in the new Assembly stands in need of the tiny little party of which he is a member, and he expects support from the Opposition in lieu of his having supported them in season and out of season. But he has overlooked one fact, that the present Bill does not concern Bombay, Madras, the United Provinces or Bengal; and the support from those Honourable Members who have no connection with provinces affected by this Bill cannot be secured so easily. For, if they made every small matter a party question, the value of their decision will diminish in the eyes of the people.

[Captain Rao Bahadur Chaudhri Lal Chand.]

Sir, I spoke at some length when my Honourable friend, Sardar Sant Singh, brought this Bill before this House at Simla. I hope I shall be excused if I repeat some of the arguments advanced then while opposing the 1933 Bill. My justification for this is not only that this is a new Assembly, but also that my Honourable friend, Sardar Sant Singh, the author of this Bill, has also done the same. I must admit that Sardar Sant Singh is a criminal lawyer of great eminence and has had about 28 years' practice at the Bar in a very criminal district of my province. As such, I must also admit that his experience and information based on that fact must have great weight. But I too have been practising on the criminal side, and, although I have not completed my 25 years of practice, yet my district is not behind Lyallpur in the matter of violent crimes. (Laughter.) And, as such, I lay claim to the same experience and weight on this point. But I feel that I can base my claim for sound opinion on this point on other and further grounds. I hope my Honourable friend, Mr. Sham Lal, will bear me out that, so far as violent crimes are concerned, the Jats figure more prominently as accused than all the other communities in the Punjab put together. Even among Sikhs, it is the Jat Sikh who provides material for section 30 magistrates. Now, blood is thicker than water, and although as a criminal lawyer I stand to gain financially if all the section 30 cases had to be sent to Sessions Courts, yet, when I see that the money comes from the pockets of my kith and kin, I have to sacrifice my personal interests for communal good. Therefore, I wish to make it clear with due apologies to my brethren in the legal profession, who are in this Honourable House, that if I oppose this Bill, they will pardon me as I owe a duty to my community also, and they should not regard this as a betrayal of our common cause as practising lawyers. The point is so clear that if a committee of this House were appointed to make proposals for the increase of income of the legal profession as they have suffered heavily during these years of depression, and if I were to be a member of that committee, I would unhesitatingly propose this Bill to be passed, even as an Ordinance, to save time. But we are here to consider not so much the point of view of prosperity of the legal profession as to see that the convenience and welfare of the public generally are not sacrificed. Honourable Members coming from provinces where this system does not exist, should not go by sentiment, but by figures in forming an opinion about this motion. The figures have already been supplied by my Honourable predecessor in his able and lucid speech. It has been argued that, the motion being only for circulation, its acceptance did not matter, and that collection of opinion should not be barred. But the time of this House should not be wasted unless there is some material beyond sentiments. A perusal of the Statement of Objects and Reasons will show that the Honourable the Mover bases his claim on two grounds. First, he locks upon the present system as unsuitable to Governors' provinces. I hope no one here is anxious to claim equality on those grounds, for, if this argument is stretched further, the other provinces should not lag behind the Punjab in violent crimes also. Sir, this argument has no force, and, in view of what I am going to point out next, the tax-payer should not be burdened with unnecessary expenditure. The second argument used is that people are not satisfied with this procedure. Which people, may I ask? If the point of view of the accused is to be considered, I can say once for all that, both as a brother of these unfortunate accused as well as a lawyer, the present system is more suited to our conditions than the change proposed in this Bill.

It has been said that the accused are not satisfied with the trial before magistrates. This is absolutely incorrect and a gross mis-statement of facts. No accused, except perhaps those who are challaned for offences where capital sentence is the only punishment, wants to have two trials instead of one. The accused charged with murder, of course, would like to prolong trials, but certainly not the others. In these days of depression, these people are not able to bear even the expenses of one trial, and my Honourable friend wants to add to their troubles.

There is one very important point which my lawyer friends may note. It has been often alleged that the police tutor prosecution witnesses. I am really surprised that a lawyer of the disposition of my Honourable friend, Mr. Sham Lal, who has the reputation of extracting only that much of blood from the accused as they can easily afford, that is, more from the rich and less from the poor, should fall a victim to Sardar Sant Singh's trap. He quoted a case of a section 30 magistrate who had to depend upon lawyers for a translation of the statements of the witnesses. May I tell him that there are people of this class among Sessions Judges also? He should not forget that in one case, where he was present in Court, the Sessions Judge,—I do not wish to name him,—while dictating to the typist, gave a version different from that which was given by the witnesses. The Counsel for the accused interrupted, but got a snub from the learned Judge, who said :

"If these witnesses duffer and do not state facts in the proper way, I am not going to spoil my English,"

(Laughter.)

So there is nothing in a name. All minds are not equally developed.

I F. M. We will have to tolerate this class as we tolerate them in other professions as well. I remember the story of a doctor. Someone felt surprised when he learnt that Mr. "A" was practising as a doctor. I hope my Honourable friends, Dr. Dalal and Colonel Sir Henry Gidney, on this side and a host of able doctors on the other side will not misunderstand me when I tell them what this doctor's reply was. He asked, who would be responsible for the increasing number of graveyards if men like himself did not practise? (Laughter.) Let us, therefore, examine this question from the point of view of the State and the public only. Honourable Members should know that there are at least two, and sometimes as many as five, section 30 magistrates in every district of the Punjab. If you reduce them to mere first class magistrates, for committal proceedings you will require at least 60 more Assistant Sessions Judges in the Punjab alone. The general taxpayer will have to bear every burden without any corresponding advantage in efficiency as these Sessions Judges will be drawn from these very magistrates. The only class who will stand to gain are the practising lawyers. (*Cries of "Hear, hear."*) Sir, there is neither any feeling nor agitation on this point in my province. Even after the rejection of the last Bill in 1933, there has been no desire for a change in the province. There was no resentment when the Bill was rejected, no meeting was held and no resolutions were passed. Not an article has been written in the press. And yet, my friend, the Honourable the Mover asks this House to believe that there is a feeling in the province. I again repeat that, with the exception of a few lawyers, no one is anxious for any change, and the general taxpayer, whose interest it is our duty to guard, stands to lose by this proposal. Two trials will mean two fees for lawyers. The presence of assessors do not in any way help the ends of justice in

[Captain Rao Bahadur Chaudhri Lal Chand.]

these cases. My Honourable friend, Mr. Sham Lal, knows how assessors help Sessions Judges. May I remind him of an episode in a Sessions Court where he was present? During the trial of a murder case, the Sessions Judge was taking the Public Prosecutor to task for producing unnecessary evidence, when one of the assessors stood up and said: "Sahib, you should not forget that we are also here." The Sessions Judge, not grasping the significance of this interruption, asked the assessor what he meant by that, and the latter said that tea should be provided for assessors also. The Sessions Judge was a European and did not know what bearing this "tea" had upon the remarks he was making about the prosecution evidence, but the assessor cleared it up in one breath and murmured. I was under the impression that the Public Prosecutor was going to be asked to have tea with the Sessions Judge when the Court rose at 4-30 P.M. and hence this request. (Laughter.) Sir, the point is so clear that not even Bar Associations have asked for this change. Does this House want to remind them by putting a leading question in regard to this change, by accepting this motion?

In regard to the so-called public opinion, I have to say one or two words. As a result of agitation and anti-Government propaganda during the last 15 years, there is no dearth for people who oppose Government's view for the sake of opposition. This will give them only an opportunity of maligning the magistracy and of lowering the prestige of law Courts which the Honourable the Mover professes to raise.

Mr. Muhammad Azhar Ali (Lucknow and Fyzabad Divisions: Muhammadan Rural): How does this Bill lower the prestige of the law Courts?

Captain Rao Bahadur Chaudhri Lal Chand: The other day, Khan Bahadur Shaikh Khurshaid Muhammad, in his speech, gave a clear idea of how this system was working in the Punjab. My Honourable friend, Mr. Sham Lal, would not question the Khan Bahadur's experience and the weight to be attached to his speech. He said, he would be satisfied if all the magistrates were of this type, but does not accept the finding that has been given by the Khan Bahadur. The gist of Mr. Sham Lal's argument is not so much against the system of trial as against the system of recruitment that brings in incompetent men. Let me assure him that the new class that is being recruited under the altered system of recruitment will not include half-educated magistrates. They are all now University graduates. The Vice-Chancellor of the Punjab University is a member of the Board constituted for the selection of magistrates. None of the magistrates is given section 30 powers merely on the score of seniority. It is the High Court that recommends these magistrates to the Executive Government for these enhanced powers. I am afraid, my friend, Sardar Sant Singh, will not be satisfied with the open competitive system which is in the mind of Mr. Sham Lal. There were four vacancies in the Provincial Civil Service in the Punjab this year by open competition, but not one Sikh has been successful. So he will always ask for nomination.

Sir, there is no feeling in the province on this matter, nor is there any necessity for circulation of the Bill. The idea of inferiority in these trials is purely imaginary, and no change is wanted. I, therefore, oppose this Bill and appeal to Honourable Members opposite that they should not be a party to this extra burden of taxation on the taxpayer, which is a necessary corollary to this demand.

Mr. Lalchand Navalrai (Sind: Non-Muhammadan Rural): Sir, after I have heard my namesake on this Bill, I am not at all surprised, because I see him always speaking in that strain. (*Cries of "Question."*) No, not at all. There must be an honest difference of opinion. (*Cries of "Hear, hear."*) There ought to be some freedom. On certain occasions (Interruption.)

Mr. President (The Honourable Sir Abdur Rahim): Let the Honourable Member go on with his speech.

Mr. Lalchand Navalrai: Sir, I never expected this . . .

An Honourable Member: What about the telegrams from your constituency?

Mr. Lalchand Navalrai: They were inspired by the Congress Party . . .

Mr. President (The Honourable Sir Abdur Rahim): The Honourable Member can address the Chair. He need not take notice of interruptions.

Mr. Lalchand Navalrai: I thought there was more decency on that side.

Now, I come to the point. The question that has been raised is such that if the point involved in it is understood by the House and by the people who have to decide whether this provision in the Criminal Procedure Code should exist or not, then the decision will be very easy. The question before the House is, whether this extraordinary procedure, which is against the fundamental principles of justice, should live any longer. It is said that a similar Bill was once brought in 1933 and was rejected then. If it was rejected then, that does not show that that decision is binding on us for ever. On the contrary, when the Honourable Member from the Punjab, to which province also this Bill applies, has had the courage of coming again to ask for reconsideration, I think it is only fair that it should not be considered that he does so with any motives. I am not surprised that certain arguments have been placed on this point by my Honourable friend, Chaudhri Lal Chand. He says that there has not been any public opinion on this point. Even I will accept it, though, of course, that is no ground to refuse motion for circulation. His second ground is that the people do not object. All right. The third ground, he says, is that the Bar Associations have not protested against it. But what is it that is now wanted? It is not that we should pass the Bill forthwith. What is asked for is to call for public opinion; and does it lie in the mouth of one Member of this House to say that the public are in favour of this section or the Bar Associations are in favour, and that the practising pleaders do this from any motive? When circulation only is being asked, why should we not permit it and give an opportunity to people to express themselves? The Bar Associations also will place facts and figures in order to satisfy the House that the rejection of this section is very necessary. It has been said, on the other side, that no facts have been given by the Honourable Member from the Punjab as to how many cases have been tried by special magistrates and how many have been taken to the High Court, and so on. These are materials in the hands of the Government. Government have given certain facts and figures to show that this section is not

[Mr. Lalchand Navalrai.]

doing any harm in places to which it applies. On that point, again, circulation will bring out facts from each province and then we can see whether this section should be retained any more. But I support on principle for the acceptance of this motion, that you must give equal justice to all people. You should not make any difference in the case of a person who is to be tried for a particular offence from another person who is also being tried for the same offence. I, therefore, ask on that principle alone that this Bill should be sent for circulation, so that the opinions of people concerned should be before the House and the House may be in a position to give its verdict.

I would further submit

Mr. President (The Honourable Sir Abdur Rahim): If the Honourable Member has anything more to say, the House will now adjourn.

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

The Assembly re-assembled after Lunch at Half Past Two of the Clock, Mr. President (The Honourable Sir Abdur Rahim) in the Chair.

