

LEGISLATIVE ASSEMBLY

DEBATES

FRIDAY, 11th MARCH, 1932

Vol. II—No. 14

OFFICIAL REPORT



CONTENTS.

- Statements Laid on the Table.
Election of the Standing Finance Committee.
Election of Members to the Standing Committee on Emigration.
Election of Members to the Standing Finance Committee for Railways.
Election of Members to the Central Advisory Council for Railways.
Demands for Supplementary Grants in respect of Railways—
Companies' and Indian States' Share of Surplus Profits and Earnings—
Accidents on Companies' and Indian States' Railways.
Appropriation from Depreciation Fund—
Contemplated Abolition of Azimganj City Station.
Miscellaneous Expenditure.
Appropriation from the Reserve Fund.
The Salt Additional Import Duty (Extending) Bill—
Introduced.
The Indian Tariff (Wireless Broadcasting) Amendment Bill—
Introduced.
The Tea Districts Emigrant Labour Bill—Introduced.
The Bengal Criminal Law Amendment (Supplementary) Bill—*contd*

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LEGISLATIVE ASSEMBLY.

Friday, 11th March, 1932.

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

STATEMENTS LAID ON THE TABLE.

GRANT OF EXTENSIONS OF SERVICE TO OFFICERS OF THE INCOME-TAX DEPARTMENT, BOMBAY.

The Honourable Sir George Rainy (Member for Commerce and Railways): Sir, with your permission and on behalf of my Honourable colleague Sir George Schuster, who is detained in another place, I lay on the table the information promised in reply to question No. 582, asked by Mr. S. G. Jog on the 29th February, 1932, regarding the grant of extensions of service to officers of the Income-tax Department, Bombay.

(a) Seven gazetted officers in the Bombay Income-tax Department have retired during the past five years.

(b) To three of these officers, no extensions were granted. To the remaining four, extensions had been granted, the length of which varied from about five months to five years. Two other officers are still in service to whom extensions of one year and one year and 4½ months, respectively, have been granted.

(c) and (d). Extensions of service are regulated in the Bombay Income-tax Department, as elsewhere, by Fundamental Rule 56 (a). The officers in question were retained in service in the public interest, since in a comparatively new Department it is sometimes desirable to retain the services of experienced and competent officers as long as possible.

MILITARY POWER HOUSES.

Mr. G. M. Young (Army Secretary): Sir, I lay on the table the information promised in reply to parts (b), (d) and (e) of starred question No. 127 asked by Mr. Nabakumar Sing Dudhoria on the 3rd February, 1932, regarding military power houses.

(b) Allahabad Fort, Benares, Bareilly, Jhansi, Meerut, Nagpur*, Kamptee†, Sialkot, Lahore and Multan*.

(d) One European is employed in Meerut and none elsewhere. In the military power houses in the Punjab, the Indian Superintendents are under the supervision of military mechanists employed as Sub-Divisional Officers who supervise other installations in addition to military power houses.

*The supply at these two stations is taken from the private company and the Military Engineering Services plants are for use in emergency only.

†The Company's plant is at Nagpur, ten miles distant from Kamptee.

(c) The pay of Power House Superintendents, whether European, Anglo-Indian or Indian is—

1st Grade, Rs. 250—10—350 a month.

2nd Grade, Rs. 150—10—250 a month.

3rd Grade, Rs. 100—10—150 a month.

The posts are non-pensionable.

ELECTION OF THE STANDING FINANCE COMMITTEE.

The Honourable Sir George Rainy (Member for Commerce and Railways): Sir, with your permission, as my Honourable colleague, the Finance Member, is detained in another place, I desire to move that this Assembly do proceed to the election for the financial year 1932-33, in such method as may be approved by the Honourable the President, of a Standing Finance Committee of the Assembly not exceeding fourteen in number, to which shall be added a Member of the Assembly to be nominated by the Governor General. The Member so nominated shall be Chairman of the Committee.

Dr. Ziauddin Ahmad (United Provinces Southern Divisions: Muhammadan Rural): Sir, I would not have liked to say anything in the absence of the Honourable the Finance Member, but unfortunately there will be no other occasion when I could speak on this subject of the utility and powers of the Standing Finance Committee. This Standing Finance Committee was established by a Resolution moved by the Honourable Sir Malcolm Hailey on 22nd February, 1921, in which he clearly said that:

"The proposal I now put forward is not in pursuance of a rule but is in pursuance of a decision at which we ourselves have arrived and which we believe will be of advantage to us and to the Assembly. This Finance Committee has been established by the Government and the rules have not been framed by this Assembly."

During the debate the Honourable Sir Malcolm Hailey prophesied that this Standing Finance Committee would develop into a powerful body, and I think I should quote his own words:

"I think, as time goes on, it will be found that the Committee take up a very much wider scope of work on behalf of the Assembly than I have laid down today. But tentative as my proposal is, I hope that the Assembly will accept it. The fact is, Sir, that we want, if we can, to utilise for our own advantage the brains of those Members of the Assembly who have had knowledge of finance or administration. We want to use their experience on our own behalf. If the Assembly will give us the advantage of that assistance, nothing but good, I think, will result from it."

Therefore from this quotation it is evident that the intention of the then Finance Member was to take the Finance Committee into confidence so that the Finance Committee should defend the financial policy of the Finance Member in the Assembly. That was the chief reason why this Finance Committee was established, but to our great surprise we find that even the little thing that was promised that day has not been fulfilled by the Finance Member. The Honourable Sir Malcolm Hailey said:

"I propose therefore, that for the future, the Standing Finance Committee, if it is accepted by the House, should have that material placed in their hands, some short time before the Budget, and should deal with it on behalf of the House."

Now, I have to acknowledge with frankness that the Members of the Finance Committee were not supplied with those volumes even one minute before they were supplied to other Members of the House. I drew the attention of the Secretary to it several times, but no information was placed at our disposal and the members of the Finance Committee were treated just in the same way as the other Members of the House. Sir, I will give one more quotation from the speech of the Honourable Sir Malcolm Hailey:

"I should like it to be arranged that the Committee should, in the course of the year, deal with any schemes for fresh expenditure which are put forward by the Departments. I would limit this to the major schemes, schemes which will be sufficiently large to have any influence on the budget."

Now, I would draw attention to the fact that all questions like loans certainly affect the Budget. They are really very important issues, and the Finance Committee, as anticipated by the then Finance Member, the Honourable Sir Malcolm Hailey, was never taken into confidence throughout the last two years that I have been associated with this Committee. Therefore, I suggest that if the Finance Committee should really be of help to the Finance Member, to the Assembly and to the Government, then it should be taken into greater confidence in the manner anticipated by Sir Malcolm Hailey, and if the Finance Member were to place before it his financial schemes like the currency question, inflation, question of loans, taxation proposals and various other schemes of expenditure, then I am sure he would get very great assistance in the House, and his task here would be very much lightened. Instead of one man replying to the criticisms of all, the bombardment will be met by a number of Members who will come to the help of the Finance Member and defend him in his financial policy inside and outside the House. They will feel that they share the responsibility of the Finance Member. Sir, that this is not a matter on which we can pass a Resolution, because the whole thing depends entirely on the executive action of the Government. I would press that in the interest of the House and in the interest of the Government, the Finance Member should take the Finance Committee more into his confidence and to see that this Finance Committee functions in the manner anticipated by his predecessor the Honourable Sir Malcolm Hailey when he moved this motion on the 22nd February, 1921.

Mr. K. P. Thampan (West Coast and Nilgiris: Non-Muhammadan Rural): Sir, I wish to make one or two suggestions in connection with the motion before the House. The first thing is that the election of Members to the Standing Finance Committee should be confined to elected Members only, because the chances of the elected Members coming in again to the Legislative Assembly depend upon the work that they do in the Assembly, while the chances of nominated Members being re-nominated depend entirely upon the support that they give to the Government. Therefore, Sir, I suggest that the purpose for which these Committees are constituted will be better served by confining the election to elected Members of the House.

The other suggestion that I want to make is this

The Honourable Sir George Rainy: I did not quite catch what the Honourable Member's suggestion was. Would he kindly repeat it?

Mr. K. P. Thampan: I suggest that the election of Members to the Standing Finance Committee should be confined to the elected Members of the Assembly only, and nominated Members should not be allowed to stand or vote for election to the Standing Finance Committee.

The other suggestion that I have to make is that a statement of the number of the days of sitting of the Finance Committee and the attendance of each Member at the meetings of the Committee should be published in the last Report. That will enable the other Honourable Members of this House to know how many meetings were held and how many meetings each Member of the Committee attended and help them to decide what to do when the Members offer themselves for re-election.

Mr. B. Das (Orissa Division: Non-Muhammadian): Sir, some of the points that my Honourable friend, Dr. Ziauddin Ahmad, has raised used to agitate me when I was a Member of the Standing Finance Committee four or five years ago. At that time the then Finance Member Sir Basil Blackett used to express sympathy with me, but he pointed out the difficulty existing in the procedure and practice here; and that in the House of Commons they have got an Estimates Committee which goes through all the estimates that are placed before the House of Commons. The practice in this country is this, that when Government want sanction for a particular sum of money they come before the Standing Finance Committee. In those days when the Standing Finance Committee was first formed, the Government never showed the whole picture of their expenditure. At first they used to come for a grant, say, of Rs. 1,000. In the next year they used to say, "Last year the Standing Finance Committee committed itself to this new item of expenditure, and we want to spend a lakh of rupees on this item next year". I understand the difficulties that exist as to whether the Government should consult the Standing Finance Committee regarding taxation; I am unable to express an opinion on that point at present. But what I understood my Honourable friend Dr. Ziauddin Ahmad to suggest is that there should be a consultative committee which the Finance Member should consult about their taxation proposals.

Whether we cannot have an Estimates Committee—as is the practice in England, and as I understood from Sir Basil Blackett, that Estimates Committee sits for days and days continuously—whether that practice could be introduced in India is for the Government to consider, but we on this side of the House would welcome the establishment of such a Committee, though I cannot at present express any opinion as to whether the Standing Finance Committee itself should be the Estimates Committee.

Mr. Arthur Moore (Bengal: European): I think that possibly Dr. Ziauddin Ahmad might have unintentionally misled some Members of the House, who are not members of the Standing Finance Committee, into thinking that there has been some departure from the usual practice, but my recollection is that the procedure of this year has been exactly the same as in other years, that is to say, the printed volume containing the Demands for Grants is certainly first seen by us at the same moment as by other Members when it is distributed immediately at the conclusion of the Finance Member's Budget speech. But, although that is so, that does not alter the fact that the Standing Finance Committee has been reviewing the Demands for Grants ever since the month of January, and doing much detailed work.