Mr. Lalchand Navalrai: Sir, the first and the most cogent reason that I have placed before the House, and I would lay special emphasis upon it, is that no differential treatment should be given to any people in India in regard to the way of meting out justice. In order to understand that position, Sir, we shall have to refer to the Schedule attached to the Criminal Procedure Code. That Schedule provides for certain offences to be tried by magistrates and certain others to be tried by Sessions Courts. If Honourable Members will look at that Schedule, they will find that these offences have been sorted out or classified in such a manner that only heinous and serious offences are to be tried by Sessions Courts. Now, provision has been made that a magistrate ordinarily, according to that Schedule, which is a general one and which applies to all people, can try a case in which he can give punishment up to two years only, whereas a Sessions Court can pass a sentence up to the death penalty. This is the distinction that is drawn in the Criminal Procedure Code Schedule, but the present section 30 of the Criminal Procedure Code, which is objected to, makes a provision that in certain provinces, the usual, the ordinary and the just procedure of having a trial before Sessions Court may not be followed and a magistrate can try offences of a heinous and serious character which are generally tried by the Sessions Court. Now, Sir, reading section 30 of the Criminal Procedure Code, we must have reference to the times when this Code was enacted. There were then certain provinces where there were certain administrative difficulties at that time, of having in those provinces no Sessions Courts established or perhaps there were not many Sessions Courts then. But those times have gone by, and conditions have improved very considerably, and so there is no reason why the same practice should be followed today and the same unjust procedure, which introduces the principle of differential

treatment, in that certain accused are tried by Sessions Courts while certain others are tried by magistrates, should be adopted. Sections 30 and 34 read together give power to a particular magistrate, or special magistrate or an extraordinary magistrate as I would call him, to sentence a man, instead of two years' rigorous imprisonment, up to anything like seven years, and it is only cases of pure murder under section 302 that he cannot try; but a little degree less is an offence under 304, culpable homicide not amounting to murder,—death does occur there also, and he can try, for that offence. Therefore, under section 304 the accused can be sent to that Magistrate, and he can pass a sentence in that case up to seven years, if he passes a sentence of four years, then his appeal lies to the Sessions Court but if he passes a sentence of seven years, then alone the appeal will go to the High Court. I submit, Sir, that this invidious distinction should be removed, and now the provinces to which this section 30 applies are now full-fledged provinces which will be governed and administered by Governors. Now, Sir, section 30 says:

"In the territories respectively administered by the Lieutenant Governors of the Punjab and Burma and the Chief Commissioners of Oudh, the Central Provinces, Coorg and Assam, in Sind, and in those parts of the other provinces in which there are Deputy Commissioners or Assistant Commissioners the Local Government may, notwithstanding anything contained in section 29, invest the District Magistrate or any magistrate of the first class, with power to try as a magistrate all offences not punishable with death."

Now, I ask, are provinces like the Punjab, Sind, Burma and even the Central Provinces such as to be considered backward? Are not the people of those provinces sufficiently civilized, educated and cultured enough? Will it be contended that the people of those provinces are aboriginal tribes, that they have no intellect or common sense that they should be treated differently from people of other provinces? I am sure, nobody in this House will support such an allegation. Therefore, Sir, I feel that the time has come when every attempt should be made for removing this provision from the Criminal Procedure Code.

Then, Sir, coming to the question of differential treatment, apart from the injustice I have alluded to, let us consider what are the actual difficulties to the people. In the Sessions procedure, the case first of all comes before the police. The police sends up a *chalan* or charge sheet to a magistrate. In this case they will send it to a Magistrate who has got these special powers. Of course, even in an ordinary case it will go to a magistrate, there is no doubt about it, but the difference lies in this. If the case goes to this particular magistrate then he can try and give sentence up to seven years forthwith, while, on the other hand, if it goes to an ordinary magistrate, who can give only two years punishment then it must necessarily go to a Sessions Court by Commitment. Now, can anybody say that there is no difference in a case which is tried by a Sessions Court and that which is tried by a Magistrate? However laudable and praiseworthy the decisions of the present day Magistrates may be, we must say that the justice which people get from them is certainly quite different to that which they get from the Sessions Courts.

An Honourable Member: Why?

Mr. Lalchand Navalrai: The difference is this. It has been urged by a District Magistrate opposite that they are quite as capable as Judges of Sessions Courts to try these cases. Is that true, I ask?

An Honourable Member: Yes, that is quite true.

Mr. Lalchand Navalrai: Are they not in the hands of the executive?

The Honourable Sir Henry Craik (Home Member): No, no.

Mr. Lalchand Navalrai: I say, they are absolutely in the hands of the executive. Take it from me, Sir.

Mr. J. F. Sale (United Provinces: Nominated Official): No.

The Honourable Sir Henry Craik: Certainly not.

Mr. Lalchand Navalrai: You may deny it, but the facts are quite plain, they are as plain as the daylight. Now, how are promotions given to these District Magistrates? Sir, I was startled to hear that their promotions in Burma are recommended by the High Court, because that is not the case in India.

An Honourable Member: It is so here also.

Mr. Lalchand Navalrai: No, Sir, here it is the sub-divisional magistrate who, first of all, decides their fate. But I say no. It is rather the District Superintendent of Police who decides it. Unless the District Superintendent of Police agrees with the first class magistrate, the first class magistrate cannot live. We see every day that the Public Prosecutor and the District Superintendent of Police come hand in hand. The Public Prosecutor goes to the magistrate, he is closetted with him in the chamber, and then comes the magistrate and sits in the Court and the decision is given. Is it just, I ask? It could be positively proved that it is the District Magistrate's recommendation which goes to the Commissioner or the Governor; he decides their promotion and their living.

Captain Rao Bahadur Ohaudhri Lal Chand: It is the Sessions Judges who make annual remarks.

Mr. Lalchand Navalrai: I shall not pay any heed to your interruptions. Facts cannot be concealed like that. The facts are plain and we know them. Every man knows them, and denials from that side of the House will not make this truth an untruth.

If the case goes to the committing magistrate, that procedure gives full opportunity to the accused to prepare his case. What happens if the case goes directly to the magistrate and he has to decide? Usually a charge sheet is prepared by the police. Formerly, they used to give a precis or a summary of the evidence that was going to be placed before the magistrate, and also a copy of the statements of the witnesses for the prosecution used to be given. But now what is the procedure? Now the prosecution do not submit a statement of what the witnesses are going to say, but a bald skeleton of a charge is placed in the hands of the accused. We do not know what the police had collected and what sort of material they had. But if there were committal proceedings and then the case goes before the Sessions Judge, there is enough time to study the case and know all the faults of the prosecution. The cases before the Sessions Judge are tried by jury.

The Honourable Sir Henry Craik: There is no trial by jury in the Punjab.

Mr. Lalchand Navalrai: In Karachi, there is trial in the Sessions by jury. It is not in every place though and the public want that there should be a jury in every place, in every Sessions case.

Coming to appeals, why should the appeal, when the magistrate gives four years imprisonment go to the Sessions Court? When other magistrates are not giving four years they will also go to the Sessions Judge, but why should it be given to him when otherwise it will be two years imprisonment that is given by a magistrate and it goes to him. Otherwise, it will go to the High Court and here if he gives seven years, then only it can go to the High Court.

Some Honourable Members: No, no.

Mr. Lalchand Navalrai: It is not so? Read section 408. Under section 408 of the Criminal Procedure Code,

"Any person convicted on a trial held by an Assistant Judge, a District Magistrate or other Magistrate of the first class or any person sentenced under section 349 or in respect of whom an order has been made or a sentence has been passed under section 380 by a Magistrate of the first class, may appeal to the Court of Session."

That is not the section. I will give you the section.

Mr. W. V. Grigson (Central Provinces: Nominated Official): I think the Honourable Member will find what he is looking for under proviso (b) of section 408.

An Honourable Member: Say, thank you.

Mr. Lalchand Navalrai: Thank you (Laughter.)

"When in any case an Assistant Sessions Judge or a Magistrate specially empowered under section 30 passes any sentence of imprisonment for a term exceeding four years, or any sentence of transportation, the appeal of all or any of the accused convicted at such trial shall lie to the High Court."

It is, therefore, I say, more than four years imprisonment will go to the High Court.

The Honourable Sir Henry Craik: But you said seven years.

Mr. Lalchand Navalrai: I said more than four years. I am sorry. It must have been a slip of the tongue. Therefore, I say, why should this concession be also taken away?

A point has been raised as regards expense. I cannot understand it. It will not be necessary at least in the Punjab and in Sind—I do not know about conditions in Burma, but I do think the same thing can be done there also. We find at present that there is no lack of Sessions Judges, Additional Sessions Judges and Assistant Sessions Judges in these provinces.

The Honourable Sir Henry Craik: Where?

Mr. Lalchand Navalrai: In Sindh we have got Sessions Courts, Additional Sessions Courts—there are at places two Additional Sessions Judges, and there are Assistant Sessions Judges. Also, persons who are doing Sessions work have a judicial mind in this sense that they have been trained in the judicial line. They are sub-judges of first class and they are given this work. I ask, why should the power remain in the hands of the magistrate when there are Sessions Courts to try, and it cannot be said—in Sind, at least, about which I know, it cannot be said that the Sessions Courts are over-crowded with work. The difference is only going to be this, that if the case goes to the Sessions Court it will have judicial consideration, in the sense that it will be free from the executive, whereas with a magistrate they can send up any man and have him punished. The Honourable Member from Burma said that there will have to be so many Courts provided if there are to be Additional Sessions Judges and others in Burma. But I think that it could be easily arranged because, if they have got so many places for magistrates, those places can be occupied by Sessions Judges who will be from the judicial line. There is no reason in that at all. Then I am told, that in Burma, some of these magistrates are stationary magistrates. That means they do not go out touring but in the two other provinces they do go out touring and people have to go long distances to find them. It is said that they give expeditious justice, whereas the Sessions Court will take a long time and there will be suspense to the man. It is not suspense to a man when he gets full justice. Therefore, that reason cannot in the least hold good. When the new constitution is coming, I think under that new constitution this should be one of the points that should be considered in carrying out that constitution, namely, the separation of the judicial and the executive, and this will be a move in that direction and the powers from these magistrates, who are solely in the hands of the executive, will come to those who possess judicial head and judicial responsibility. With these words, I support the Bill.

Rai Bahadur Shyam Narayan Singh (Bihar and Orissa: Nominated Official): I rise to oppose the motion before the House. In the Statement of Objects and Reasons appended to the Bill under consideration, it is said that the accused are not satisfied with the trial of such cases before the magistrates, because, in their zeal to show what they term good disposal, the magistrates hurriedly proceed with the trial, with the result that cool consideration of the case is not possible as is done at a Sessions trial. Personally I do not see how these cases can be rushed through in view of the prescribed legal procedure about which the members of the legal profession are rightly so particular. Then, there are the Appellate Courts, the Sessions Courts and the High Court. Sir, my personal experience is that these apprehensions have no foundation in fact in my province of Bihar. I am personally aware that to save expense parties, who have full confidence in the Deputy Commissioners and first class magistrates invested with such powers, prefer such trials to trials at Sessions Courts where such cases are usually tried by Assistant Sessions Judges. It was more than once that the pleaders for the accused at Dhanbad, where I tried such cases, asked me not to send such cases to the Sessions Courts so as to avoid the expense of a practically second trial before the Court. I may add here that there are eight districts in the province of Bihar where such offences are tried, either by the Deputy Commissioner himself or by an experienced first class magistrate selected by the Local Government with due reference to his judicial records. The Deputy Commissioner or such other magis-

trate has, however, no power to pass a sentence of death or of transportation or of imprisonment exceeding seven years, his powers being thus the same as those of an Assistant Sessions Judge, who would otherwise deal with such offences. It is idle to expect that Sessions Judges would take up such cases themselves, for they are already too over-burdened with more serious civil and criminal matters to think of them. The proposal regarding trial by the Sessions Judges of such offences would mean additional expense on the Local Government which it cannot easily meet. On the other hand, all the judges of the Patna High Court have expressed themselves in favour of the existing system and have stated that the work of the magistrates concerned is superior to that of the Assistant Sessions Judges in this respect, particularly on account of their long training as magistrates. The result of appeals arising out of such trials before the magistrates is also clearly in favour of the existing system. In 1934, out of 52 such appeals, which went up to the High Court, five were successful. Many of the offences dealt with by the magistrates, under section 30 of the Criminal Procedure Code, are really of a comparatively petty nature and are tried under Section 30 of the Criminal Procedure Code, for technical reasons on account of previous convictions. It would be a sheer waste of time to send up such cases to the Sessions Courts. At such trials the accused has the advantage of his appeal going to the Sessions Court and to the High Court and thus his interests are well safeguarded. It is not impossible that a magistrate, invested with Section 30 powers, here and there, may in some places misunderstand his responsibilities under the law, just as an Assistant Sessions Judge or a Sessions Judge may also do. Then also cases on the border-line of jurisdiction, as well as those presenting special difficulties, go to the Sessions Court, but in such cases, in the famous words of Sir George Campbell, "It is enough to show that indiscreet officers thirsting for technicalities may abuse the Acts. In that case, the officers will be changed, not the law." Sir, it is said that this Bill is only for circulation at this stage, but what is the good of circulating it when all the Local Governments and High Courts concerned have already been consulted and they are unanimous in throwing it out. Sir, I have done.