Dr. Ziauddin Ahmad: On a point of personal explanation. I drew attention to the quotation from Sir Malcolm Hailey's speech, in which it was said that all the volumes dealing with the Budget would be actually supplied to the members of the Standing Finance Committee some time ahead.

Mr. S. C. Mitra (Chittagong and Rajshahi Divisions: Non-Muhammadan Rural): We are obliged to Dr. Ziauddin Ahmad for bringing this matter up for discussion. The Standing Finance Committee is not a statutory committee; it is a creation of the Assembly itself unlike the Public Accounts Committee. As regards the Public Accounts Committee, we get a chance to criticise its work and its Report, but as regards the Standing Finance Committee there is very little such chance. I think that Dr. Ziauddin Ahmad is not contending that there is any change in the procedure this year, but what he is urging is that the Standing Finance Committee should really function as envisaged in the Resolution on the subject and the speech of Sir Malcolm Hailey. As a matter of fact, as the practice exists to-day, some demand from a particular department is placed before the Standing Finance Committee. A gentleman from the department comes and says, "We want this and it is essential that a fresh grant should be made for certain posts or for certain expenditure". The members of the Committee do not see the whole picture, and they are not in a position to pass any proper judgment, but they are forced to give their sanction to every such proposal because the whole programme is not before them. What I say is, either make the Committee one from which the Finance Member may have his advice for the whole Budget, and which will scrutinise the Demands for Grants, or do not make a farce of it by having a committee where, as my Honourable friend Mr. Thampan said, more than half of the members are official or nominated members. My Honourable friend Mr. Thampan did not want to exclude the nominated non-officials; what he wanted was that the Committee should be elected by the elected and nominated non-official Members of this House. So, I submit that the Government should consider whether they want to make this Committee efficient and workable, and not a mere farce to say ditto to every proposal that may emanate from any department of the Government.

Sir Hari Singh Gour (Central Provinces Hindi Divisions: Non-Muhammadan): There are one or two observations that I should like to make in connection with the discussion on this subject. I had been a member of the Standing Finance Committee in days past, but seeing the limitations upon its object and its scope. I discreetly withdrew from taking part in its labours, with the result that I have not offered myself for re-election for several years past. The thing that struck me when I sat for some years in succession in the Standing Finance Committee was that while the departments came with extremely plausible cases for increase of expenditure, we had not the slightest notion as to whether that desirable expenditure would come out of the general revenues of the Government of India, or whether it would entail fresh taxation. That was a question which always passed in my mind, and I said to the then Finance Member, "These proposals that are piled before us seem to be very attractive, but they lose all charm for me if I find that I shall have to place an additional burden of taxation upon this country if these measures are accepted by the Standing Finance Committee". And with the imprimatur of the

[Sir Hari Singh Gour.]

Standing Finance Committee they come before the House and the Finance Member naturally says, these measures have been considered by the Standing Finance Committee, and the House then goes into a state of somnolence because their accredited representatives in the Standing Finance Committee, who are presumably experts in matters financial, have already given thought and consideration to the decision of the question which they are called upon to ratify. That, I submit, is the first defect in the procedure which the Standing Finance Committee adopts, and which I think requires an early rectification.

There is another question of equal import. My Honourable friend Mr. Thampan has done a great public service in drawing your attention to the fact that this Committee, if it is to function at all, must be a committee of the elected representatives of the people, because, after all, the Government are sufficiently represented by the Finance Member and by the departments that come with the files concerned to lay their case before the popular Committee. My Honourable friend Mr. Mitra has no objection, as a matter of temporary expediency I presume, to admit into this conclave Honourable Members who are nominated non-officials but they must be nominated and not elected to that Committee. That is only a peace offer, but beyond that, if the Committee is to function at all, I do not see why the officials should take part all along the line from the bottom rung of the ladder right up to the top. Visualise the position of a financial measure. You have, first of all, the Finance Member who decides the question with his official advisers, it may be with or without the concurrence of some section of the Executive Council. Then, the question comes up before the Standing Finance Committee. There you have the Standing Finance Committee diluted by a body of well disciplined and extremely subservient supporters of the Government, who vote with the Finance Member as they vote in the open House, because they feel that it is their duty to do so.

Mr. Arthur Moore: The Finance Member is the only member of the Government on the Committee.

Dr. Ziauddin Ahmad: I am talking of the official Members and nominated Members elected to the Standing Finance Committee. (*An Honourable Member:* "They are always present.") The non-official Members may be present or absent, but I am told that the officials are ever vigilant and are always present, and never forget to record their vote.

Mr. Arthur Moore: On a point of explanation. May I say that the Finance Member is the only member of the Government on the Committee.

Sir Hari Singh Gour: I cannot help my friend if my friend will not understand what I am saying. I cannot supply to my Honourable friend the modicum of intelligence which is required to understand my point. (*An Honourable Member:* "He is the editor of a newspaper.") Not much intelligence is required to edit that paper. Then I pass on to the third stage of the case. Assuming for the sake of argument that the measure has now passed the gamut of the Finance Committee, then it comes to the open House. Here we have these ornaments of the official

Benches ranging from the front to the very back, always full, always anxiously waiting not for the debate or the consideration of the subject on its merits and demerits, but seeing as to which is the lobby which they must be driven to. This is the third stage. Then assume for the sake of argument that with all these drawbacks in playing with the Government which plays with loaded dice, we carry the measure in the open House. Then you have the certification, you have the veto, you have the recommendation and you have above all the overruling authority of the powers in this country and abroad.

Now, I wish to ask Honourable Members in this House, while we on this side of the House are anxious to co-operate with the Government, can the Government regard this procedure as satisfactory and conducive to the disposal of business in accordance with the spirit and tenor of the Government of India Act?

I did not wish to make a speech on this occasion, but I have a vivid recollection of the first Assembly in which I took part not only in acceding to the Resolution of the Honourable the Finance Member, but also offered our co-operation by compelling the then Home Member to constitute an advisory committee attached to the Home Department. The then Home Member said, "How can we possibly take you into our confidence?" and we said, "We are here to co-operate with you, to learn the arcana of administration of which you are past master. Take us as your humble acolytes and apprentices, even into your ante-room and give us, at any rate, the elementary lessons in the administration of the Home Department". But the Government were obdurate; but the Opposition was equally insistent, the result being that the Resolution was carried over the heads of the Government, and then the Government reluctantly called upon the House to elect a committee attached to the Home Department. Sir, that Committee had an inglorious beginning, and a much more inglorious end. It was never called into being at all. The Committee was formed but there was never a meeting of that Committee ever since its formation. Such are the ways of the mighty. When they want co-operation from us, they say, "We will have your co-operation, but it must be upon our terms, but if you do not wish to give us your co-operation, then we will call you non-co-operators, objectors, and a very large number of other bad words" which I find only Sir Lancelot Graham can coin to place in his Ordinances. That is the position, but I feel that the time has now come for the Government to review and revise their opinions. We are on the threshold, let us assume, of a new constitution. If you have not been able to follow the spirit of the existing constitution which is soon to die, you cannot be expected to follow even the letter of the new constitution which might be brought into existence. When the small decennial constitution was placed on the Statute-book, I hoped that it would be supplemented by liberalising conventions, that it would be worked in a generous spirit, that the Members of the Government would co-operate with the Opposition and diminish the distance that divides the two-halves of the House. I ask the two distinguished ornaments of the Executive Council who have seen five years of this constitution whether they can say that they have done anything to bridge the gulf in any way between the two-halves of this Legislative Assembly, and if they have, to what extent they have been successful. I wish, Sir, to speak with all humility, but with the experience gathered in this House ever since its commencement, I feel that if the spirit of the temporary constitution had been

[Sir Hari Singh Gour.]

worked in that generous spirit in which the framers of the Parliamentary Act intended it should be worked, the questions, which the Government of India have to face to-day, would not have been so formidable as those with which they find themselves confronted to-day.

Mr. Gaya Prasad Singh (Muzaffarpur *cum* Champaran: Non-Muhammadan): Sir, I have been a member of the Standing Finance Committee for the last eight or nine years. Probably I am the oldest Member who has sat continuously on the Standing Finance Committee since 1924 and I should like to speak to the House on the actual procedure which is followed. The Standing Finance Committee consists of 14 members, and the Chairman, who is the Finance Member, is nominated by the Governor General. I have never known a time when the S. F. C. contained any official except the Chairman. Besides him, there is the Financial Secretary, who puts up the papers and gives us whatever information is required. He does not participate in the proceedings, nor has he any vote. Then there is the Secretary of the S. F. C., who takes down the notes of the proceedings, and supplies whatever information is required by the members. He also has no vote. The papers are supplied beforehand; and in the meeting, representatives of various departments concerned appear as witnesses in turn; and the members of the Committee examine them on whatever points they like and then they pass the proposals or reject them, or postpone them for further consideration. I am prepared to admit that sometimes the picture of a particular proposal which is placed before the Committee is not a complete picture, and there I join with my Honourable friend, Mr. S. C. Mitra, when he said that the procedure can very well be improved upon. I shall give you an example. The question of the forest resources of the Andamans for timber production had been the subject of very great consideration by the Standing Finance Committee from time to time. Bits of such proposals come from different departments. The question is, what are the actual financial commitments involved by those proposals, whether they are going to be a paying proposition, and so on and so forth. As presented, we do not sometimes have a complete picture about a particular proposal which involves the House in a certain degree of financial commitment.

Mr. C. C. Biswas (Calcutta: Non-Muhammadan Urban): May I ask my Honourable friend whether any information that was asked for has been denied to the Standing Finance Committee on any occasion?

Mr. Gaya Prasad Singh: I did not say so. Sir, as I was saying, the picture presented sometimes has necessarily to be one-sided. I shall give another example; for instance, a particular bridge in the N.-W. F. Province has been washed out or a road has to be widened, and it is represented by the Department concerned that it is an urgent piece of work, and that the expenditure is such as the Finance Committee should agree to. Now on a perusal of the papers submitted, the Members of the Finance Committee have no other alternative but to accept the proposal. There are no other materials before them to lead them to come to any other decision, generally speaking. But I believe this is the case more or less with other committees as well. Under the present circumstances, I do not know what other course would be open to the Committee to adopt. It is quite open to this House to lay down the procedure and to

improve the method. I gratefully acknowledge that the present Finance Member has really been trying to improve the method of working of the Standing Finance Committee (Cheers); but the procedure that has been laid down has got to be followed; and if this House or the Government could evolve a better method, nobody would be better pleased than myself. I recognize the limitations under which the members of the Standing Finance Committee have been working, but it is inherent in the constitution. It is open to this House to make specific suggestions which might be incorporated in a separate Resolution; or any other suitable method might be devised to make the Standing Finance Committee a more effective and live body than it is at present.

Sir Cowasji Jehangir (Bombay City: Non-Muhammadan Urban): Sir, I have never been a member of the Standing Finance Committee and I have only been a member of this House for three years and therefore perhaps it may be audacious on my part to say even a few words, but I would like to point out that Mr. Hailey (now Sir Malcolm Hailey), when he first introduced the motion to appoint a committee, stated as follows:

"I would like it to be arranged that the Committee should in the course of the year deal with any schemes for fresh expenditure which are put forward by the Departments. I would limit this to major schemes, schemes which will be sufficiently large to have an influence on the Budget."

The idea was that the Finance Committee should examine schemes before they were placed before this Honourable House. Now my Honourable friend, Sir Hari Singh Gour, has explained that he was not able to judge the merits of the scheme because he was not in a position to realize whether it meant extra taxation or not; now that is a point that has often occurred, but the answer is a very simple one; it is that the opinion of the Finance Committee on a specific scheme is not the final word, nor are members of the Finance Committee committed to supporting that scheme under any circumstances whatsoever when the scheme is placed before the House. They get the opportunity to look at the whole picture when it is placed before the House and if then they come to the conclusion that the scheme, although good on its merits, entails such extra amount of taxation that it becomes premature and ought to be postponed, then they have every right to vote against it and say that "This scheme should be delayed; it is premature; we have not got the money; we cannot afford it"; that is the answer. In other words, the answer, again, is that the whole picture should be before the House at the time when it is presented to it. Any member of the Finance Committee, because he agrees to the scheme, does not commit himself to voting in this House for that scheme when it is presented. Circumstances may have changed; he sees the whole picture; and he says, "I am not in favour of the scheme now; it is a good scheme but it is unsuitable for the times". Sir, that is the position of non-official Members on the Standing Finance Committee. Now, it appears to me that on the whole this House is in a stronger position than the Finance Committee of the provinces. From what I have heard and read, there is only one nominated Member on the Finance Committee, and naturally that man is the Finance Member, who becomes the Chairman; the rest are elected by the House, which includes Government Members, and naturally, Government Members have to vote for their own choice; they have their own ticket, and through the force of the vote and the ticket, they bring on to the Finance Committee certain Members whom they are sure of in regard to their support. That is only natural.

[Sir Cowasji Jehangir.]

The answer is, "exclude them from voting", in which case, Mr. President, if you exclude them from voting, you will get a Finance Committee consisting purely of elected Members and the only representative of Government then as far as voting is concerned would be the one nominated Member, the Finance Member. Whether, under the present constitution, that would be advisable is a question which I am not prepared to answer immediately; but it might be that every scheme good, bad and indifferent, might be rejected and then there might be difficulty, unnecessary difficulty, in getting it through this House because it was unnecessarily rejected by the Finance Committee. You have to look at it from that point of view, from the point of view of the constitution as it stands to-day, not from the point of view of the constitution as it will be tomorrow. When the new constitution comes in later on, the Government of the day, I imagine, will insist on having a certain number of their supporters on the Finance Committee; that is what the Government are doing today. They happen to be autocrats under the greatest autocrat, but that does not preclude them from demanding that they should have a certain amount of support on the Finance Committee and they do it by direct vote in this House under the constitution. But the real point is, "Is all available information given to the Finance Committee or not?" If it can be shown that there is a lack of co-operation, this side of the House may have some grounds for complaint, but not a single Member has stated that. As to my Honourable friend the Leader of the Nationalist Party, he led us into very high politics, and I respectfully urge that this is not the occasion on which to address the Honourable House on that. We have all got our views as to how the constitution has been worked, or how it ought to have been worked. Sir, is there any constitution in the world on which there is no difference of opinion as to how it should be worked or what it should have been? That is another matter. If you are satisfied that the Finance Committee under the extraordinary circumstances under which it works is working as satisfactorily as it can under the present constitution, there is nothing further to be said about it.

Mr. N. M. Joshi (Nominated Non-Official): Sir, my knowledge of the working of the Standing Finance Committee has become somewhat rusty. I shall therefore content myself by offering a few remarks only on the constitutional aspect of appointing a Finance Committee for the kind of work which this Committee has been doing. I have not been a member of the Standing Finance Committee for some years now, but I know the circumstances under which the first Standing Finance Committee was appointed. One feature of those circumstances was that we had a Government in our country in this Legislature which had not the majority in the House. The Government had all the powers of an Executive Government, but it did not possess a majority, and they were asked to follow the advice of the majority, although ultimately the Government had the power to supersede the opinion of the majority. There was another circumstance, Mr. President, under which the Standing Finance Committee was appointed at that time, and that circumstance was that Government, which did not possess a majority in the House, was faced with great financial difficulties. There were huge deficits in the Budget; Government had to secure the approval of the House for their taxation proposals as well as for their proposals for incurring additional expenditure. It is on account of these two circumstances, namely, that the Government did not have the majority in the House and the Government were faced with abnormal

difficulties to meet their expenses that the Standing Finance Committee was brought into existence. Sir Malcolm Hailey, who was the Finance Member at that time, was a shrewd man. He wanted to get his financial proposals approved by the House, although he had not the majority in the House. He therefore thought that the best way of doing this was to get a Standing Finance Committee of the House appointed. And he did appoint a Standing Finance Committee, with the result that his path in this House became smoother. I feel, Mr. President, that this is the history of the Standing Finance Committee. What I feel on this occasion is this that today we are on the eve of a new constitution, and we should therefore consider what constitutional procedure we should have for our future constitution. If we are envisaging the establishment of a responsible government in the centre, we should consider whether it is not right to leave all the financial proposals in the hands of the Government which will be backed by a majority in the House. I personally think that my own inclination today is that the right procedure is that we should throw all the responsibility of framing financial proposals on the Government which will be based upon the majority in the House, and the function of the Opposition should be to criticise those proposals after those proposals are before the House. In my judgment there is a great weakening of the power of the criticism of the Opposition if the Opposition shares the responsibility of the majority in criticising those proposals before those proposals are actually framed and placed before the House. I do not suggest that there are no constitutions in the world where a system of appointing committees, even for the work of the Executive Government, is not adopted, but what the Members should consider is whether the system of working the Government, which is based upon the majority being responsible for their proposals and leaving the Opposition to criticise the proposals of the majority, is a right one, or whether even the Opposition should share the work of framing those proposals and have its powers of criticism weakened, which is a matter which should be seriously considered. I therefore feel that this House should take an early opportunity of considering the whole constitutional aspect of this question, and not insist that only for a year or even for six months the Committee will be constituted in a particular way. More good will be done to this country and for the finances of this country if we consider the whole question whether the responsibility of framing financial proposals should belong to the Government, backed by the majority, or whether the Opposition should also share in framing these proposals.

Mr. C. C. Biswas: Sir, I do not think we should be justified in being drawn into the alluring fields of controversy which have been opened up by the Leader of the Nationalist Party. This is a matter which is very comprehensive and is much too important to be disposed of as a side issue on a motion of this kind. What we are concerned with at the present moment is, as I conceive it after listening to the speeches which have been made, whether or not the Standing Finance Committee has functioned in the way it was designed to function. My Honourable friend Mr. Gaya Prasad Singh has said that he has been there for eight or nine years. I do not think, however, that the House will remember a single occasion when any complaints were made by him on the floor of this House that the work which was being done there was not being done satisfactorily. The question is raised today by somebody else, and up rises my Honourable friend to join his voice to his! That shows that

[Mr. C. C. Biswas.]

there is really no substance in these complaints. It has been said that the constitution of this Committee is not satisfactory, because besides the Finance Member, you have some Members who happen to be nominated officials and non-officials.

Several Honourable Members: There are no officials on the Committee.

Mr. C. C. Biswas: All the better. Now, let us see what is the proportion of the Members. The total strength of the Committee is 14, and I believe I can state without fear of contradiction that you have not got more than two or three at the most nominated non-officials on that Committee. If it comes to this that the 11 or 12 elected representatives are powerless to resist the two or three nominated non-officials, then, Sir, all I can say is that I will not care to think much of their ability or competency to represent the House. Government have not in that Committee a standing majority with which they can overpower the elected representatives. It is not like that. Then, Sir, there is one other fact to which it is necessary that I should call the attention of the House. I should like to ask my friends who have raised this question, whether there has been a single occasion on which the recommendations of the Standing Finance Committee have been turned down by this House. My Honourable friend the Leader of the Nationalist Party says that the elected representatives of the people take it for granted that their representatives do all that can or should be done in the Standing Finance Committee, and therefore they fall into a state of somnolence when the matter comes before the House. If that is the standard of public duty which the Members of the House set before themselves, well, they do not deserve much better treatment.

Sir, I was on the Standing Finance Committee for about two months just for the purpose of acquainting myself with the nature of the work that was done, and speaking with that limited experience, I may say that information which was asked for was never refused. There were occasions when we were not satisfied with the reports which were placed before us, and we wanted to have more information and that information was ungrudgingly placed before us. I am quite sure that is the spirit in which the Finance Member, who has been presiding over this Committee, has been acting throughout.

Not one word of complaint was ever heard against him or against anybody else that information which was necessary or which had been asked for had not been furnished to the Committee, or that the Committee had not been taken completely into confidence. My Honourable friend deplors that the complete picture is not placed before him. Has he ever asked for details which would make up that complete picture, and not got them? If by complete picture he means the Budget as a whole, of course it goes without saying that the Budget as a whole cannot be placed before him in connection with one single item. But it would be travesty of truth to say that information which was necessary for the purpose of deciding a particular matter in hand was ever withheld by responsible members of Government. So, I say unless you want to play to the gallery, it is not right to raise these questions and to say that the whole Committee should be reconstituted on democratic lines and

that you should remove every nominated Member from it, that you should remove even the Honourable the Finance Member, and make the Committee one of elected representatives. It might all be very well to speak like that and get cheers from the galleries or from outside. But that is not business. After all, the responsibility for carrying on the administration under the present constitution rests with the Government, and as my Honourable friend Mr. Joshi has very rightly pointed out, the responsibility is still theirs, although the Standing Finance Committee is taken into confidence. The object, as I understand, of having the Standing Finance Committee is to acquaint the Honourable Members through that Committee with details of the projects or schemes which come up for consideration, and though Government are not bound to accept the recommendations, still, be it said to their credit and let not that fact be withheld from the public, I think they have never gone against those recommendations.