U Ba Si (Burma: Non-European): Sir, it is only natural that every accused person would like to be tried by a judge rather than by an executive officer. In Burma, the whole-time special power magistrates are men who belong to the executive department and as such under the control of the district magistrate. Now, there has been talk about the public feeling. I wish to say something about the public feeling in Burma. The ordinary magistrate, say, a first class magistrate, when he has become very notorious as a convicting man, in a few months, is invested with special powers. That is the public feeling. Burma has been a Governor's province for some time. Why should there be unequal treatment from the other Governors' provinces? There is no reason why Burma should be treated differently. There has been some talk of the cost of creating more posts of Assistant Sessions Judges. I submit that though a few Assistant Sessions Judges' posts will have to be created, at the same time the existing special power magistrates will have to be abolished and there is no fear of more expense. My friend, Mr. MacDougall, spoke about the necessity of putting up more court house buildings. But, in Burma, I do not think there will be any difficulty about it, because the existing "special power" magistrates' Courts can be used for the accommodation.

[U Ba Si.]

of these Assistant Sessions Judges. Sir, where there is a will, there is a way. I submit that when the Government can afford to spend lakhs and lakhs of rupees on things like the Ava bridge, on which they spent Rs. 150 lakhs and when on Twante canals they have spent over 30 lakhs, surely there can be no difficulty in putting up a few buildings if they are necessary. There was also some mention of accused with previous convictions. In such cases they could be tried by the ordinary magistrates. But if the magistrate thinks that such an accused should be awarded a punishment that is beyond his powers, then he can, without difficulty, submit his proceedings to the Sessions Judges. I submit, Sir, that it is against all principles to say that, because it is not convenient for an accused person to be tried by a Sessions Judge, that because there is no building or no court room for that purpose, he should be tried by an executive officer. That is against all principles, and are we to tolerate such cases? With these few observations, I support the Bill.

Mr. M. Ananthasayanam Ayyangar (Madras ceded Districts and Chittoor: Non-Muhammadan Rural): Sir, there seems to be a volley
3 P.M. of opposition to an innocuous Bill of this kind and to the amendment moved before this House. Evidently, Sir, it has grown into a practice to oppose whatever comes from this side of the House, reasonable or unreasonable. The motion is so simple. It is only trying to gather public opinion at this stage. Why should the Government be afraid of public opinion? A number of speakers have risen and spoken on this motion, but I find that, with the exception of one nominated Member, there is no other non-official who has opposed the motion for circulation; and he spoke more in the role of a captain or a commander-in-chief than in the role of a lawyer who, in his daily profession, comes very much into contact with the public. I would say, Sir, that the only object of Honourable Members in opposing this motion is to entrench the bureaucracy continuously, for ever, to rule us by the naked sword. Excepting a few instances where justice was rendered, there is a natural aversion on the part of magistrates to make any use of any section of the Evidence Act. Sir, we know that the Evidence Act with our magistrates is a bugbear and the ordinary provision, that whenever there is no provision in the Statute they should generally apply principles of equity and good conscience, is misunderstood by magistrates. In one case, the magistrate thought that the reference to principles of equity and good conscience meant a personal accusation against the magistrate. He said he was not aware that, whenever there was no provision of law, the case ought to be decided by the principles of equity and good conscience. He complained bitterly in open Court, the Vakil suspected his honesty and said openly, over and over again, that he was not doing any justice and was not honest!

Sir, there is an inherent and congenital aversion on the part of magistrates to the rules of evidence. They think they have been designed only for the purpose of subverting or concealing the truth. I would say, Sir, that in the original section 30, they made a distinction for this purpose; they conferred a jurisdiction upon Sessions Judges and judges with respect to the trial of grave or serious offences straightaway in the case of the major provinces and with respect to the provinces where they did not want to place the Local Government on a high footing, they practically

consigned the administration of justice to the executive officers who rise from the lower ranks; in such provinces they think that the subordinate executive officer can safely act in a judicial capacity also. It was in that view that the original Code was passed in 1898; I do not know how much older it was, that is, the provision had been originally enacted. I would ask a simple question of those Members on the other side who have spoken so eloquently with facts and figures as to when, in their opinion, the time will arrive when the general and normal provision will be followed, of referring all these serious cases to Sessions Judges' Courts whether now or in the near future, or will it ever arrive at all? Sir, from the facts that have been gathered and from the long array of insurmountable obstacles standing in the way that have been placed before this House, I venture to think that the time will never come.

Sir, the Honourable Member from Burma said that the Member in charge of the Bill did not lay statistics on the table. What are the statistics? Statistics relating to disposal, etc. Sir, I heard once when, at the time of the Great War on the battlefield, a doctor declared a man to be dead, that it was the business of the watchman to bury him though he might be alive. (Laughter.) That is so here also, with regard to the question of "disposal". A man is either to be sent to jail or should be acquitted; one of those two things must happen, and speedier justice is much better than tardy justice; so, let the man be consigned to jail! I would say, Sir, that liberty is not valued at all and that every attempt is made to see that so far as the public in this country is concerned, every restriction should be placed upon that right, *viz.*, liberty. Sir, young magistrates who have not been many years in service are entrusted with these powers. I say such a magistrate is an absolute creature of the police. In our parts, there are no section 30 magistrates. Even there, where magistrates exercise jurisdiction over lesser and less serious offences, the story that was referred to by Captain Lal Chand, is repeated often. It is not in respect of Assistant Sessions Judges only; the prosecuting inspector has tea with the magistrate; that happens every day even with respect to first-class magistrates exercising jurisdiction. The prosecuting inspector also is invited to tea day after day, the accused in every case has to witness that, the Vakil also has to witness that, and they can well imagine as to what kind of justice the accused is going to have! Sir, we have to contend with those things. Practically, the magistrate thinks he is only another hand of the police who lays the charge-sheet before him. When there is a charge sheet against an accused, it is rarely that he is acquitted. I know, I appeared in a number of such criminal cases; and the magistrate starts with the presumption that the accused man is guilty in every police case—not of course in a case of private complaint; that when once the police lay a charge-sheet before the magistrate, he takes it as an irrebuttable presumption, that that man is guilty and the burden is upon him to prove that he is not guilty. Sir, that is the kind of mentality of magistrates. I find that Honourable Members who have spoken from the non-official Benches say that they find the same difficulty in Sind and Burma. No doubt it may be convenient for one or two persons who are politicians to hobnob with magistrates and thus succeed, and, if that is so, the magistrates, I dare say, are amenable to such influences. They are afraid of persons who have got the ears of the District Magistrate. I would ask any Honourable Member on the Opposite side, who has been a District Magistrate or otherwise, to lay his hand upon his heart and say whether the subordinate magistrates are

[Mr. M. Ananthasayanam Ayyangar.]

not amenable to outside influence. These very subordinate magistrates when they come out of Court say in private, "what is it that we can do, we are forced to do a certain thing". In this way, the subordinate magistrate is forced to convict a man, a man who is a notorious offender. He might have been a notorious offender of that place, public opinion may be against him, but with respect to that particular case, there may not be any evidence at all. What is the attitude of the subordinate magistrate, I would ask. The magistrate goes upon his previous knowledge of the man or upon the prejudices that have been gathered round the man. The magistrate is the man on the spot. In our parts of the country, the subordinate magistrates are either tahsildars or deputy collectors in charge of revenue divisions. They go about their divisions and do a lot of touring, and, in their tours, they gather a lot of information about men and affairs. The village *munsif* comes to the magistrate in his tours and silently and insidiously infuses poison into the ears of the magistrate. How can the magistrate get over all the prejudices acquired in the course of his tours about men and things? Certainly an Assistant Sessions Judge or a Sessions Judge will be above all these prejudices. They are not liable to corruption and, therefore, they would really stand by the so-called justice which the Britishers have been anxious to preserve. If really the Britishers are earnest in their professions about preservation of justice, they must put it into practice by accepting this motion and try to extend the jurisdiction of Sessions Judges and Assistant Sessions Judges as in the major Provinces to the minor Provinces also.

Sir, with respect to the question of cost, I would make one suggestion, though that is not a suggestion in the interest of the public. If money stands in the way of this much-needed reform, I would certainly suggest that you can levy something more by way of court fee on the complainant. If the intention is that real justice should be administered, then it does not matter even if the public are put to the inconvenience of having to pay a little more money. Instead of asking the complainant to pay twelve annas by way of court fees on a complaint, ask him to pay something more and also impose more heavy fine on the accused in a case where the accused is found guilty. Please do not send one innocent man to the gallows, do not sentence a single man to transportation for life, without allowing him a fair opportunity to lay his case properly and diligently before Courts of law. My Honourable friend, Captain Lal Chand, said that vakils were interested in seeing that all major cases were sent to the Sessions Courts. Of course, if those persons now are not able to engage vakils to appear even before subordinate magistrates, I do not know how my Honourable friend thinks that vakils' purses will be filled by removing the jurisdiction of the magistrates and sending away these cases to Sessions Courts. A man if he is unable to engage a vakil in subordinate Courts would certainly be in a much less position to engage one in the higher Courts. Even in the lower Courts if he is not able to engage a vakil, *a fortiori* he will not be able to engage one in superior Courts. It is not a case where the Honourable the Mover of the Bill is a vakil and, therefore, he wants to feather his own nest and the nests of his brother vakils. It is too mean to attribute such mean motives to the honourable the Mover of the Bill. I would only say that the vakil has opportunities to fight against injustice that is being done in the name of justice. It is a matter of no consequence to the Magistrate whether a vakil appears or

not. He thinks he is bound to close the case and to send the accused to prison even when witnesses are not heard. Even on the first hearing, we have seen the magistrates saying: "This is the first hearing but I have got orders from the District Magistrate not to grant time to the accused or to the complainant as the case may be". Well, Sir, before lodging a complaint it is open to a complainant to choose his own time to go to a Court of law and when to give notice to the accused, but on the first day of the hearing the accused is asked to be present, and even though he has not got a copy of the complaint petition he is asked straightaway to cross examine the witnesses for the prosecution. The magistrate says: "You have got another opportunity. This is a warrant case, let it go". Well, Sir, after a charge is framed, the poor accused is quaked in his shoes and it becomes a matter of life and death and one between earth and heaven for him. Why should he forego the previous opportunity? Why should he not get a discharge under section 253? I would only say that in the name of justice, injustice is being done. To the European Group, I would only tell one thing to such of them as are not lawyers. They have got the happy privilege of being tried by men of their own complexion, with the help of jurors drawn from their own community. We are not asking that it should be made universal. Let the privilege be extended. It is now open to the Local Government to prescribe in what cases, there should be a trial by jury, and in what other cases, there should be a trial by the Sessions Judges and Assistant Sessions Judges with the help of assessors. I do not know whether in Sind, there are any cases at all tried by the jury.

Mr. Lalchand Navalrai: There are in Sind.

Mr. M. Ananthasayanam Ayyangar: I think the Honourable the Home Member said there were no cases tried by jury at all.

The Honourable Sir Henry Craik: In the Punjab, there is no trial by jury in the Sessions Court.

Mr. M. Ananthasayanam Ayyangar: There is an enabling provision in the Criminal Procedure Code which says that it is open to the Local Government to direct that particular cases may be tried either by the jury or with assessors. Till now this fortunate or unfortunate privilege for trial by jury has never occurred and that only shows how rigidly the ordinary criminal law is administered in the Punjab. I say, it is not criminal law, but it is martial law of Captain Lal Chand that has been administered all along in the Punjab. I would say that it is most unfortunate that any attempt to have progressive legislation is sought to be nipped in the bud. We know that the Punjab is now trying to become a full-fledged Governor's Province. Where is the inconvenience for introducing this much-needed reform in the criminal administration except the so-called inconvenience of lack of money.

Captain Rao Bahadur Chaudhri Lal Chand: If money is no consideration, then it would be better to ask that sub-inspectors should be recruited from among the Sessions Judges.

Mr. M. Ananthasayanam Ayyangar: If, in the obtaining of justice, money is to be a consideration that stands in the way, then I would rather forsake all other things than forsake justice. Why did not the

[Mr. M. Ananthasayanam Ayyangar.]

consideration about money stand in the way of Sind being created a separate province. Sind is a deficit Province and it has been created into a separate Province against much public opinion there. When other Provinces have been created, where was the consideration of money? I would say, Sir, that in matters of administration of justice, money considerations ought not to come in the way. Let us set up the novel experiment of taxing the accused. Instead of putting him to jail, tax him heavily by way of fines and penalties so that you may have enough money to pay the Sessions and Assistant Sessions Judges. Put a heavy tax on the complaint in the shape of court fees. If such a course is adopted, I am sure there will not be any difficulty in introducing the reforms contemplated in the Bill.