Mr. Gaya Prasad Singh: Except on one occasion.

Mr. C. C. Biswas: May be, but during the last eight or nine years, generally speaking, they have always deferred to the recommendations of that Committee, although they were not bound to do so.

Mr. B. Sitaramaraju (Ganjam *cum* Vizagapatam: Non-Muhammadan Rural): I am another member of the Standing Finance Committee. The constitution of that Committee can be stated to be this, that it is the pocket edition of the Assembly, and its constitution depends upon the strength of the grouping of the Assembly, and on the fact whether it is working satisfactorily or not, I should like to say this, that the Standing Finance Committee is working as satisfactorily as this Assembly is working. If there is any fault, I honestly confess that the fault is entirely ours. Several Members are always found to be absent on these Benches. Had they been here in full strength, they would have worked the constitution which was given to them and by showing their strong opposition to any measure, they could have made the Government agree to their point of view or made their position felt. In the same way in the Standing Finance Committee also the attendance is just as good or as bad as it is in this House. Therefore I should like to say that if all the Members who are elected from this House to serve on that Committee are there in strong numbers and if they have taken the trouble to study the papers that are given to them, I think very useful purpose could have been served and it would have given proper help also to the Honourable the Finance Member who was presiding over those deliberations. I, for one, though I had been there for the last three or four years, have never come across a case yet where information was denied to us simply. Several Members do not care to take the trouble to ask for the information. Such information as was called for was always given. I personally think that not much useful purpose would be served in a discussion like this at this stage for here is an excellent opportunity now for Honourable Members to elect such Members as would take a proper interest in the matter of fighting, and if there is a constitutional issue raised between the Standing Finance Committee and the Honourable the Finance Member on any important occasion then the time would come for this House to consider that question, and till such a thing happens, no useful purpose can be expected to be served by discussing this subject.

Diwan Bahadur Harbilas Sarda (Ajmer-Merwara: General): Though I have not had the benefit of listening to the debate from the beginning, yet as I happen to be one of the oldest members of the Standing Finance Committee—myself and my Honourable friend Mr. Gaya Prasad Singh are the oldest members there—I feel that I should say something about the working of that Committee. That Committee consists of Members who are all elected by this House, except the Honourable the Finance Member who is nominated by the Governor General. It is perfectly correct to say that there are one or two members who are nominated Members of this Assembly but they too are elected to that Committee by the vote of this House. Consequently, so far as the constitution of that Committee goes, I do not think there is anything which is unsatisfactory to which objection can be taken. As for the working of the Committee, I must say that the Chairman, the Honourable Sir George Schuster, has shown every consideration to the views and wishes of the Members. I have had occasion to notice that when we, some of us on this side of the House, who are members of that Committee, opposed a proposal though the Honourable the Finance Member, as Chairman of that Committee, could carry the motion against our opposition by a majority of votes, yet when he found that four or five of us were against the proposal, he held back his hand and he would not carry the proposal against our wishes. He would postpone the thing and bring it for further consideration and give us further information necessary for the purpose so that there might be unanimity. The way in which the Chairman of that Committee has worked in that Committee is in every way such as would be approved of anywhere and for which we are really thankful to him. The working of that Committee leaves nothing to be desired. As a member of that Committee I must give expression to my opinion in the House while it is discussing the matter and I may say that there is no just cause to complain of anything as regards the working of that Committee.

The Honourable Sir George Rainy: Sir, when my Honourable colleague, the Finance Member, asked me to deputize for him as regards this motion, I do not suppose he had any idea that it would be discussed on the floor of this House for about an hour, and certainly when I light-heartedly agreed to take his place, it never entered my head that a brisk debate with a large number of most interesting speeches would fall to me to answer. However, it will not be necessary for me, I think, to say very much, and if my Honourable colleague, the Finance Member, had been present I doubt, whether without time for consideration, he would have been able to express an opinion offhand upon every one of the suggestions which have been made. I will certainly call his attention to what has been said to-day, and as all Honourable Members know, my Honourable colleague is always ready to consider suggestions. But, there are one or two aspects of the case to which perhaps I might draw attention. In the first place, as to the functions properly falling to the Standing Finance Committee: my Honourable friend, Dr. Ziauddin Ahmad, who spoke first, particularly directed attention to that aspect of the case. Now, that is a matter which does require a good deal of consideration from the point of view of what are the functions which properly fall to the executive as such, and what are those that properly fall to the Legislature as such. When my Honourable friend Sir Hari Singh Gour said that certain changes were desirable in view of the imminence of the new constitution, it seemed to me that possibly he has not fully appreciated the bearing which the new

constitution is likely to have on such a question as the proper functions of the Standing Finance Committee. I think there was a good deal of force in what my Honourable friend Mr. Joshi said, namely, that after full responsible Government has been set up, the responsibility for placing financial measures before the Legislature should rest solely on the shoulders of the Government.

I am not expressing an opinion of my own but it is a view for which a good deal can be said; and I believe that the procedure which
 12 Noon. has been adopted as regards the Standing Finance Committee of this House is determined to a large extent by the fact that ours is a half and half constitution and not a fully responsible constitution. Certain arrangements are necessary in a case of that kind by which, as far as may be, the Government which is not responsible to the House and the House generally may be brought into agreement. From what has fallen from the lips of quite a number of Honourable Members today, I think we can fairly claim that the Standing Finance Committee, as at present constituted and as it at present works, has done a great deal in that direction, and that by its existence a great deal of unnecessary friction has been avoided. But it is always a fair question to consider at any particular moment whether the functions of the Committee can be changed, and I am quite sure that my Honourable colleague the Finance Member will read everything that has been said and will consider it.

The only other matter on which I wish to say something is the suggestion that the nominated official Members of this House ought not to take part in the election of the Standing Finance Committee. I can quite understand the feeling that the House would like to have as far as possible elected Members and no nominated officials. But as long as the constitution requires that officials should be Members of the House, it seems to me that it falls to them to discharge any of the functions naturally falling to the Members of this House; and I cannot agree with my Honourable friend Sir Hari Singh Gour that it was part of the intention of the framers of the existing Government of India Act that the nominated official Members should gradually abnegate their functions and pretend they were not there. It might be a pleasant prospect to my Honourable friend if we could do that, but I am afraid I cannot hold out any hope that in this matter we should find it possible to agree with him. I would remind the House of what I have already said on this point that, when it is a case of trying to bring as far as possible a non-responsible Government into accord with a House which is mainly elected, the device of the nominated official Member is one which may have to be adopted; and in the constitution of a Standing Finance Committee which exists very largely for the purpose of bringing Government and the House into agreement, I think it is reasonable and right that the nominated official Members should be entitled to vote at the election in exactly the same way as other Members.

Mr. President: The question is :

"That this Assembly do proceed to the election for the financial year 1932-33, in such method as may be approved by the Honourable the President, of a Standing Finance Committee of the Assembly not exceeding fourteen in number, to which shall be added a member of the Assembly to be nominated by the Governor General. The member so nominated shall be the Chairman of the Committee."

The motion was adopted.

ELECTION OF MEMBERS TO THE STANDING COMMITTEE ON EMIGRATION.

Sir Frank Noyce (Secretary, Department of Education, Health and Lands): Sir, I beg to move:

"That this Assembly do proceed to elect, in such manner as the Honourable the President may direct, eight non-official members to sit on the Standing Committee on Emigration."

The motion was adopted.

ELECTION OF MEMBERS TO THE STANDING FINANCE COMMITTEE FOR RAILWAYS.

The Honourable Sir George Rainy (Member for Commerce and Railways): Sir, I beg to move:

"That this Assembly do proceed to elect in such manner as may be approved by the Honourable the President, eleven members from the Assembly who shall be required to serve on the Standing Finance Committee for Railways, as provided for in clause 6 of the Resolution adopted by the Legislative Assembly on the 20th September, 1924, on the subject of the separation of Railway Finance."

Dr. Ziauddin Ahmad (United Provinces Southern Divisions: Muhammadan Rural): Sir, I do not like to initiate another debate on this question (Laughter) but I should like only to draw attention to one point. I should like the Honourable Member in charge of railways to consider whether it is not possible, in view of the fact that the railways are commercial concerns, to lay a balance-sheet of individual lines and to lay a balance-sheet of the railways as a whole before the Finance Committee and ultimately before the Assembly.

Sir Alan Parsons (Financial Commissioner, Railways): Sir, I will consider that question. The position is that we have not had regular balance-sheets for individual railways in the past. We are attempting at the request of the Public Accounts Committee to work out such balance-sheets and I will certainly consider whether, if we succeed in doing so, we should not place papers of that kind before the Standing Finance Committee and incorporate them among our Budget papers.

Mr. President: The question is:

"That this Assembly do proceed to elect in such manner as may be approved by the Honourable the President, eleven members from the Assembly who shall be required to serve on the Standing Finance Committee for Railways, as provided for in clause 6 of the Resolution adopted by the Legislative Assembly on the 20th September, 1924, on the subject of the separation of Railway Finance."

The motion was adopted.

ELECTION OF MEMBERS TO THE CENTRAL ADVISORY COUNCIL FOR RAILWAYS.

The Honourable Sir George Rainy (Member for Commerce and Railways): Sir, I beg to move that this Assembly do proceed to elect in such manner as may be approved by the Honourable the President, six non-official Members from the Assembly who shall be required to serve on the Central Advisory Council for Railways.

Mr. K. P. Thampan (West Coast and Nilgiris: Non-Muhammadan Rural): Sir, I will ask one question. If the principle propounded by the Honourable the Leader of the House was correct, why should a special distinction be made here between non-officials and officials in this motion? In this motion as well as in the motion of Sir Frank Noyce for election to the Standing Committee on Emigration it is specifically stated that only non-official Members are competent to be elected. In the matter of the Public Accounts Committee, which is a statutory body, the official members of the Government are not allowed to stand nor are they permitted to exercise their right of election. But it is specifically stated in the Rules that the Government are at liberty to nominate three members from among the officials. That is a more straightforward and honest way of doing the things. Why should not the same system be adopted in these Committees as well?

Sir Alan Parsons (Financial Commissioner, Railways): Sir, I should explain that the actual form of the Railway Member's motion is due to the repetition of the words in the Convention which established the separation of Railway from General Finance. In actual practice the eleven Members who serve on that Committee are always non-officials.