I will wind up by saying that if section 30 magistrates are abolished and if powers are given to Sessions Judges to try the cases, then certainly there will be a preliminary enquiry before the magistrate. In the present case, the section 30 magistrate merely acts upon the evidence that is laid before him by the police authorities. You will find, Sir, there is one inconvenience if the first class magistrate tries the case. Under the Criminal Procedure Code, it is open to a magistrate to take up the investigation, the magistrate records statements from witnesses lest these statements should be tampered with at a later stage of the trial. If a magistrate takes up an enquiry upon himself and lays a charge before another magistrate of equal rank though he might be called a special magistrate, I would ask if that magistrate will have the courage to go against the investigation made by a co-magistrate. I would only say keep away the magistrate or the judge from all these influences. I would say that this Bill should be passed into law immediately without any further delay. It is a simple and innocuous Bill. But the Mover has not gone so far. All that he asks for in this motion is to send the Bill for circulation, and such a motion ought not to be opposed in the interest of fair play and justice and for the good name of the country. (Applause).

Mr. Lalchand Navalrai: I want to offer a personal explanation, namely, that there is a Sessions Court at Karachi and there is trial by jury there.

Mr. F. B. Leach (Burma: European): Sir, I did not intend to intervene in this debate as I hoped that the very plain and clear statement of facts which was put before the House by my Honourable friend, Mr. MacDougall, from Burma before lunch would, at any rate, have prevented some of the misconceptions, or as I would prefer to say mis-statements which have been made from the other side of the House. But I am afraid that even his speech has been of no avail, and several things have been stated since he sat down which I think should be contradicted. My Honourable friend from Burma, U Ba Si, tried to make out, in spite of Mr. MacDougall's speech, that there would be no considerable extra expense in abolishing section 30 magistrates and having all their cases tried by Sessions Courts. The Honourable Member entirely ignored the fact that, if we are going to abolish special power magistrates, then their cases will have to be tried twice over instead of once. Therefore, the expense will be very nearly doubled. I do not see how you can get away from that. It is no good saying that the Additional Sessions Judges, whom you are going to create, may occupy rooms now occupied by the special power magistrates and use their clerks. What about the committal magistrates who are

going to commit these cases to the Sessions Court? If you do not have special power magistrates, then these cases will have to be tried twice, once in the Committal Court and once in the Sessions Court. You cannot do that for the same cost or anything like the same cost as you can under the present system. I do not for a moment wish to say that cheapness should be the only or the deciding factor in the administration of justice. God forbid that that should be done. Justice must be administered by competent persons, whether they be magistrates or whether they be judges. But we have got, in these hard days, to consider the cost of everything; and there is no getting away from the facts stated by Mr. MacDougall that this would entail the province of Burma in an initial expenditure of many lakhs and in a recurring expenditure of many lakhs more.

Then, a great deal has been said about the type of magistrates who are now given special powers and who try these cases. And a great many things have been said which, I consider, Honourable Members of this House have no right whatever to say. It is scandalous, the things that have been said. One Honourable Member went so far as to say that in his province magistrates were given special powers on the recommendation of the Court prosecuting officer and the Superintendent of Police. That, I understand, was in Sind. (*Cries of "Everywhere"*). If that is done in Sind, I recommend Mr. Lalchand Navalrai to go to the distinguished officer who used to be an ornament of this House in the Legal Department and who has just been made the first Governor of Sind; and, I am quite sure, that that officer will not tolerate such a state of affairs as that, if it exists. I am quite sure that he will take very rapid steps to stop these special power magistrates being given their powers on the recommendation of the Superintendent of Police. Mr. MacDougall explained quite clearly this morning that the Honourable the Judges of the High Court themselves go into these cases personally; and I have not the least doubt that the same is done in other provinces too. And these remarks which have been made, these sneers which have been levelled against special power magistrates, that they are young men who are merely given these powers because they are ready to convict and so on, all these sneers reflect just as much on the High Courts and on the Honourable the Judges of the High Courts as they do on the executive. Honourable Members who made these quite unfounded charges perhaps do not realise that they were making very serious charges against the Honourable the Judges of the High Courts.

These, Sir, are one or two points in connection with the details that have been brought up by various Honourable Members. I do not wish to occupy the time of the House too long but I should like, in addition to these questions of facts and figures and details, to protest against the line that was taken by my Honourable friend from Sind, Mr. Lalchand Navalrai, in his discourse on what he is pleased to call the fundamental principles of justice. Well, we have all heard Mr. Lalchand Navalrai talk about fundamental principles many times. He always manages to find fundamental principles in everything.

Mr. Lalchand Navalrai: Is that bad or unconstitutional?

Mr. F. B. Leach: I do not say that it is bad or unconstitutional. What I do say is that in this case it is entirely irrelevant. (*Laughter.*) There is no fundamental principle of justice whatever, involved in this Bill. The question of special power magistrates is one of administrative practice

[Mr. F. B. Leach.]

and administrative convenience, and that is all. It is not a question of the fundamental principles of justice. There is absolutely nothing sacred in the period of two years which is the maximum imprisonment which a first class magistrate can inflict, and there is nothing essentially profane in the period of seven years which a special power magistrate is empowered to inflict. These two periods are matters of administrative routine and that is all.

An Honourable Member: What would you say if you were an accused?

Mr. F. B. Leach: If I were in the dock, I would like to be tried by an honest man (*Cries of "Hear, hear"*), and I should not mind whether the maximum sentence of imprisonment that he was empowered to give was two years or seven years or transportation for life. It would not interest me in the least.

An Honourable Member: What about the jury system?

Mr. F. B. Leach: I am not so frightfully struck with the jury system as the Honourable Member on my right seems to think. The jury system is a very interesting relic of English law, but I am not so very much struck by it. I have often thought that I would much prefer to be tried by a judge with experience, honesty and knowledge of law without a jury than to be tried by 12 comparatively ignorant shopkeepers, etc. (*Laughter.*) I do not set so much store by the jury system as all that.

Then, Mr. Lalchand Navalrai regaled us with a good deal of talk about "equality of justice to all people".

Mr. Lalchand Navalrai: Tried for the same offence.

Mr. F. B. Leach: I should very much like to know what he means by that. Personally I do not understand it. It seems to me that if you are going to give equal justice to all people, then you should give everybody the option of being tried by a jury, however trivial the offence with which he is charged. Does Mr. Lalchand Navalrai seriously propose that a small boy caught stealing a pice worth of betel-nut from a roadside stall should be solemnly tried and committed by one Court and then tried by a Sessions Judge and a jury?

Mr. Lalchand Navalrai: If he is sent up as a habitual offender.

Mr. F. B. Leach: That is, the first time he is tried for an offence, he is going to be tried by a corrupt magistrate and the second time he is going to be tried by a jury. It is quite an ingenious theory, but I cannot say it carries much conviction with me. Personally I think the first offender wants honest justice more than anybody else. He is not so clever at defending himself as a habitual offender.

Mr. Lalchand Navalrai: I should like all such corrupt magistrates to go.

Mr. F. B. Leach: Mr. Lalchand Navalrai would like all magistrates to be done away with and all accused to be tried by Sessions Courts. I am very glad I have extorted that admission from him. Would Mr. Lalchand

Navalrai now like to sit down and work out what the cost of that would be to the taxpayer? It would be very interesting to know. It would not run into the lakhs which Mr. MacDougall talked about this morning, but into several crores. Also, of course, there would be nothing else for anybody in the country to do except to be connected with the Courts in some way or other. (Laughter.) I hardly think that is practicable. Now, Sir, for goodness sake, let us cut out all this high-flown talk about fundamental principles of justice (Laughter); and let us realise that what we are discussing in this Bill is the administrative practice of giving certain magistrates in this country powers to inflict sentences, not up to two, but up to seven years, without committing them for trial by a Sessions Judge. Now, as has been pointed out—I hoped that it would not be necessary for anybody else to point it out—so clearly this morning, in the first place, this would mean an enormous extra expense. In the second place, in order to get these Additional Sessions Judges, you would have, in practice, to promote a large number of your people who are now special power magistrates. All you would be doing really would be to have your cases tried by exactly the same class of men receiving a higher rate of pay and doing once again work which had already been done in the Committal Courts. You would not be getting a higher class of justice by that. If juries were in existence all over India, then there would be some logic in saying that you would like to have every case tried before a jury, but as the jury system only exists in a very small number of places in India, and as everybody knows that a judge is not bound by the opinions of assessors, it is really not going to make very much difference in practice to have a case tried by a Sessions Judge or to have it tried by a special power magistrate: and, as long as these special power magistrates are carefully selected,—selected for their knowledge of the law and for their good reputation and experience—I do not see that we are justified in the enormous extra expense which would be entailed by the provisions of this Bill.

There is one other thing which I should like to mention before I sit down. This is the old charge levied against magistrates that they never get promotion unless they convict everybody sent up for trial. I have been a District Magistrate for a good many years, and my experience is not that at all. (Interruption). I am talking from my experience. I was in Government service, I have been a District Magistrate, and I have experience from which I can speak. My experience, and as I know the experience of many other officers in Government service, is that the subservient type of magistrate who thinks of nothing but his own promotion is far more inclined to acquit than to convict in cases where he has a doubt, because he knows that if he acquits, the odds are that the case never attracts the attention of any superior Court. The moment he convicts, there is an appeal, and there is a very fair chance that the magistrate will have his conviction set aside.

Mr. S. Satyamurti (Madras City: Non-Muhammadan Urban): Is it not dishonest?

An Honourable Member: Is it honest?

Mr. F. B. Leach: I do not say that it is honest or dishonest . . .

Mr. President (The Honourable Sir Abdur Rahim): Let the Honourable Member finish his speech.

Mr. F. B. Leach : But I do not believe in this theory of the prevalence of subservient magistrates who convict everybody, right and left, evidence or no evidence. We must remember that there are appeals and serious cases go on appeal to the Sessions Judges, not to District Magistrates. Afterwards, the High Court can call for them on revision, and the High Court does keep a very careful eye on all magistrates who are constantly having their cases upset by Sessions Judges. Those who have their convictions reversed are, of course, the men who convict on insufficient evidence. Therefore, it stands to reason that a man is not going to better his chances of promotion by convicting everybody who is sent up for trial. He is more likely to get his promotion by letting a man off in a case of doubt and taking very good care to see that the case does not go to the Sessions Judge, and that is what happens.

I do not wish to occupy any more time of the House, but I should like to ask Members before they decide on this question to consider that it is a question of administrative practice which does not really involve any fundamental principles of justice. (Applause.)

The Honourable Sir Henry Craik : Sir, the foundation on which this Bill rests seems to me to be so flimsy and to have been so completely demolished by the speakers this afternoon—notably by the two Honourable Members from Burma—that there is really very little left for me to pull down, but I would like to give it at least a decent burial. It seems to me, Sir, that the objections to this Bill are briefly this: In the first place, there is no proof whatever that there is any popular demand for it in any of the four provinces affected. There were no speakers who even asserted that, though I believe one did say that popular opinion as represented in the Bar Libraries is in favour of it. That I can well understand, but that popular opinion as reflected anywhere else has ever made any gesture or demonstration in favour of this measure is, to the best of my belief, entirely incorrect. I myself have been a Member of the Legislative Council for 12 or 14 years in a province which will be affected by this Bill, and I never remember the question being raised in any form whatever. Now, Sir, we are on the eve of the grant of Provincial Autonomy to the Provinces. It is proposed by this measure to push on to four Provinces and part of another a measure which will certainly cost them a great deal of money. Mr. Lalchand Navalrai denies that, but as usual, he is as inaccurate in his facts as in his law, (Laughter.) It will cost a great deal of money to push on to them this measure for which there is no demand whatever and on which at any rate they might be given an opportunity of coming to a decision themselves. I can see no justification whatever for this Assembly, merely on the ground of certain abstract principles, insisting on these provinces, all of which are poor and some of which are definitely deficit provinces, incurring the large expense which would be involved by the adoption of this measure.

Now, Sir, in whose interests is this Bill brought forward? I think it will be agreed that it is not in the interests of witnesses in these cases. They will surely prefer to have to appear only once in Court, but if the Bill becomes law they would have to appear throughout the committal proceedings and then make a possibly long journey to a distant place to appear in the Sessions Court. It is claimed that it is in the interests of the accused. There is no evidence of that whatever and that statement

is denied and reasons given for that denial not only by the Local Governments concerned, but by the High Courts in every one of the provinces concerned. I will refer to that again. You leave out the witnesses and you leave out the accused. Who remain? The lawyers. It is significant that everyone of the speakers in favour of this measure today, with possibly one exception, has been a lawyer. My experience—and it is considerable—of lawyers' amendments of the law is generally that they are not in the direction of simplicity. The motives for that are fairly obvious.