Mr. Muhammad Yamin Khan (Agra Division: Muhammadan Rural): Sir, I wanted to point out at this time one particular point which has been the subject of representation for a long time by this Central Advisory Council for Railways, and it is this that in the Local Advisory Committees the people who are appointed come from the provinces, and this Central Advisory Council has got no direct connection with the Local Advisory Committees, and the suggestion has often been made that the members of the Central Council should *ipso facto* be members of the Local Advisory Committees in their own provinces. I do not know how far this suggestion has been put by the railway authorities to the different railway Agents, and whether it has been accepted or not. Matters usually come up before the Central Council only once a year, whereas most of the points are dealt with by the Local Advisory Committees; and I think it is right and proper that, when the Railway Budget is being passed by this House, the Members of this House should have a voice in the local arrangements. The Local Advisory Committees are meant for the purpose of advising the Agents of different lines; but whenever the different lines come here with their Budgets, we cannot have any voice in making any suggestions to them. I would like to know if any such recommendation has been made or whether a point of this nature is acceptable to the railway authorities and to the Agents or not.

Mr. Gaya Prasad Singh (Muzaffarpur *cum* Champaran: Non-Muhammadan): Sir, I am not making a speech, but I should like to get information on one or two points for the enlightenment of the House. I should like to know in the last year how many times this Central Advisory Council for Railways has met and what is the amount of work put in by them, and whether the members have a right to offer any suggestions or call for certain papers which may be valuable to them for their information or guidance.

The Honourable Sir George Rainy: Sir, with reference to what fell from my Honourable friend, Mr. Muhammad Yamin Khan, I should like

[Sir George Rainy.]:

to say this; that the matter is one which has been put before me on a number of occasions by individual Members of the Central Advisory Council; but I have always found a good deal of difficulty in seeing how exactly effect could be given to it, remembering this, that the object of the Local Advisory Committees is to bring local pressure to bear upon the Railway Administrations, and the mere fact that certain people are members of a Central Council, is not necessarily a justification for putting them on the local committees. But since the Council which has now to be elected will have to advise—not me but my successor,—on the whole I think the best advice I can give my Honourable friend is to try his luck with the next member.

Then, as regards my Honourable friend, Mr. Gaya Prasad Singh, the Council, if I remember rightly, met once immediately after its election last March—I think I am right on that point—and since then we have not called a meeting. The reason why we have not done so, is that the whole of our attention has been concentrated on retrenchment. We naturally consult the Council when we want to do something, and in these days of retrenchment we are not allowed to want to do anything. We have to curtail our activities, not to enlarge them. I thought at one time that it would be possible to call a meeting in November to consider certain questions connected with the formation of committees which would help us as regards the recruitment of minority communities, but on the whole I thought it would be better to postpone that until we had Mr. Hassan's Report. I am anxious to have a meeting of the Council about that subject at as early a date as possible; and if financial circumstances would only begin to show some signs of improvement, I have no doubt we should have plenty of subjects to put before the Central Advisory Council.

Mr. President: The question is:

"That this Assembly do proceed to elect in such manner as may be approved by the Honourable the President, six non-official members from the Assembly who shall be required to serve on the Central Advisory Council for Railways."

The motion was adopted.

ELECTION OF MEMBERS TO THE STANDING FINANCE COMMITTEE, THE STANDING EMIGRATION COMMITTEE, THE STANDING FINANCE COMMITTEE FOR RAILWAYS AND THE CENTRAL ADVISORY COUNCIL FOR RAILWAYS.

Mr. President: I may inform Honourable Members that nominations for the purpose of election of members to the Standing Finance Committee and the Standing Committee on Emigration will be received in the Assembly Office up to 12 noon on Tuesday, the 15th March, while the nomination for the Standing Finance Committee for Railways and the Central Advisory Council for Railways will be received up to 12 noon on Thursday, the 17th March, 1932. The elections, if necessary, for the Standing Finance Committee and the Standing Committee on Emigration will take place in this Chamber on Wednesday, the 23rd March, while the election for the Standing Finance Committee for Railways will be held on Thursday, the 24th March, 1932. The date on which the election for the Central Advisory Council for Railways will take place will be announced later on. The elections will be conducted in accordance with the principle of proportional representation by means of the single transferable vote.

DEMANDS FOR SUPPLEMENTARY GRANTS IN RESPECT OF RAILWAYS.

COMPANIES' AND INDIAN STATES' SHARE OF SURPLUS PROFITS AND EARNINGS.

Sir Alan Parsons (Financial Commissioner, Railways): Sir, I move:

"That a supplementary sum not exceeding Rs. 7,75,000 be granted to the Governor General in Council to defray the charges which will come in course of payment during the year ending 31st March, 1932, in respect of 'Companies' and Indian States' share of surplus profits and earnings'."

Accidents on Companies' and Indian States' Railways.

Mr. Nabakumar Sing Dudhoria (Calcutta Suburbs: Non-Muhammadan): Sir, I beg to move:

"That the Demand for a supplementary grant of a sum not exceeding Rs. 7,75,000 in respect of Companies' and Indian States' share of surplus profits and net earnings be reduced by Re. 1."

Sir Alan Parsons: Sir, I rise to a point of order. Under the Demand No. 6, dealing with Companies' and Indian States' share of surplus profits and earnings, there is no money at all which can in any way be connected with accidents either on Company-managed or on State-managed railways. This is purely a contractual payment made to Companies. I submit that a discussion with regard to accidents on railways could only be relevant either on the Railway Board's Demand itself or on Demand No. 5, where we provide compensation in the case of accidents.

Mr. President: Has the Honourable Member anything to urge in answer to the point of order?

Mr. Nabakumar Sing Dudhoria: Sir, I only want to bring to the notice of the Chair that in the last Simla session a similar cut motion was moved by myself on the supplementary Demand on the Miscellaneous head.

Mr. President: The Honourable Member does not seem to appreciate the point of order raised.

Mr. Nabakumar Sing Dudhoria: I have nothing to add.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The Chair would like to point out to the Honourable Member that the point of order raised is not that the Honourable Member cannot move a cut motion in the manner he proposes to do, but that the subject matter which he wishes to ventilate does not arise under the provision which the railways want this Assembly to sanction by way of a supplementary grant. The point of order is that the Honourable Member could not raise this issue on this Demand, and if the Honourable Member has anything to say against that point of order the Chair will be glad to consider it.

Mr. Nabakumar Sing Dudhoria: I should like to withdraw it, Sir.

Mr. President: There is no question of withdrawing it.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): As the Honourable Member has nothing to urge against the point of order, the cut motion is ruled out of order.

[Mr. President.]

The question is:

"That a supplementary sum not exceeding Rs. 7,75,000 be granted to the Governor General in Council to defray the charges which will come in course of payment during the year ending 31st March, 1932, in respect of 'Companies' and 'Indian States' share of surplus profits and net earnings'."

The motion was adopted.

APPROPRIATION FROM DEPRECIATION FUND.

Sir Alan Parsons: Sir, I move:

"That a supplementary sum not exceeding Rs. 4,52,02,000 be granted to the Governor General in Council to defray the charges which will come in course of payment during the year ending 31st March, 1932, in respect of 'Appropriation from Depreciation Fund'."

Contemplated Abolition of Azimganj City Station.

Mr. Nabakumar Sing Dudhuria: Sir, I beg to move:

"That the Demand for a supplementary grant of a sum not exceeding Rs. 4,52,02,000 in respect of 'Appropriation from Depreciation Fund (Commercial and Strategic) be reduced by Re. 1.'"

Sir Alan Parsons: Sir, I rise to a point of order again. The point of order is exactly the same. Whether this particular station is kept open or closed, the expenditure on keeping it open or on closing it would not in any way affect the moneys which are voted by the Assembly under the Demand "Appropriation from the Depreciation Fund". The grant I am asking for is purely for a loan from the Depreciation Fund.

Mr. S. C. Mitra (Chittagong and Rajshahi Divisions: Non-Muhammadan Rural): We really cannot hear what the Honourable Member says. Will he kindly speak a little louder?

Mr. President: Please speak a little louder.

Sir Alan Parsons: The point of order is exactly the same, whether this particular station is kept open or is closed, the expenditure on keeping it open or on closing it would not in any way affect the moneys which we are asking the Assembly to vote under the Demand "Appropriation from the Depreciation Fund".

Dr. Ziauddin Ahmad (United Provinces Southern Divisions: Muhammadan Rural): Sir, in this demand the Honourable Member has not pointed out the manner in which this money is to be spent. So, I think that any item of expenditure can come under this head.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The point of order is that the subject matter which the Honourable Member wishes to discuss does not arise out of the Demand that is asked for. If the Honourable Member, Dr. Ziauddin Ahmad, wishes to criticise the Demand on some other ground, he will have an opportunity of doing so later. At present, the point of order is that the subject matter which the Honourable Member wishes to discuss by means of his cut motion does not arise out of this Demand, and I should like to know whether the Honourable

Member, Mr. Nabakumar Sing Dudhoria, has anything to urge against the contention which has been put forward.

(There was no answer from Mr. Dudhoria.)

I take it that the Honourable Member has nothing to urge in regard to the facts on which the point of order is based. That being so, the cut motion is ruled out of order.

Dr. Ziauddin Ahmad: May I point out, Sir, that in this Demand the Honourable Member has not given us any facts. He has not stated whether the money now to be taken from the Depreciation Fund is to be spent on those items which come under the legitimate expenditure of depreciation, because there are certain expenditures which it is the legitimate business of the Depreciation Fund to pay, and nothing has been stated as to how this money is to be spent. Then the second thing is, if they are not going to spend the money for those items for which the Depreciation Fund is intended, then I should like to know whether it will be taken in the shape of loan, and if it is so, then at what rate of interest it will be taken. So all these things ought to have been explained to us before we could give our votes for or against this particular motion.

Mr. S. C. Mitra: Sir, it seems now that it is the policy of the Railway Department to spend money from the Depreciation Fund for their current expenditure. As a matter of fact, this Depreciation Fund is really meant for putting the rolling stock or the railway buildings into proper repair. My friend Mr. Dudhoria gave a cut motion with a view to express dissatisfaction at the contemplation of the abolition of Azimganj City Station in spite of the universal protests of the people of Azimganj and all neighbouring places. I do not know whether the station is given up because it is out of repair or whether such repairs may require money out of the Depreciation Fund. My friend Dr. Ziauddin Ahmad has made it quite clear that the Government always demand supplementary grants without giving any details as to how the money is proposed to be spent. In this case they simply say it is for appropriation from the Depreciation Fund, but no facts are laid before us to show in what way that money is going to be spent. So, I think that, unless the point is made clear to us, we cannot vote for this additional money that is now asked for in the supplementary grant.