We have had many attacks on the magistrates who exercise enhanced powers and these have been met very ably by the speaker from Burma who has just sat down, but I would like to reinforce his rebuttal of those attacks by quoting the opinions of some of the High Courts concerned; and I would also like to endorse what was said during the course of Mr. Leach's remarks that if you condemn the magistrates and their work, you condemn by implication the High Court that selects them for these powers, because in every case, so far as I am aware, the selection is made by a definite act of the High Court, on a careful examination of the individual magistrate's record and character. Now, let me quote the opinion of a High Court Judge of Lahore—an Indian and a lawyer, more eminent than any lawyer who has spoken this afternoon, a lawyer with a very long experience especially on the criminal side. He points out that if you abolish these section 30 magistrates, the Assistant Sessions Judges, who will have to be appointed, will be men drawn from exactly the same class, and the only result will be that you will impose an additional burden on the provincial exchequer without any practical result. The proposal embodied in this Bill is in his opinion "alike useless and impolitic." Under the present system, he goes on: "no magistrate is invested with enhanced powers until he has proved his worth and the High Court exercises a careful and effective check on the choice." That statement was agreed in by every single High Court Judge and, I think, I am right in saying there were fourteen of them. . . .

Mr. M. Asaf Ali (Delhi: General): Who is this Judge? What is his name?

The Honourable Sir Henry Craik: Mr. Justice Din Muhammad, a very eminent judge. I will now turn to another province affected by this Bill—Bihar and Orissa. The Honourable the Judges of that High Court go even further: they say: "Without any possibility of contradiction that the present system is working very well indeed both as regards expeditious disposal and convenience to the parties and correctness of decision". That is another point to which I shall refer again: "It cannot be denied that there is sometimes a weak magistrate"—this is particularly significant—"but even the work of that weak magistrate is superior to that of the corresponding Assistant Sessions Judge." "In fact the work of these officers is uniformly superior to the work of Assistant Sessions Judges." That is the opinion in which the whole of the High Court concurred. Now, how can you defend this measure after hearing what the High Courts have got to say on the point? . . .

Mr. M. Ananthasayanam Ayyangar: Abolish the Assistant Sessions Judges?

The Honourable Sir Henry Craik: A special investigation was held by the High Court into the working of the system in one district—the Sonthal Parganas—and it showed that the work was performed very satisfactorily, that the work of magistrates exercising these enhanced powers was much superior to the work which would have been done after a long delayed trial by an Assistant Sessions Judge. You may, of course, say that that is a matter of individual opinion. But let me examine for a moment how the work of these magistrates stands the test of appeal. You may say of course a lot of their appeals go to the Sessions Judge and only a proportion of them to the High Court. I will accordingly confine my examination to those appeals that come before High Courts. I find that in the Punjab the percentage of successful appeals in the High Court has in every one of the last five years—I have not got longer figures than that—been lower in the case of section 30 magistrates than in the case of the Sessions Judges. In every one of those years, a higher proportion of Sessions Judges' decisions was reversed by the High Court than the decisions of these special magistrates.

I find in Burma exactly the same thing. Sessions Judges' appeals, wholly or partially successful, are 20 per cent. (Interruption.)—I know it is a very unpalatable truth, but these figures speak for themselves.

An Honourable Member: Very palatable to the Sessions Judges!

The Honourable Sir Henry Craik: In Burma, in Sessions Judges' appeals, 20 per cent. are successful, either wholly or partially. The corresponding figures in appeals from special magistrates is 14 per cent., a very substantial difference. In Bihar, exactly the same condition prevails. In the last year only ten per cent. of appeals from special magistrates before the High Court were successful, whereas in the case of Sessions Courts the percentage of successful appeals was 32 per cent. That is the statistical justification for the view held by the High Court Judges, and unanimously held by all of them, that the work of the special magistrates is better as regards expedition, and correctness of decision, than the work of the Sessions Judges. In the North-West Frontier Province exactly the same thing occurs, though there the difference is not so marked. The figure for successful Sessions Court appeals is 40 per cent., for magistrates' appeals 36 per cent. That seems to me completely to knock the bottom out of the case of those who say that the justice administered by these magistrates is less fair to the accused than the justice administered by the Sessions Courts.

Now, as regards expense, one or two speakers have said that there will be no expense involved; I think the protagonist of that view was, as usual, Mr. Lalchand Navalrai.

Mr. Lalchand Navalrai: I still say it as regards Sind.

The Honourable Sir Henry Craik: I gather that in his province Sessions Judges are so lightly worked that they are able to take on a large extra burden of work. In Sind, it may be very small; in other provinces, it is not. In the Punjab, the number of cases disposed of by special magistrates in 1933, the last year for which I have figures, was 3,414. These cases lasted on an average for 49 days as compared with

61 days in the Sessions Courts. I believe that the 61 days are counted from the date of the committal order, so that you may take it that each of these cases when decided by a magistrate, lasts just about half the time that a case tried in the Sessions Court lasts from beginning to end. The number of cases is 3,400 roughly, and to dispose of that, I take it that more than one Additional Sessions Judge per district,—that would be at least 85 to the province as a whole,—would be required. There would be no relief to the Magistracy, because they would still have to do the committal stage. The expenditure would inevitably, even leaving aside the question of buildings, come to several lakhs a year, because in addition to the pay of the judges and their establishments, you would have to keep the accused in custody for a much longer time, you would have to supply escorts for them and so on. In the North-West Frontier Province, the number of cases tried is even higher, that being a province where violent crime is particularly common. The Judicial Commissioner has calculated that for that province, a deficit province, which will have to receive a heavy subvention from the Centre, at least three more Sessions Judges would be required if this Bill passes into law, and it would involve an expenditure of three-fourths of a lakh on their pay and establishments alone. Sir, it is idle to pretend that this Bill will not involve heavy expenditure. It must inevitably do so, and, as I say, the effect of this measure will be, even without consultation with the provinces, to push on to them a change for which they have not asked, which popular opinion has not demanded, and which will cost the Taxpayer a great deal of money, I, therefore, see no justification for such a measure. For these reasons, Sir, Government must oppose this Bill, and they propose to do so at every stage. The motion before the House at the moment is one for circulation only. I have no particular objection to circulation, but I have little doubt what the result of it will be, and I want to make it perfectly clear that if we do not insist on dividing the House on circulation, that does not imply that at every later stage we shall not oppose the Bill.

Mr. President (The Honourable Sir Abdur Rahim): The question is:

“That the Bill further to amend the Code of Criminal Procedure, 1898 (Amendment of sections 30, 34, 34A and 35), be circulated for the purpose of eliciting opinion thereon.”

The motion was adopted.

THE REPRESSIVE LAWS REPEALING AND AMENDING BILL.

Mr. S. Satyamurti (Madras City: Non-Muhammadan Urban): Mr. President, I rise to move:

“That the Bill to repeal and amend certain Repressive Laws be referred to a Select Committee consisting of Mr. Bhulabhai J. Desai, Mr. Sham Lal, Mr. M. Asaf Ali, Maulana Shaukat Ali, Mr. H. A. Sathar, H. Essak Sait, Pandit Lakshmi Kanta Maitra, Mr. George Morgan, Mr. A. S. Hands, Mr. W. V. Grigson, the Honourable Sir Henry Craik, the Honourable Sir Nripendra Sircar and the Mover, and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five.”

[Mr. S. Satyamurti.]

Sir, I gave notice of this Bill towards the end of the year 1934 when I was elected to this Assembly, and it has come up early in 1936. I think, Sir, that is a fair index of the progress we are able to make in this House, with regard to non-official Bills. But I have very great pleasure, Sir, in making this motion, and I hope I shall have the indulgence of yourself and of this House, when I try to place before this House the reasons why, I think, this Bill should be referred to a Select Committee. If Honourable Members will kindly look at my Bill, they will find, Sir, it seeks first to amend section 124A of the Indian Penal Code, the prince among the repressive sections, as Mahatma Gandhi called it in his famous trial before the Ahmedabad Magistrate. It also seeks to amend, Sir, section 144 of the Code of Criminal Procedure which has been used, or shall I say, abused by magistrates for almost any purpose and against the public, especially during the days of the non-co-operation movement; and it also seeks, Sir, to repeal a number of Acts stated in the Schedule, ranging from 1818 to 1932. These are only some of the laws which disfigure our Statute-book; but there is one common element behind all these Statutes which I have mentioned in the Schedule, and that is, they are all based upon a distrust of the judiciary as such. They are all based upon a desire to urn the executive with the exercise of powers which shall not be questioned anywhere, and they all offend against the elementary canons of the supremacy of law and of the freedom of the citizen. In my Statement of Objects and Reasons, Sir, I state:

"We are supposed to be on the eve of great constitutional changes taking us towards Responsible Government. Responsible Government implies the right of all citizens, and especially of minorities, to express their opinions freely, and the recognition of their fundamental rights to freedom of person and property. At present, there exist in the Statute-book in this country various laws which are inconsistent with the fundamental rights of the citizens."

And I conclude, Sir, by saying:

"It is necessary to inaugurate a democratic form of Government in this country, by a clear recognition of the fundamental rights of its citizens to ordinary freedom of person and expression of public opinion, where it does not come into conflict with the lives of citizens, or the tranquillity of the State. Several attempts have been made in the past for repealing these laws, but so far they have not been successful. It is high time that these laws are removed from the Statute-book. Hence this measure."

Now, Sir, my Honourable friend, the Home Member, who spoke on the last Bill, stated that we were on the eve of Provincial Autonomy and that, therefore, we ought not to make any changes in the criminal law of the land which will add to the expenditure of these provinces, especially some of which are deficit provinces. I venture to put it to him and to this House, Sir, that, so far as my Bill is concerned, it does not seek to put any extra charge on the revenues of any province. On the other hand, Sir, it will tend to save the revenues of the provinces by discouraging Local Governments from indulging in frivolous prosecutions for sedition, by restraining magistrates from passing unjust and arbitrary orders under section 144, and, generally by encouraging people to live as free men entitled to their freedom, subject only to that freedom being taken away from them by an order of a Court, after a judicial trial. Sir, taking the Government of India Act itself, you will find that the concern of law and order which today is with the Honourable the Home Member, is hereafter to be transferred to Ministers. In every province, there is going to be a Council of Ministers to aid and advise the Governor

in the exercise of his functions, except in so far as he is, by, or under the Government of India Act, required to exercise his functions or any of them in his discretion. The only responsibility which the Governor will have as Governor will be the prevention of any grave menace to the peace or tranquillity of the province or any part thereof. Subject to that safeguard, the contemplation of this Act is to create, in the eleven provinces which will come into existence some time next year, a system of government under which responsible ministers, elected by large electorates and responsible to a wholly elected House, shall be entirely responsible for the preservation of law and order in their provinces. And I want to assure this House that, even if some of them believe that the repeal or amendment of these laws may create a situation which may menace the peace or tranquillity of the provinces, the authors of this Act have provided even for that contingency. In section 57 of the Act, they give ample power to Governors of provinces to take action against people who are supposed or are believed to be contemplating crimes of violence intended to overthrow Government, and the Governor, then, irrespective of his ministers, has ample powers. Therefore, there is no point in the argument that the repeal or amendment of these laws will leave the provinces helpless in the face of real violence or disorder.

On this question, as you may remember and the House may remember, that is, the question of transfer of law and order, there was a
4 P.M. great deal of agitation both in this country and in England; and it was not without hesitation that the Joint Parliamentary Committee, which went into this question, recommended the transfer of law and order. In so recommending, they said:

"We find ourselves unable to concede a Government to which the quality of responsibility could be attributed if it had no responsibility for public order. In no other sphere has the word 'responsibility' so profound and significant a meaning, and nothing will afford Indians the opportunity of demonstrating more conclusively their fitness to govern themselves than their action in this sphere. From one point of view, indeed, the transfer of these functions to an Indian minister may be in the interests of the police themselves, whom it will no longer be possible to attack, as they have been attacked in the past, as agents of oppression acting on behalf of an alien power. But we prefer to base our conclusion upon the broader grounds indicated above."