Sir Alan Parsons: Sir, I had thought that the position had been made clear to the House in the speech of the Honourable the Railway Member and in the Memorandum of the Railway Board at the time of the Budget, and that is why I did not make any remarks in bringing forward this motion. This sum is merely a loan from the Depreciation Fund to meet the railway deficit. Actually we are not expecting to spend any more on renewals this year than we estimated, but because there is a railway deficit, we require this sum as a loan from the Fund to meet our interest charges. I share with my friends Dr. Ziauddin Ahmad and Mr. Mitra their regret that it should be necessary to withdraw money from the Depreciation Fund for that purpose, but the facts are well known. We have got a deficit of about 4½ crores in the current year, or are likely to have it, over and above what can be met from the Reserve Fund, and the only remaining fund from which we can meet it in order to pay our interest charges is the Depreciation Fund. The amount for which I ask is a balancing figure to meet the railway deficit that is expected in the current year.

Dr. Ziauddin Ahmad: May I understand if this money is to be drawn to meet interest charges?

Mr. President: Order, order. The question which I have to put is:

"That a supplementary sum not exceeding Rs. 4,52,02,000 be granted to the Governor General in Council to defray the charges which will come in course of payment during the year ending 31st March, 1932, in respect of 'Appropriation from Depreciation Fund'."

The motion was adopted.

MISCELLANEOUS EXPENDITURE.

Sir Alan Parsons: Sir, I beg to move:

"That a sum not exceeding Rs. 25,000 be granted to the Governor General in Council to defray the charges which will come in course of payment during the year ending 31st March, 1932, in respect of 'Miscellaneous expenditure'."

I should like to explain here that we do not expect our expenditure under this head to be, as a whole, in excess of our original Budget. We are asking for this extra sum under voted expenditure, but the non-voted expenditure will be reduced by the same amount. The money is solely required to pay additional subsidies to certain branch lines with whom we are under contract, due to the fact that their earnings were not as large as we expected them to be...

Dr. Ziauddin Ahmad: I do not like to interrupt on this supplementary grant, but the information that has been supplied to us either in this little pamphlet that has been circulated or the speech that has been delivered by my Honourable friend is so meagre that we really cannot form any opinion, and it would be better if some more detailed information could be given to us, at least on some of these branch lines.

Sir Alan Parsons: I will certainly give more details if the Honourable Member wishes it. The two principal branch lines for which additional subsidies are needed are the Guzerat Railways and the Bankura Damodar River Railway. Their receipts were not as large as we anticipated at the time the Budget was framed. Therefore, under the terms under which we guarantee a certain return to those companies or give a rebate to them, we have to pay a larger sum by way of subsidy to them or give them a larger rebate. That is the sole reason why we are expecting an excess under this Demand and asking for an additional grant of Rs. 25,000.

Mr. President: The question is:

"That a sum not exceeding Rs. 25,000 be granted to the Governor General in Council to defray the charges which will come in course of payment during the year ending 31st March, 1932, in respect of 'Miscellaneous expenditure'."

The motion was adopted.

APPROPRIATION FROM THE RESERVE FUND.

Sir Alan Parsons: I beg to move:

"That a supplementary sum not exceeding Rs. 80,39,000 be granted to the Governor General in Council to defray the charges which will come in course of payment during the year ending 31st March, 1932, in respect of 'Appropriation from the Reserve Fund'."

Sir, this is a sum required to meet the railway deficit.

Dr. Ziauddin Ahmad: I beg to oppose this motion, and the reason why I do so is this. I have pointed out on the floor of this House and I have never got a reply either from the Finance Member or from the Railway Member—I pointed out on the floor of this House yesterday that the Finance Member has lent Rs. 160 crores during the last six years to the railways, out of which Rs. 46 crores were spent on undertakings yielding an income of one per cent. and the remaining 114 crores were spent on certain items yielding no income whatsoever. I pointed out that it is not reasonable to lend money to the railways at a mean rate of 5·7 per cent. while the railways themselves are yielding an income of 3·4 per cent. What is the result? The result has been that the Financial Commissioner came forward before us and said that he wanted to take four crores from the Depreciation Fund in order to pay the interest charges. Was the payment of interest a legitimate charge on the Depreciation Fund? He again came forward before us and said that he wanted to take the entire amount from the Reserve Fund in order to pay the interest charges. He then came forward and asked to be excused from the payment of the seven crores to the general revenues which he had to pay according to the convention of 1924, because owing to the high interest charges, the railways could not pay. I repeatedly asked for a reply why Rs. 160 crores were uselessly spent, why the Finance Member and the Financial Commissioner, who are the custodians of the country's finances, did not put their foot down on this expenditure, and why this lavish expenditure has been allowed to go on. The Financial Commissioner knows very well that there are many items in the Budget where the actual expenditure exceeded the estimate by 200 and 300 per cent., and no reason has been given for the same on the floor of this House. On these grounds I oppose the grant.

Sir Alan Parsons: If I understand the reason why my Honourable friend opposes this grant, it is, that he objects to the whole programme of capital expenditure which has been incurred on railways during the last six or seven years. That is rather a large subject for me to deal with, without notice, on a debate on a supplementary grant. But I should like to say this. Admittedly, on certain schemes, some of which have been mentioned in this House, the financial results expected have not so far been obtained. But I may claim that as regards the capital expenditure on the railways as a whole, the financial results expected from those schemes are likely to be derived in due course when they have had time to come to full fruition and when normal conditions return again. I will take as an instance a great many of the new lines which we have started. When we prepared the estimates of those branch lines, we carefully worked out what their prospects were likely to be—not their prospects on the date the lines were opened, but after 5 or 7 years, because it is our experience that it takes 5 or 7 years ordinarily for the traffic of a new branch line to develop fully. So far, I think we have had no lines opened for 5 years, and therefore, we cannot say yet whether our estimates were correct or not. In addition the entirely abnormal conditions of the current year are such that we cannot expect to get the traffic on those branch lines which in ordinary conditions we should get. We cannot therefore judge whether our policy of new construction has been successful or not, and in my opinion, for another three years or more it may not be possible to form any certain opinion whether that policy of new construction, to which my Honourable friend was referring, has been justified or not.

Mr. President: The question is:

"That a supplementary sum not exceeding Rs. 80,39,000 be granted to the Governor General in Council to defray the charges which will come in course of payment during year ending 31st March, 1932, in respect of 'Appropriation from the Reserve Fund'."

The motion was adopted.

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

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

THE SALT ADDITIONAL IMPORT DUTY (EXTENDING) BILL.

The Honourable Sir George Schuster (Finance Member): Sir, I move for leave to introduce a Bill to extend the operation of the Salt Additional Import Duty Act, 1931. I do not propose to offer any observations on the Bill at this stage. Honourable Members will find the position very fully explained in the Report of the Committee of this Assembly. Sir, I move.

The motion was adopted.

The Honourable Sir George Schuster: Sir, I introduce the Bill.

THE INDIAN TARIFF (WIRELESS BROADCASTING) AMENDMENT BILL.

The Honourable Sir Joseph Bhoré (Member for Industries and Labour): Sir, I move for leave to introduce a Bill to provide funds to enable Government to continue wireless broadcasting in India, by increasing the import duties leviable on wireless reception apparatus.

Sir, I need do no more at this stage than say that our object in introducing this measure is to try and keep broadcasting alive. I shall, I hope, be able to give in more detail the reasons why we are proceeding on the lines upon which we are now doing when I make my next motion in connection with this Bill. Sir, I move.

The motion was adopted.

The Honourable Sir Joseph Bhoré: Sir, I introduce the Bill.

Sir Frank Noyce (Secretary, Department of Education, Health and Lands): I would ask your permission, Sir, to defer moving my motion* until tomorrow.

*"For leave to introduce a Bill further to amend the Indian Merchant Shipping Act, 1923, for certain purposes."

THE TEA DISTRICTS EMIGRANT LABOUR BILL.

The Honourable Sir Joseph Shore (Member for Industries and Labour): I move for leave to introduce a Bill to amend the law relating to emigrant labourers in the tea districts of Assam.

In view, Sir, of the somewhat detailed Statement of Objects and Reasons, I need do no more at this stage than explain that this piece of legislation seeks to give effect to a recommendation which was unanimously made by the Labour Commission. Sir, I move.

The motion was adopted.

The Honourable Sir Joseph Shore: Sir, I introduce the Bill.

THE PENGAL CRIMINAL LAW AMENDMENT (SUPPLEMENTARY) BILL.

The Honourable Sir James Crerar (Home Member): Sir, I move that the Bill to supplement the Bengal Criminal Law Amendment Act, 1930, as reported by the Select Committee, be taken into consideration.

I am sure, Sir, that the House will not expect from me at this stage any long discourse and will readily excuse both me and itself from such a superfluous task. The Bill has already been considered at some length for several days. It is a very short Bill and a very simple Bill, the principles of which can hardly be distinguished from its detailed provisions. The House referred the Bill to a Select Committee and thereby approved of its principles by a unanimous vote and it is therefore unnecessary for me to say anything further at this stage. In so far as matters subsidiary or relative to the Bill arise, I shall deal with them in due course when the detailed consideration of the Bill is taken up. In the meantime I merely ask the House, since I am in the happy position of being able to present the House once more with a Bill precisely in the form in which it was introduced, to join with me in giving effect to the recommendation of the Select Committee that it should be passed as introduced.

Mr. S. C. Mitra (Chittagong and Rajshahi Divisions: Non-Muhammadan Rural): I rise to oppose the consideration of this Bill. I made it clear from the very beginning that I was opposed to the principle of this Bill. When this Bill was referred to the Select Committee, I knew some Members, particularly I remember my leader Sir Abdur Rahim, made it clear that they were sending it to the Select Committee on the clear understanding that they would be free to oppose it if it was not sufficiently improved in the Select Committee. I find that the Bill has not been changed in the least, so I think I shall have their support in opposing this Bill altogether. In moving his motion for referring the Bill to Select Committee, Sir James Crerar said, "It is a very short measure containing practically only one effective operative clause". To-day, he says that it is a very short, and simple measure. Really if you look at it from the outside, it is a Bill of three or four clauses, but by passing this Bill, I can assure the House, that they will be digging the graves of the political detenus. I speak from my personal experience when I say that detenus

[Mr. S. C. Mitra.]

when they return from jail after several years, become practically physical wrecks. I have been asked by several men holding important and responsible positions whether these people are slowly poisoned in jail. Otherwise, why does it happen that when they come out of jail after years they are all ruined physically? Though I do not believe that there is any case for deliberate poisoning, I must agree that the effect is all the same and it is equally ruinous. Not one or two, not a few stray cases, but almost all of them who go to jail even if they had iron constitutions, come back completely wrecked. It may be difficult for some Honourable Members to realise why, when they get some food and some little comforts in the language of my Honourable friend, Mr. French, they should come back with shattered health. Sir, for that purpose of appreciating their condition you must put yourself in the position of these detenus. I tried to emphasise this point more than once that the Bengal Criminal Law Supplementary Act is not a penal law, that it is merely preventive; but if you search the whole criminal law in India, out of the 511 sections, there are very few sections which provide punishment for more than three or four years; while under this very simple measure of my friend, Sir James Crerar, they keep men in jail not month after month but year after year under restraint—they are sent to jail for an indefinite, an unending period, and it is this indefiniteness itself which tells so very heavily upon a person's constitution. It may appear very light, but it is not at all so if you have the painful experience. You may say that even if I am asked to stay in this House for, say 24 hours, what would be the difficulty provided I am provided with food? As a matter of fact many people do not go out of their office rooms for hours together, but you must appreciate, Sir, the psychological effect that once you tell a man that he cannot go out of a particular building for, say five hours, that will be putting a great strain on his nerves. He might have no personal inclination to go out of the room for another 12 or 14 or even 24 hours, but once you tell him that he cannot go out, that very thing will have the most evil effect upon his nerves, and that is the reason why the highest medical authorities agree that if you keep a man for two or three years in jail, he will certainly be deranged to a certain extent. So, before we decide upon this measure, we must realise what the real strain is on the physique of these people, who, mind you, are not found guilty by any court of law; Government themselves admit that it is not a penal measure but is merely preventive; nevertheless, Sir, Government make these people suffer far more in actuality than most of the real criminals for whom the penal laws of the land provide. As regards the solitariness of the jail itself, I know that even for the worst criminal, when a sentence is passed, there is provision in the jail codes whereby such a person does not suffer the whole period of solitary confinement at one stretch but by periods of two or three months at the most, at a time, in a solitary cell. after which there is an interval, but what actually happens in the case of detenus—and believe me, it is not at all an imaginary tale I am reciting—is that many of the detenus have to pass not only months but years in *solitary* cells! In their case even the jail codes do not provide anything because, technically speaking, they are not prisoners but detenus and should be treated merely as under-trial prisoners at the worst. Sir, I would like to emphasise this point because I personally felt, after the lapse of a year or so, the monotony and dullness of the same room, the same environment, the same scenery, the same

two or three people serving and this monotony tells so heavily on individuals that it is very difficult to make you realise the painfulness of the situation unless you also have some experience of that solitary life.

Mr. Gaya Prasad Singh (Muzaffarpur *cum* Champaran: Non-Muhamadan Rural): You are giving your own experience?

Mr. S. C. Mitra: Yes, my own experience; and I wish that you should not be misguided by the Mover of this motion when he says, "Oh, this is a very simple measure, it is nothing but transference from one place to another place; the detenus are amply and comfortably provided for." I tell you I know that the Honourable gentleman himself does not feel it because he himself has not had any opportunity to appreciate a fraction of the difficulties and sufferings of these people. Then I shall now tell you something about the difficulties of jail life, particularly when people are transferred to other provinces. Now the jailors in other provinces do not know the status of these transferred detenus. These detenus are generally sent under military guards with special officers; so when they go to a new place, the first impression of the jailor is that they must be treated like capital sentence prisoners. I said it once and I repeat it again and my experience has been confirmed by my friend, Mr. Phookun—who I am sorry is not here now—when he was put into a cell, after seven days he was feeling he was going out of his wits, because the strain of being couped up in a cell was so much. And, Sir, I will tell you, a cell means only a small room with a small window, 6 feet high, and generally walled by corrugated iron! You will now realise their position. (Shame, shame.) Now when these prisoners are sent out of their provinces, the jailors in the other provinces, not knowing their status, always treat them in the degrading fashion of capital sentence prisoners for the first few months. Now Government machinery will take months before even the so-called rules are supplied to the jailors in other provinces. In this connection I would like to state further that there are some jail rules which are very humiliating and insulting indeed. One of those rules is the "*Sarkar Salaam*",—which means that when any jail official enters into the jail, all the prisoners must stand up in a line and salute him. You are asked to go with other base criminals, and do the *salaam* in their company, standing upright along with them. You cannot stand anywhere and everywhere and say "Good-bye, Sir" but you must humbly salute him in the company of other criminals. Now that is one of the insulting things which some of the jailors in other provinces, who do not understand the status of political detenus, compel them to resort to. Then there is another system called the "*latrine parade*." (Laughter.) I must tell you something about that, because you must feel for yourself what the real position is. Now these people have never been tried in any court of law, they have never been found guilty by any court, and even the executive Government themselves admit that they have not sufficient evidence to secure conviction against these people. Now everyone has to submit to this "*latrine parade*". Imagine, Sir, cultured, educated people, some of them graduates, many of them well-stationed in life, all these cultured people being compelled to submit to the "*latrine parade*" by the jailor in a new jail. He will expect these people to stand, Sir, in a parade *with the criminals* to ease themselves in front of all other people! And you can understand how it is possible for cultured people to submit to all these humiliations. (Shame, shame.)

Mr. Gaya Prasad Singh: There is no privacy provided for them?

Mr. S. C. Mitra: None. I understand the real purpose of the Honourable the Home Member is to get this Bill passed in order to stop the interviews. He has not said so plainly, but I can read between the lines to find out what is his real intention. I shall dilate upon that point later. One of the reasons explained why prisoners should be transferred to distant places is that some person, while interviewing his son, was found to have carried some letters. The main purpose of this Bill is to shut out these detenus from all connection with the outside world. Sir, when these prisoners are transferred to distant jails, it becomes impossible for the poorer people to go to that place and interview their relations. In Burma, I understand, there were about 17 or 18 detenus in the years 1926 to 1928, and during this period only Subbash Chandra Bose was interviewed by his brother. I think the Honourable the Home Member himself has said that the purpose of this Bill is to transfer all political detenus to a jail in Ajmer. The name of the place is Deoli. It is an old dilapidated fort on the boundary line, between Ajmer and Udaipur, and it is more than 80 miles from Ajmer City. I have obtained this information from Diwan Bahadur Harbilas Sarda and am speaking subject to correction by the Home Member. It appears that there is an old dilapidated Fort at this place and money amounting to two or three lakhs was sanctioned by this House a year or two ago under the heading "Civil Works" without any Member having any idea that it was for building a jail there. Such is the jugglery in our detailed estimates in the Budget under the various heads. There is a railway line from Ajmer city for a distance of about 14 miles to a place called Nasirabad and thereafter one must ride on a camel or go by bullock cart for the rest of the 60 miles. That is the grand provision that the Honourable the Home Member is making for the detenus before his final kick to this unfortunate country. If his intention is to prevent people from interviewing these detenus, let him say so plainly. If this is the end he has in view, it can be achieved even in Bengal. Why should he ruin the health of these detenus by transferring them from Bengal to Ajmer, because they are not accustomed to the heat of such a place in the summer? Sir, let me point out to the Honourable the Home Member that these interviews are sometimes necessary even in the interests of Government.

I would like to impress on the Members on this side how it is that these detenus go on hunger strike, about which we read so often in the newspapers. After remaining for some time in the jail—here, again, I speak from personal experience—there is such a strain on the nerves that even a quiet, calm and reasonable man becomes to a certain extent unreasonable. If they are allowed to have interviews with their relations or guardians, it helps them a great deal to rehabilitate themselves to their normal condition. I have also consulted medical officers on this point and their verdict is also the same. Now, the Home Member proposes that these detenus should be put in a jail at Deoli, which is more than 80 miles from Ajmer, and more than 60 miles from the Railway station. The suggestion of my Honourable friend Mr. Abdul Matin Chaudhury that some provision should be made for granting travelling allowance to the relations of these detenus when they go to see them has also been ruled out in the Select Committee.

The Honourable the Home Member cited a case of letters being sent out by detenus in a clandestine way and therefore I must also give my

views about the sending of letters from the jail by these detenus. I personally think that this is one of those cases which had been referred to by Mr. S. C. Sen. Can Government explain why the father has not been prosecuted in a court of law for clandestinely passing letters which he is prohibited to do? In all such cases you will find that no cases are instituted in any court of law. That is the respect which they have for their own courts of law. What happens is this, that in order to carry on the administration of the country, the Government do many things which they cannot plainly and publicly profess. There are *agent provocateurs*, who are sent to tempt young men in various jails. There they exert their influence on these detenus, and sometimes get them entangled by procuring so-called confessions. Sometimes these spies write letters purporting to have been written by some detenus, otherwise political detenus are not likely to be so foolish to incriminate themselves by such letters. These letters are then placed before the so-called two Judges who sit on these facts in judgment. At first it was decided that the cases of detenus should be placed before two High Court Judges, but the High Court refused to have any connection in this matter because they considered it insulting to pass judgments merely on Untested evidence. Now the Government select two Judges belonging to the Listed Service or from the Civilians. Now, I tell you these *agent provocateurs* are sent to the jails in order to secure some letters which are used as evidence against the poor detenus. The Honourable the Home Member has said, "We have information that specific instructions were issued from places of detention to murder a particular Superintendent of Police, to murder the President of a Tribunal, to murder a high official, to concentrate on the murder of Europeans, etc." I cannot for a moment believe it, for the simple reason that nobody would like to create evidence against himself. These are all the acts of their own spies. Even if, for the sake of argument, I accept that there was one boy who tried to pass some letters, should that be the ground to put all the detenus under the ban and thus make interviews impossible for all detenus for all time? The Honourable the Home Member seems to be of the opinion that if a man is found stealing, the simple way is to cut off his hands so that in future he may not steal anything. Or, if there are burglaries, an Ordinance should be passed that nobody should go out of his house after sun-set. By some such simple means he can provide very easily for the government of this country, and they are providing in that way. But I would appeal to the House that they must see that such drastic powers are not given to the Government because there was a single case of a letter sent from the jail.

If they are sent to a hot climate these detenus will suffer. As regards censorship, there has been an elaborate system of censoring letters. If a letter is written by a detenu to any of his relations first it goes to the police officer and then to the jailor. I can give you examples from my personal knowledge. Recently my nephew wrote a letter to me. He was first prosecuted in a court of law, and when he was acquitted he was immediately put under the Criminal Law Amendment Act. The major portion of this letter is deleted. I can give this letter to the Honourable Members of this House to see it for themselves. (The letter was shown to Members in the House.) Four or five lines of this letter are left out and I understand that the letter that I wrote to him has been withheld from him. The censors will never tell a detenu whether any letter addressed to him has been withheld or any portion of the letter has been censored.