And, therefore, they have recommended the transfer of law and order in the provinces. Now, as I read the Government of India Act, I see that, in the new Constitution, law and order, except probably in what are called centrally administered areas, will no longer be the concern of this Government. I, therefore, respectfully invite the Honourable the Home Member to agree to this motion. After all, law and order are going to be the concern of Provincial Ministers in responsibly governed provinces. Why not trust them to deal with the law and order in their own provinces without the help of these weapons? (Interruption by the Honourable Sir Nripendra Sircar.) My Honourable friend interjects. He says: "I am thinking of myself." Probably, I am. Therefore, why burden me with these Acts? Why not let us rule our own provinces in the best interests of our own people? I hope that my Honourable friend who was a non-official till the other day,—I do hope that the Honourable the Law Member will occasionally remember, he may come back to these Benches. There is no use imagining that two years have made him a permanent bureaucrat. It is all right for his colleagues, they are born, they live and die as bureaucrats; but he and I have got a non-official life *behind* us, he and I have got a non-official life *before* us, and I would, therefore, suggest that he should

The Honourable Sir Nripendra Sircar (Law Member): You will change completely when you become a Minister.

Mr. S. Satyamurti: Well, if I do so, I shall err in excellent company, but I think I have got sufficient warning in the example of my Honourable friend, the Law Member.

An Honourable Member: We won't allow him to change.

Mr. S. Satyamurti: As my Leader reminds me, I am prepared to change if the Honourable the Law Member will change into a Congressman. I will pay that price, in order to get the Law Member into the Congress ranks. But I do want to lift my Honourable friend to a higher plane, if I may. What does it matter if I change? The eternal laws of the world will not change. A traitor here, a traitor there cannot affect the fundamental laws of humanity and justice. It seems to me idle, if not irrelevant, to suggest that I will change, and, therefore, this Government cannot be wrong. I promise him I will not change. I belong to an organisation which has shown its grit in spite of terrible oppression, and to go on suggesting in this cheap sneering way that people move these motions here will change when they go to that side, and, therefore, we are not right, is not worthy of a gentleman who hopes to lead this House. I suggest to him to occasionally lift himself out of this petty and pettifogging arguments, and why not try occasionally to be great and generous?

Mr. President (The Honourable Sir Abdur Rahim): The Honourable Member appears to be getting too personal.

The Honourable Sir Nripendra Sircar: I do not mind in the least. (Laughter.)

Mr. S. Satyamurti: I had great provocation, but I will pass on to the next point.

The Honourable Sir Nripendra Sircar: Let him go on a little.

Mr. S. Satyamurti: I feel I need not go on any more, because it has no effect on him, so I will pass on to the next subject. I had greater hopes of him.

Now, Sir, my Honourable friend, the Home Member, in opposing the last motion, although he did not challenge a division, was very emphatic that public opinion was not in favour of the Bill of my Honourable friend from the Punjab. I want to put it to him that we, who represent public opinion in this House, are entirely in favour of the changes contemplated in my Bill. I challenge him to deny that statement, and if he denies it, I ask him to find out from any relevant source of public opinion and state to this House that I am wrong and that he is right.

The Honourable Sir Henry Craik (Home Member): Does the Honourable Member claim that he is the sole representative of public opinion?

Mr. Satyamurti: I am a much better representative than all the occupants of the Front Treasury Bench.

The Honourable Sir Henry Craik: Than all the occupants of the other Benches?

Mr. S. Satyamurti: The occupants of the Benches behind my Honourable friend are his own creatures, and represent nobody but themselves; and, as for the other Members of the House, a consistent majority has been on this side of the House against all repressive legislation. My Honourable friend knows it. Ever since this House came into existence, we have given them proof after proof, but none, so blind as those who have eyes and will not see.

The Honourable Sir Nripendra Sircar: Not on the last occasion!

Mr. S. Satyamurti: So far as public opinion is concerned and this House is concerned, there can be no doubt whatever that in this country there is an insistent public opinion that these repressive laws should go. There can be no doubt. Will my Honourable friend come with me and address any public meeting and get a vote in favour of his opposing this Bill? How else can you ascertain public opinion? That is the only way.

An Honourable Member: Even the Aman Sabha won't do it.

Another Honourable Member: Not even in Chiefs' College.

Mr. S. Satyamurti: Now, Sir, I take section 2, I mean clause 2 of my Bill; it is not yet a section, I hope it will be soon. Clause 2 reads:

"In section 124-A of the Indian Penal Code:

'(a) after the word 'whoever' the words 'with the intention of promoting physical force or violence or public disorder' shall be inserted."

Section 124A reads as follows:

An Honourable Member: They know it by heart!

Mr. S. Satyamurti:

"Whoever, by words, either spoken or written, or by signs, or by visible representation or otherwise, brings, or attempts to bring, into hatred or contempt, or excites, or attempts to excite, disaffection towards Her Majesty or the Government established by law in British India, shall be punished with transportation for life or any shorter term."

With my amendment, it will read:

"Whoever, *with the intention of promoting physical force or violence or public disorder*, by words either spoken or written," etc.

The effect of the amendment is this, "that no mere words which merely bring into hatred or contempt the Government established by law in India or excite or attempt to excite disaffection towards the Government established by law in British India will make the person come within the mischief of this section. With the amendment, a man will commit an offence under this section, if his intention is to promote physical force or violence or public disorder. I admit the well-known interpretation of the word 'intention' that a man must be presumed to know the natural consequences of his words, and, therefore, if the natural meaning of a man's words is that he has the intention of promoting physical

[Mr. S. Satyamurti.]

force or violence or public disorder, he shall be guilty of the offence of sedition." The sedition section has a fairly long history. Lord Macaulay originally drafted it as section 113 of the Code, but curiously enough it was not found in the Code, as originally passed in 1860. Later on, it came in as 124A in 1870. That was the subject of interpretation, as you know and as Honourable Members know, in a series of well-known cases, the Bangabasi case and the Tilak case; and, as a result of all those cases, the section was redrafted in 1898, and in the words of Sir James Stephen, "as substantially representing the law of England of the present day, though much more compressed and more distinctly expressed"! In comparing the old and the new sections, you will find there are only two main amendments. In the original section, the words were "whoever by words either spoken or intended to be read". In the amended section, it is "either spoken or written"; but the main difference is in the *Explanation*. The original *Explanation* was:

"Such a disapprobation of the measures of the Government as is compatible with a disposition to render obedience to the lawful authority of the Government and to support the lawful authority of the Government against the unlawful attempts to subvert or resist that authority is not disaffection. Therefore the making of comments on the measures of the Government with the intention of exciting only this species of disapprobation is not an offence within this clause."

This *Explanation* was redrafted, as three *Explanations* in the amended section.

Explanation I.—The expression "disaffection" includes disloyalty and all feelings of enmity.

Explanation II.—Comments expressing disapprobation of the measures of the Government with a view to obtain their alteration by lawful means without exciting or attempting to excite hatred, contempt or disaffection do not constitute an offence under this section.

Explanation III.—Comments expressing disapprobation of the administrative or other action of the Government without exciting or attempting to excite hatred, contempt or disaffection do not constitute an offence under this section.

Honourable Members will notice that the psychological distinction which was made in the original *Explanation*, namely, a disposition compatible to render obedience to the lawful authority of the Government against unlawful attempts to subvert or resist that authority, is not found in the amended *Explanations*; but, Sir, as I shall presently show, the effect of the amendment of the *Explanation* is not very much. Before I do so, I want to quote before the House the definition of Sedition by Chief Justice Petheram in the famous Calcutta case:

"Disaffection means a feeling contrary to affection, in other words, dislike or hatred. Disapprobation means disapproval. It is quite possible to disapprove of a man's sentiment or action and yet to like him. If a person uses either spoken or written words calculated to create in the minds of the persons addressed a disposition not to obey the lawful authority of the Government or to subvert and resist that authority, if and when occasion should arise, and if he does so with the intention of creating such a disposition in his hearers or readers he will be guilty of the offence of attempting to excite disaffection within the meaning of this section, though no disturbance is brought about by his words and no feeling of disaffection has been in fact produced by him. It is sufficient for the purposes of the section that the words which are used are calculated to excite feelings of ill-will against the Government and to hold it up to the hatred and contempt of the people and that they were used with the intention to create such a feeling."

Then, Sir, the next and the most important case was that of *Rex v. Bal Gangadhar Tilak, Lokamanya Tilak*, and there Justice Strachey in his summing up to the jury quoted the words of Chief Justice Petheram and said:

"Disaffection means hatred, enmity, dislike, hostility, contempt and every form of ill-will to the Government. Disloyalty is perhaps the best general term bringing in every possible form of bad feeling to the Government. That is what the law means by the disaffection, which a man must excite or attempt to excite. He must not make or try to make others feel enmity of any kind towards the Government."

[At this stage, Mr. President (The Honourable Sir Abdur Rahim) vacated the Chair which was then occupied by Mr. Deputy President (Mr. Akhil Chandra Datta).]

I am reading that part of the summing up of Justice Strachey, in order to show how wide and comprehensive the meaning of the word "disaffection" is. You will observe these words are important. You will observe that the amount of disaffection is absolutely immaterial, except perhaps in dealing with the question of punishment. If a man excites or attempts to excite feelings of disaffection, great or small, he is guilty under the section. In the next place, it is absolutely immaterial whether any feelings of disaffection have been excited or not by the publication in question. It comes to this that, if a man says something which may in some remote contingency create some small ill-feeling against the Government,—it does not matter how small it is, it does not matter whether it was actually created or not,—the man is guilty of sedition. That is the position here expounded by a judge authoritatively; and, coming to the *Explanation* which seeks to protect what are called expressions of disapprobation of Government measures as opposed to Government as an entity, the learned Judge proceeded to sum up as follows:

"Its object is to protect from the condemnation pronounced by the first clause certain acts which it distinguishes from the disloyal attempt with which the first clause deals. The next and the most important point that you have to bear in mind is that the thing protected by the explanation is the making of comments on the measures of Government with a certain intention. This shows that the explanation has a strictly defined and limited scope. Observe it has no application whatever, unless you come to the conclusion that the writings in question can fairly and reasonably be construed as the making of comments on the measures of the Government. It does not apply to any sort of writing except that. It does not apply to any writing which consists not merely of comments upon Government measures but of attacks upon the Government itself."

I pause there. I can criticise the Press Act. I can criticise the Criminal Law Amendment Act; but if I say that the Government which enacted the Criminal Law Amendment Act is a bad Government, I come within the mischief of this section. The Judge goes on:

"It would apply to any criticisms of legislative enactments such as the Epidemic Diseases Act or any particular tax or of administrative measures, such as the steps taken by the Government for the suppression of plague and famine. But if you come to the conclusion that these writings are an attack not merely upon such measures as these, but upon the Government itself, its existence, its essential characteristics, its motives, or its feelings towards the people, then you must put aside the exception altogether, and apply the first clause of the section."

I put it to my Honourable friends who are experts in human psychology, as to how any man who criticises Government action, unless he can perform this tight rope dance, can criticise it and say it is entirely

[Mr. S. Satyamurti.]

wrong and yet say that the men who did this act are angels and are not liable to be criticised. Unless I perform the impossible intellectual feat that the Government which passes bad laws, which imposes unjust taxes, which spends extravagantly is above all criticism, as such, that it is a perfect Government, and it is only as a lapse of mind that they have done these things, I come within the mischief of this section. I put it to my friends whether it is right that there should be on the Statute-book of this country a law which compels me, especially in the broadening days of provincial autonomy, to constantly profess my love towards the Government while merely criticising its measures, legislative, financial or administrative. Then, Sir, the Judge goes on:

"He (the critic) may express the strongest condemnation of such measures"—that is, Government measures—"and he may do so severely, and even unreasonably, perversely, and unfairly. So long as he confines himself to that, he will be protected by the section. But if he goes beyond, and, whether in the course of comments upon measures or not, holds up the Government itself to the hatred or contempt of his readers, as, for instance, by attributing to it every sort of evil or misfortune suffered by the people, or by dwelling adversely on its foreign origin or character. . . . then he is guilty under the section and the explanation will not apply."

Then, of course, there is a second limitation. In this connection, he said:

"It (the quality of the disapprobation) must be compatible with a disposition to render obedience to the lawful authority of the Government and to support the lawful authority against unlawful attempts to subvert that authority."

That part is not now part of the section, as it stands, and I will not, therefore, dwell on that. The Lokamanya's case went up to the Privy Council, and they declined to interfere.

Now, Sir, it may be argued that the amended section makes the expression used by Chief Justice Petheram and Mr. Justice Strachey no longer applicable; but, on that matter, I have the strong authority of John D. Mayne, who says:

"The amended section was based with reference to all these decisions and seems to have been framed with a view to maintain the construction which had been put on the earlier section, by introducing words in accordance with that construction, and excluding all ambiguous phrases."

I, therefore, maintain that today, as the law stands, on the authority of this great commentator, and also, as I shall show presently, in the light of the case law since the amendment, those pronouncements are opposite even today, because these words have been framed with a view to maintain the construction which had been put on the earlier section by introducing words in accordance with that construction:

"The changes in the wording of the principal section and *Explanation 1* make clear what was meant by disaffection. *Explanations 2 and 3* make equally clear what is the subject-matter against which political disapprobation may be aroused, and what are the limitations within which such disapprobation must be confined. The highly metaphysical description of disapprobation which is consistent with a disposition to support the Government in doing the things which you disapprove is wisely left out. But all attempts, whether open or disguised to make the people hate their rulers and to impair the confidence imposed by the public in the Government is sought to be brought within the section."

These are the words of Mayne. That is the position, Sir, so far as section 124A as defined in the Indian Penal Code stands. Now I want to give the House rapidly, in order to justify my attempt to amend this law as I seek to amend it, a reference to the English law on the subject. The English law of sedition is stated succinctly by the Earl of Halsbury in the Laws of England, Volume IX, sections 901 and 902:

"Every person is guilty of the common law misdemeanour of seditious conspiracy who agrees with someone else (not being his or her wife or husband), to do any act for the furtherance of a common seditious intention; for example, to hold a meeting for the purpose of disturbing the public peace or of raising discontent and disaffection or exciting hatred and contempt of the Government."

Then, Sir,

"Every person is guilty of the common law misdemeanour of seditious libel if, with seditious intention, he either speaks and publishes any words or publishes a libel. The freest public discussion, comment, criticism and censure, either at meetings or in the Press, in relation to all political or party questions, all public acts of the servants of the Crown, all acts of the Government, and all proceedings of courts of justice are permissible, and no narrow construction is to be put upon the expressions used in such a discussion, but the criticism and censure must be without malignity, and must not impute corrupt or malicious motives."

Then, Sir, I want to read just one or two cases which are summarized here and to refer to one of the reported cases. One case is to be found in the note on page 461, and this is the judgment there under (s) there:

"If the words whether written or spoken have a direct tendency to cause unlawful meetings and disturbances and to lead to a violation of the laws, they are seditious. as the defendant will be taken to have intended the natural consequences of what he has done." (R. V. Lovett.)

The House will notice, Sir, that the wording of my amendment is almost the same, that is to say, the words that are written or spoken should have a direct tendency to cause unlawful meetings and disturbances, and to lead to a violation of the laws. The other case referred to here is *Rex. vs. Sullivan*, and I owe this volume to the courtesy of my Honourable friend, the Legislative Secretary, who has kindly let me it; and I just want to read a few passages from the summing-up of the Judge there to the Grand Jury in the first instance, and then to the Jury, in order to show how the law of sedition stands in England, and how my attempt is merely to approximate the law here in this country as much as possible to that law:

"Sedition is a crime against society, nearly allied to that of treason, and it frequently precedes treason by a short interval. Sedition in itself is a comprehensive term, and it embraces all those practices, whether by word, deed, or writing which are calculated to disturb the tranquillity of the State, and to lead ignorant persons to endeavour to subvert the Government and the laws of the empire. The objects of sedition generally are to induce discontent and insurrection, and to stir up opposition to the Government and bring the administration of justice into contempt; and the very tendency of sedition is to incite the people to insurrection and rebellion. Sedition has been described as disloyalty in action, and the law considers as sedition all those practices which have for their object to excite discontent or disaffection, to create a public disturbance, or to lead to a civil war; to bring into hatred or contempt the sovereign or the Government, the laws or the constitution of the realm and, generally, all endeavours to promote public disorder."

Then, Sir, when the case came on for trial, in his summing-up the Judge stated this:

"There is in this country a perfect freedom of the Press, and to many of the passages in these publications about the downtrodden condition of the country the present answer is that there exists a free Press and where that exists liberty must

[Mr. S. Satyamurti.]

coincide with it. When you come to consider what a journalist may do, I have to point out that a journalist may and indeed it is his duty to canvass and censure acts of the Government of the State. He is free to discuss their acts and their public policy and he may canvass, and, if he thinks proper, censure the acts of the Government and Ministers and above all he is invited to consider what is of the greatest importance,—the administration of the law."

Then, Sir, as regards this definition of agitation for the redress of grievances, apart from attempts to create disaffection against Government, the learned Judge has relevant comments:

"I concur with the Counsel for the defendant that if the law of libel was carried out in the full strictness of its letter, it would materially interfere with the freedom of the Press. Hence a great deal depends upon the forbearance of Government, the discretion of Judges, and above all, on the protection of juries. For instance, it is open to the community and to the Press to complain of a grievance. Well, the mere assertion of a grievance tends to create discontent which, in a sense, may be said to be seditious."

My complaint is that in this country, as the section stands and as the case law stands, the mere assertion of a grievance has been held to create disaffection, and therefore, to be seditious. The Judge goes on:

"But no Jury, if a real grievance was put forward and its redress *bond fide* sought, although the language used may be objected to,—no jury would find that to be a seditious libel. It might be the province of the Press to call attention to the weakness or imbecility of a Government when it was done for the public good."

As the law stands in this country, I cannot call attention to the weakness or imbecility of this Government outside this House even for the public good, without coming within the mischief of section 124A:

"How grossly that trenches on the law of sedition; and yet such writing when *bond fide* would receive protection from a jury. Therefore you are at liberty to look to the surrounding circumstances," etc.

That was the summing-up of the Judge to the Jury.

Then, Sir, it goes on:

"You should recollect that to public political articles great latitude is given. Dealing as they do with public affairs of the day, such articles, if written in a fair spirit and *bond fide*, often result in the production of great public good. Therefore, I advise and recommend you to deal with these publications in a spirit of freedom, and not to view them with an eye of narrow criticism."

Along with the same case, there is another case reported. *Rex. vs. Richard Pigott*. There also, the Judge, summing-up, mentions the law of seditious libel:

"You all know the powerful effect that newspapers have had in the overthrow of Governments, and Governments have a right to protect themselves from attempts to overthrow them, and it is the duty of loyal people to aid them in that purpose. In this country, the only power that Government has is to bring the newspaper writer before a jury. I trust that the necessity for strong measures will never arise. Jurors have too much interest in the freedom of the press to sanction any encroachment upon that freedom, and they ought to give the greatest latitude to any writing brought before them."

I think this ought to show to the Honourable House that, so far as the law in England is concerned, there is no doubt that as it is administered and I grant that in the mere statement of it, there are the

words "creating disaffection", but so far as the actual administration is concerned, people's words are held to be seditious only when the intention or the result of the words is really to promote public disorder and my amendment seeks to do no more than that. I only want to refer to the definition of "sedition" in two other well-known English books, "Archbold's Criminal Pleading" and "Stephen's Digest of the Criminal Law":

"Sedition, whether by words, spoken or written, or by conduct, is a misdemeanour indictable common law, punishable by fine and imprisonment; it embraces all those practices whether by word, deed, or writing, which fall short of high treason, but directly tend or have for their object to excite discontent or disaffection; to create ill-will between different classes of the King's subjects; to create public disturbance or to lead to civil war, to bring into hatred or contempt the sovereign or the Government, the laws or constitution of the realm, and generally all endeavours to promote public disorder."

That, Sir, is an authoritative definition of "sedition".

The Honourable Sir Nripendra Sircar: Does not the next page of the same book say "incitement to violence is not necessary for sedition"?

Mr. S. Satyamurti: On the next page, I find:

"It is also a seditious libel, if the publication is calculated to inflame the minds of the labourers, and working people and to incite them to acts of violence, riot and disorder, and to the burning and destruction of corn, machines, and other property."

The Honourable Sir Nripendra Sircar: I had no intention of interrupting the Honourable Member.

Mr. S. Satyamurti: I will look up the whole thing next time.

Stephen's "Digest of the Criminal Law" says:

"If seditious intention is an intention to bring into hatred or contempt, or to excite disaffection against the person of His Majesty or his heirs and successors, or the Government and constitution of the United Kingdom, as by law established, or either House of Parliament, or the administration of justice, or to excite His Majesty's subjects to attempt otherwise than by lawful means the alteration of any matter in Church or State . . . by law established, or to incite any person to commit any crimes in disturbance of the peace, or to raise discontent or disaffection among His Majesty's subjects, or to promote feelings of ill-will and hostility between the different classes of subjects."

My Honourable friend will notice that, while one of the phrases is to raise discontent or disaffection among His Majesty's subjects, if you take it along with the entire paragraph, it will be seen that the working of the sedition law in England is more or less on the lines of my amendment.

Now, Sir, there is one criticism which I want to make on this section 124-A, and I should like to have an authoritative answer from the Treasury Benches after I have referred to the cases. Now, Sir, what is meant by the phrase Government established by law in section 124-A? I should like especially the assistance of the Honourable the Law Member on this matter. I shall give him some cases, and he may look up other cases. What is the meaning of the phrase "government established by law in British India"?

The Honourable Sir Henry Orsk: That is a question for the Courts of law to answer.

Mr. S. Satyamurti: I merely want to ask the Government: take the Provinces, for example, where, I am told, except the Governor who will be in the background, and his job is not to interfere except when his special interests are affected. What is going to be "the Government established by law" in the Provinces? Is it or is it not going to be the Ministry in power?

Pandit Krishna Kant Malaviya (Benares and Gorakhpur Divisions: Non-Muhammadan Rural): And what is the difference between a Government established by law and a Government established by force?

Mr. S. Satyamurti: Now, Sir, I want to ask this question for this purpose. If, in the provinces, responsible government is to function, how will these words be interpreted by the "Local Government", which will sanction the prosecution, or by the Courts:

"Whoever by words, either spoken or written, or by signs, or by visible representation, or otherwise, brings or attempts to bring into hatred or contempt, or excites or attempts to excite disaffection towards Her Majesty or the Government established by law in British India," etc.

Supposing my Honourable friend is in office and I am the Opposition, how am I going to displace him?

The Honourable Sir Nripendra Sircar: It is the other way; I am in the Opposition, you are in the Ministry. (Laughter.)

Mr. S. Satyamurti: Very well; I will suppose I am a Minister and I desire to be in the Ministry for all time. How is my Honourable friend going to dislodge me except, by "words, spoken or written", and by "signs and visible representations or otherwise", bringing me and my Government into "hatred or contempt" or "exciting disaffection" towards me?

The Honourable Sir Nripendra Sircar: I shall say, he is quite a charming man, but has made mistakes. (Laughter.)

Mr. S. Satyamurti: Evidently, my Honourable friend has only fought and lost elections; I have fought and won them. Therefore, I will tell my Honourable friend that, if he goes about saying that I am a charming man, he will not get any votes. (Laughter.) There are some things which even the Honourable the Law Member can sit at my feet and learn.

The Honourable Sir Nripendra Sircar: I suspected this was for catching votes.

Mr. S. Satyamurti: In a democracy we believe in catching votes and not in catching the tails of Governors and Viceroys. (Laughter.) We believe we serve our country better by catching votes, than by catching Viceroys and Governors. I suggest that, within a democratic responsible Government, if we are to have responsible government, really my friend

must have the power to dislodge me from my position, by creating disaffection against me. And if my Honourable friend goes about saying in election propaganda, that I am a charming man, he makes a mistake. The voter will tell him that, I being so charming, he must vote for me. It seems to me that responsible government in the provinces will become a mockery, if this section, as it is worded and as including the words "Government established by law in British India", are to be interpreted as the Courts have interpreted it. That is my real difficulty. Unless you confine the mischief of this section to attempts to create violence or public disorder, you are going to place a weapon in the hands of powerful and, perhaps sometimes, unscrupulous political parties who may not hesitate to use them against their political enemies. Sir, I was going to say one thing which may please my friend and displease others. But I will say this. An irremovable executive has less temptation,—although this executive seems to have more,—generally has less temptation to fight the opposition than a removable one.

The Honourable Sir Nripendra Sircar: We have no temptation for unfair fight.

Mr. S. Satyamurti: And yet you offend us. Without any provocation, you go on insulting us. I merely say this; that an irremovable executive has no need to punish the Opposition and nothing to fear from them. But an executive whose tenure of life depends upon fighting the Opposition and keeping them in a minority has a tremendous temptation to use all weapons in its power, in order to prevent the Opposition from ever coming into power. I, therefore, suggest, Sir, seriously, as one who understands the implications of democratic government, that to leave to political parties in the provinces this powerful weapon will not help the development of those responsible political parties, on whose development alone we can hope for real responsible government in the provinces. As one who feels that he will be in a majority for all time to come, I am willing to pass a self-denying ordinance on myself. I do not want even the Congress Ministries to have this power in their hands.

I want to say another thing, and I hope I shall not be misunderstood. I do not want to say one word which will make the communal situation worse than it is, or will not make it better; but I do warn all my friends inside this House and outside that there are communal parties in the various provinces. It is a matter to be regretted . . .

Mr. M. S. Aney (Berar Representative): May I just understand one thing from my Honourable friend? Does he mean to say that repressive laws are safer in the hands of an irresponsible bureaucracy than in the hands of a responsible ministry?

Mr. S. Satyamurti: No, Sir. What I want to say is that this Government has less temptation to enforce those laws. I am talking in the abstract. As to the ways of this Government, my Honourable friend knows them and I know them. But, I am talking in the language of abstract political philosophy, that an irresponsible executive has no need to enforce powers against the Opposition. As a matter of human political psychology, when an executive is removable, it has greater temptation to use those powers which are in its hands, than an irremovable one. I, therefore, do not want to give them this power; I fear they will be more grossly abused, even than by an irremovable executive.

[Mr. S. Satyamurti.]

My next point is this; I was on this communal matter. There are unfortunately communal parties. We are all hoping, and I trust, that the better minds, better brains, and the better hearts of all communities will unite together to produce real political parties in this country based on political, and economic aims, and ignoring all communal differences. I trust, the day will come soon; but, in the meantime, I want that there should be no power in the hands of any communal party, minority or majority as it may be, which may be abused by them as against their so-called enemies. That is also a danger which I want this country to be protected against.

[At this stage, Mr. President (The Honourable Sir Abdur Rahim) resumed the Chair.]

Then, Sir, how is democracy going to function in the provinces? Democracy has been well defined as government by discussion; that is to say, I must be able to go to the constituencies, if I am Minister, to explain my programme, and get them to give me a vote of confidence; my Honourable friend ought also to be able to go and say to them: "This programme is wrong, these measures are wrong, the taxes are heavy, and the taxes ought not to be levied like this, that expenditure is too much and this is too little, this Government does not deserve your support". I want to put it to my Honourable friend, whether it is possible to carry on a raging and tearing propaganda like this throughout the provinces in this country, without exciting disaffection against the government established by law. Is it possible?

Mr. Sham Lal (Ambala Division: Non-Muhammadan): What happened to Dr. Satyapal?

Mr. S. Satyamurti: My Honourable friend reminds me that, during the last Assembly elections, Dr. Satyapal, our esteemed friend and colleague, President of the Punjab Provincial Congress Committee, a man who for his patriotism has paid the enormous price of being in jail for nearly half his life, that gentleman went about on electioneering propaganda supporting the Congress candidates against others; and for that he got a year for sedition. And I want to suggest that elections become a farce, if all of us are to remain merely contented people, praising Government and calling them charming people who occasionally make mistakes, and, therefore, those charming people should not be voted into power.

The Honourable Sir Nripendra Sircar: Not occasionally, but habitually make mistakes.

Mr. S. Satyamurti: To the best of my knowledge, my Honourable friend is the only charming man who habitually makes mistakes. I do not think I know any other charming man who makes habitual mistakes. Therefore, he cannot have that argument.

I also put it to my European friends here and I want them to consider this. They are bound to live in the provinces, where we are going to be in charge of law and order. How would this section work? They will have to deal with me and my countrymen. How would they like it if I, in my province, can prosecute all of them for "words, spoken or written, or signs, or visible representation, or otherwise" bringing or attempting to "bring into hatred or contempt," or "exciting disaffection" towards me? (Laughter.) I want them to consider this.

Sir Muhammad Yamin Khan (Agra Division: Muhammadan Rural): *Explanation 3* would operate there.

Mr. S. Satyamurti: I have a learned lawyer there, who suggests that *Explanation 3* comes in. *Explanation 3* runs thus:

"Comments expressing disapprobation of the administrative or other action of the Government without exciting or attempting to excite hatred, contempt or disaffection do not constitute an offence under this section."

I put it to my Honourable friend; I am afraid, he has no experience of this. Supposing I go and say that this Government has piled unjust taxes upon unjust taxes, this Government is mispending the public money, this Government is making bad laws, this Government does not put down corruption in its own ranks, this Government does not vindicate the rule of law,—am I not bringing the Government into contempt?

Sir Muhammad Yamin Khan: Not under the *Explanation*.

Mr. S. Satyamurti: My friend is a Member and not a Judge—I will read another case presently. My Honourable friend, the Leader of the Opposition, who has argued some of these cases, will later on join in the debate, I hope, and answer my friend that these words have been construed as creating disaffection. This idea that you can have affection towards a Government which habitually makes mistakes is one, only worth the genius of the Law Member. Unfortunately, Sir, in this country, knowing human psychology as I do, it is impossible to criticise the actions of a Government continuously—so strongly as to withdraw all the support from them without coming within the mischief of this section. But, coming to *Explanation 3*, it is only this: The whole object is "with a view to obtain their alteration by lawful means" and "without exciting or attempting to excite hatred, contempt or disaffection". My object in electioneering propaganda will be not to get the measures changed, but to get the Government changed, so that I may be in their position, and make better measures or abolish the bad measures. Does my friend follow? It is no longer a case of trying to merely get laws changed, taxes changed, it is an attempt to change the Government itself. Therefore, that people will vote for me and vote against the Government, having the utmost respect for them and contempt for me, is a phenomenon with which I am not familiar. People do not vote only for Governments which they do not care for, and not caring for a Government and holding it in contempt is a very subtle process of distinction. Therefore, I put it to my friends in all sections of the House that this law, as it stands, is a danger in the hands of any Government, and certainly this irresponsible Government has proved that it cannot be trusted with their votes. I fear, Sir, that when provincial autonomy comes, if it does come, it will be found that there is no adequate protection for free criticism which ought to be the right of every citizen in a free and self-governing country. That is why I feel that my words should be there, namely "with the intention of promoting physical force or violence or public disorder". Short of that, the words ought not to be punishable.

I will now read to my friend, who interrupted me, a few cases to show how this section has been interpreted by learned Judges of Indian High Courts; most of them come from Calcutta.

Mr. F. E. James (Madras. European): Are there any from Madras?

Mr. S. Satyamurti: They are a very fine set of people in Madras. But, wait till we become Ministers and you talk sedition against us. We shall then prosecute you!

The first case was decided by Chief Justice Rankin and Justices Suhrawardy and Pearson:

"The words used by the legislature (in S. 124-A) are the 'Government established by law in British India'. The section does not contemplate the probability of attempts being made to excite hatred and contempt against abstractions, but uses a clear phrase for a definite thing, and, therefore, it is no defence to say that the attempt to excite hatred and contempt was directed solely against the particular form of Government now obtaining in India, and not against the fact of the Government. Any advocacy regarding change in the form of Government as bringing into hatred or contempt or exciting disaffection towards the present Government comes within the mischief of S. 124-A."

Is my friend answered? That is Chief Justice Rankin.

The Honourable Sir Nripendra Sircar: What is the name of the case?

Mr. S. Satyamurti: The name of the case is:

"In the matter of Sojoni Kanta Das.

and

In the matter of 'India in Bondage:

Her Right to Freedom'."

An Honourable Member: What is the Volume?

Mr. S. Satyamurti: All-India Reporter, Calcutta, Volume 1930, page 244.

The Honourable Sir Nripendra Sircar: I think I appeared in the case.

Mr. S. Satyamurti: I will just find out. "The Advocate-General for the Crown." I thought so.

The Honourable Sir Nripendra Sircar: I am responsible for the good law laid down there.

Mr. S. Satyamurti: Bad law. If it is good law, this Bill is essentially sound. I thought it was bad law. I have the authority of the Law Member to say that it is good law. If it is so, my case is strengthened. If this is good law, God help us! I will now read another part of the judgment:

"Mr. Chatterjee suggested that there was room for a distinction between the fact and the form of British Government of India and contended that the attempt, if any, to excite hatred and contempt was in this book directed solely against the particular form of Government now obtaining, and was thus innocent under the section. The words used by the legislature are 'the Government established by law in British India.' The section does not contemplate the probability of attempts being made to excite hatred and contempt against abstractions, but uses a clear phrase for a definite thing, and it would be altogether misinterpreted if effect were given to Mr. Chatterjee's argument. The book itself, moreover, fails altogether to fall into line with the distinction suggested."

Then follow the important words:

"People who are so unfortunate as to be unable to advocate change in the form of Government without attempting to bring into hatred or contempt or to excite disaffection towards the Government established by law have not been specially favoured by the legislature either by the terms of the section itself or by the explanations. They may take their grievance, if any, to the legislature, but the section while it stands must be interpreted according to the plain and natural meaning of its words. In my opinion, this application must be dismissed."

I, therefore, follow the advice of Chief Justice Rankin and of the full bench of the Calcutta High Court. We have a grievance and we have brought it to the Legislature.

Mr. Sham Lal: But the Advocate-General happens to be the Law Member.

Mr. S. Satyamurti: He has only one vote.

The Honourable Sir Nripendra Sircar: I hope you realise that the head note is wrong.

Mr. S. Satyamurti: The head note says:

"Any advocacy regarding change in the form of Government, as bringing into hatred or contempt or exciting disaffection towards the present Government, comes within the mischief of section 124-A."

My point is this. It is argued—my Honourable friend attempted that—that you can not only criticise measures of Government, but you can also say something which may affect the Government in power. So long as you do not attack the Government as such, you will be protected. This case says, no. This case clearly lays down, by the decision of a full bench, that the words used by the Legislature are "the Government established by law in British India"; the section does not contemplate the probability of attempts being made to excite hatred and contempt against abstractions, but uses a clear phrase for a definite thing; and it says that people, who are so unfortunate as to be unable to advocate a change in the form of Government without attempting to bring into hatred or contempt or to excite disaffection towards the Government established by law, have not been specially favoured; they may take their grievances to the Legislature.

My grievance is that it is impossible to change a ministerial form of Government by another ministry taking its place, without coming within the mischief of the section, as this case, according to my Honourable friend, rightly lays down. Therefore, I have brought the grievance to the Legislature, and I want the Legislature to redress my grievance by accepting my amendment.

The next case I want to refer to is reported in 56 Calcutta, 1085. *Emperor v. Satya Ranjan Bakshi*:

"Advocating expressly any form of rebellion is not a necessary element in an offence under section 124-A of the Indian Penal Code. It is quite possible by the abuse of Government officials to make an endeavour to bring into hatred or contempt the Government established by law in British India."

[Mr. S. Satyamurti.]

I have already told the House that to advocate a change in the form of Government may, and does bring the person within the mischief of this section. This case answers another point. The same eminent Judge, Chief Justice Rankin, and Justice C. C. Ghose,

The Honourable Sir Nripendra Sircar: And the same eminent counsel?

Mr. S. Satyamurti: Yes: now there is the name also—Mr. N. N. Sircar for the Crown. The Judges say:

"We have to read the article solely from the point of view of seeing whether we are satisfied by the internal evidence of the article itself that as a fact the writing or publication of the article was a successful or unsuccessful attempt to bring into hatred or contempt or to excite disaffection towards the Government established by law in British India. It does seem to me that, for the purpose of the present question, from the words used by the writer it is necessary to go into an analysis of the phrase 'The Government established by law in British India'. Since the case of *Queen Empress v. Bal Gangadhar Tilak* was decided, various changes in form and, to some extent, in principle have been introduced into the constitution which obtains in British India. But we have in this case to see whether the article is an endeavour to express disapprobation against certain measures of Government, without exciting or attempting to excite hatred, contempt or disaffection or whether in one guise or another an attempt to excite hatred, contempt or disaffection towards the Government established by law in British India is a part of the purpose of the writer. The article begins by a reference to State Prisoners and persons who have been in prison under certain legislation without trial by the ordinary tribunals. It makes a reference to 'living burials' taking place every month in the plains of Siberia"

Then, the judgment summarises certain features of the article, and His Lordships goes on to say:

"My only purpose in making any citation from this article is to show why I think that the article (which is certainly full of hatred and bitterness) is clearly directed against the Government established by law in British India. It is doing exactly what Mr. Justice Strachey in the case cited said must not be done."

Incidentally, this proves my contention that the amendment of the section has made no difference whatever in the meaning of the section. . . .

Mr. President (The Honourable Sir Abdur Rahim): I think we had better stop here today.

STATEMENT OF BUSINESS.

The Honourable Sir Nripendra Sircar (Leader of the House): With your permission, Sir, may I state the business for next week? Honourable Members are aware that from Monday to Thursday, next week, the House will be engaged in voting demands for the grants included in the Railway Budget and that the General Budget will be presented at 5 P.M., on Friday. I have, therefore, only to state that Government have decided not to ask for an ordinary meeting of the House on Friday.

The Assembly then adjourned till Eleven of the Clock on Monday, the 24th February, 1936.