[Mr. S. C. Mitra.]

or obliterated. My nephew is a graduate and even if he is considered politically a dangerous fellow, he knows that his letter goes to a Member of the Assembly who is outside and yet his letter is censored. In this particular case my apprehensions are that the portion of the letter containing a reference to a case before the Magistrate has been censored. When he was under trial before the Magistrate my nephew narrated how he was tortured while in police custody and I wrote a letter to the police officials to have an enquiry made about the allegation and I think he must have written something about this in his letter which has been censored. Now, if I ask for an interview, that will be denied to me. But even if I am allowed an interview the police official will be present there, and my nephew will not be allowed to narrate the story of the police torture and the insults that were heaped on him while under police custody. As long as he will be under detention he will get no opportunity of saying anything against police officials. That is why the censorship has been introduced and is so strictly enforced. As regards interviews, they are always held in the presence of one or more police officials. There is barbed wire, and there is a distance of some feet which separates the interviewer from the detenu who is interviewed. Several detenus have refused these interviews because of the insulting conditions attaching to these interviews. They do not like their relations to be put under humiliation because the relations have to go from the police to the jailor first to secure permission and then at an appointed time you go and stop there for hours. Then the police officer comes and he gives an order as to where the relative can stand. The relative has to shout and if the relations are ladies it is easily imaginable whether they can shout from such a distance.

As regards transfer of detenus, that is a crucial point in this Bill and before I submit my own views on the point I should like to repeat from the speeches of some of the Honourable Members in this House itself. My Honourable friend, Mr. Mudaliar, who is not present today, in his speech said :

"You ought to have provisions whereby there should be a strict obligation cast upon the Government. These people should not be at the sweet will and pleasure of any Inspector General of Police or Superintendent of Jail who tells them that while in Coimbatore they must behave as Coimbatoreans do, I do not know how they behave—but that is what a Superintendent of Jail might be inclined to say if he has not got a legislative restriction that he should treat them as they would have been treated if they had continued to be in Bengal. It is for your convenience, for the sake of the facilities which you want, that they are transferred out of that atmosphere and placed elsewhere and there ought to be a provision that in the matter of dieting, in the matter of clothing and in the matter of those amenities which are essential for the ordinary comforts of life, they should have those amenities which they were accustomed to have in Bengal."

The main argument of the Honourable the Home Member is that these detenus are inveterate or dangerous terrorists, but really that is begging the whole question. First prove that they are inveterate terrorists and then put them under any restrictions, you please. Because Government call them inveterate terrorists, so they must be indefinitely put under restraint is not a reasonable proposition. The Honourable the Home Member justifies his argument on an assumption which he has to prove, that is that they are inveterate criminals. If they are inveterate criminals why not prove it in a court of law?

As regards this so-called examination of the case by two Judges, I have forgotten to explain it in detail. What happened in my own case was this; perhaps the Honourable the Home Member will rise up and say that these detenus are charged under certain heads and they explain their case and it goes before two judges. It is a misnomer to say that there is any real charge or any examination of the case by the two Judges. No definite charges are framed. The detenu is merely informed, "You are an associate of so and so, you are an enemy of British Government". In such vague terms are the charges framed against the detenu. I am speaking from my own personal experience. They will say "You have smuggled arms from 1926 to 1928". No definite period will be given so that the detenu may be given a chance to refute these allegations. I do not claim for the detenu that any lawyer should be appointed to defend him, I did not want my case to be defended by any lawyers but I merely wanted to be present before the Judge to explain anything that was considered suspicious by the police, but this humble demand was not granted. I do not even now know what were the specific allegations. If a detenu asks to be allowed to cite any witnesses, that is not allowed, and even if he asks to be permitted to appear before the Judges to corroborate his statement and to try and convince the Judges of his innocence, or even to know what are the definite charges against him, even these facilities are not allowed to the detenu. If the Government are not able to disclose the names of witnesses against the detenu, at least they can give the facts that go against a particular man. But nothing is permitted. Honourable Members might be under the impression that the cases against the detenus go before two Judges who are of the status of High Court Judges and that there would be some sort of trial, though no lawyers were present. To disabuse their minds of this impression, I will submit in detail that this so-called examination by High Court Judges is a mere mockery, and as the High Court of Calcutta decided, it is insulting to ask any of the Judges to pass a judgment on untested evidence.

As regards diet I explained in detail that the food which Bengalis take is not the same as other people take in the different provinces. These detenus will now be transferred to Ajmer. It is well known that fish is one of the principal elements of diet in Bengal. I asked my Honourable friend Diwan Bahadur Sarda about Ajmer, and he said that there is no chance of getting fish anywhere near Ajmer. As regards the method of cooking I read several letters. Here is a letter which I asked the other day my Honourable friend Mr. B. Das to read. That was written by a lady about her very sickly brother who has been transferred to Cannanore Jail in Madras. His name is Ramesh Chandra Acharya. He was in jail, she writes, with some intervals for more than ten years. It is not unknown to this House that, what happens is that once a man is under suspicion he is always a suspect. After four or five years, they let him out for a few months. Then when there is a political case and the police, whose efficiency is well-known, cannot find out the culprit, necessarily all these fellows who are near about must be put under restraint because, in the case of detenus, no evidence will be necessary. As a matter of fact I will tell you how these laws are applied. One of the most recent cases was that of the editor of the *Benu* who was released only the other day after full two years' imprisonment in jail. As soon as this young man was coming out of the jail, he was arrested under the Bengal Criminal Law Amendment Act. The law says that any man "Who has acted, is acting

[Mr. S. C. Mitra.]

or is about to act" in a certain manner may be arrested by any police officer and comes under the purview of this Act. Now take this particular case. This man was undergoing rigorous imprisonment in a British jail for 24 months for writing a seditious article. Before he comes out, how has he "acted, is acting or is about to act" in that particular manner? And yet he has been put in jail again under this Criminal Law Amendment Act.

Mr. K. C. Neogy (Dacca Division: Non-Muhammadan Rural): There is such a thing as thought-reading.

Mr. S. C. Mitra: Then one condition is that no proof is necessary and for a court of law to give more than two years a sessions trial is necessary. But under the Criminal Law Amendment Act Government can put a man under restraint for any indefinite period. I am not exaggerating at all. There are many detenus who have been now in jail for more than three years, and after another two years, if we are here, we will hear that they are continuing in jail for any number of years. If there is a trial and a conviction, there is some period fixed, but here there is no time limit. He may pass his whole life in jail, and sometimes they come out for a few months and are put in jail again. So when this House considers the case of these detenus they should not forget all these facts. They should not think, as Sir James Crerar thinks, sitting there quietly, that it is a very simple measure, and the easiest way to govern India is by Ordinances and by certification. This lady writes to me that her brother is suffering from paralysis, he cannot move without the help of two sticks and he requires a special sick diet. Now prisoners there in that jail can speak only Malayalam and Kanarese, and he cannot make them understand how to prepare his food. That is his difficulty and so he has written a piteous letter to his sister and she has sent that letter to me to move on his behalf. They think we have some power though they will be disillusioned when they know that we are as helpless as the relations of these poor detenus are.

Then, Sir, about the princely allowance of which my Honourable friend Mr. French was boasting so much the other day, I shall read an extract from the *Liberty*, because I am speaking of a man who is well-known to this House.

"In the C. P. Legislative Council there was a volley of questions regarding Mr. Subhas Chandra Bose. The Home Member admitted that Srijut Bose's movements were confined to a small yard even during the day time and that he was not permitted even to have morning and evening walks outside the yard."

It may be known to this House that "yard" means a very small place which includes the cottage and some open space:

"Re. 1 per diem has been sanctioned as diet allowance for him. The question of revising the allowance, the Home Member said, was under the consideration of the Government. While three Governments, the Government of India, the Government of Bengal and the Government of the Central Provinces are exchanging notes over this one rupee a day, Mr. Bose is living on the meagre allowance of Re. 1 a day. Surely this is not how a State prisoner should be treated."

Now, they say this was under Regulation III, and the Honourable the Home Member is just contemplating to transfer him as soon as the Criminal Law Amendment Supplementary Act is passed. Under Regulation III of 1818 a man is to be treated in jail according to his status in life. Fortunately or unfortunately Mr. Bose was a member of the Indian

Civil Service. He was the Chief Executive Officer of the Calcutta Corporation and he was Mayor of Calcutta and you can easily understand his status in life. He was brought up in luxury and comfort. Now the idea of the Home Member here is that such a man is to be paid one rupee a day. If you tell these Honourable gentlemen who belong to the exalted Indian Civil Service to which Mr. Bose himself belonged, that in these hard days one pie of their Lee concessions is to be cut, there will be a moral indignation on the part of the whole Civil Service and even such a sweet man as Sir George Schuster will say that it is not possible to think of cutting the Lee concessions for the Civil Service. But here when they treat Indians, they are by their own law bound to treat them according to their status, and this gentleman is getting one rupee a day. He was with me in detention in Burma jail and there they used to give him Rs. 200 a month. But every little order must pass through all the little parts of this machinery of the bureaucratic Government. It will take months before something is settled and during that time the man's health may be totally ruined by living on one rupee a day. Thus do they look after the comforts of these people? As regards Mr. J. M. Sen-Gupta, we know he was suffering from heart disease and high blood pressure for a long time and he was advised not to go to any hill station, but soon after his arrest he was removed to Darjeeling and then, after much correspondence while his health was breaking, he was brought down to Jalpaiguri. I tell you these things to impress upon this House that it is not such a simple and short measure as my Honourable friend thinks it to be.

Then on the last occasion I asked a question as to why Government make unnecessary laws. They are dealing with these men and they send this measure for circulation to get the opinion of the public but they do not wait for this legislation; they go their own way and get these persons detained under Regulation III of 1818. When Government have a Regulation in their old stock to deal with these people why do they forge a new law every time? I hope the Honourable the Home Member

3 P.M. in his reply will meet this point. As the Honourable the Home Member has got much regard for my friend, Mr. Biswas, I hope he will at least accept his advice. Speaking of Mr. Biswas, Sir James Crerar said:

"... Mr. Biswas, who gave to the House what I think was a very fair, candid and lucid account of the issues as they present themselves to many."

Mr. Biswas had said in his speech:

"The question is this, whether or not we should require some assurance, either to be embodied in the Bill itself or in rules to be framed under the Bill, to ensure that where such detenus are removed from Bengal to another province, certain things should be done to reproduce as far as possible the conditions of detention in Bengal—conditions as regards food, health, comfort and so on. As my Honourable friend, Sir Abdur Rahim, has said, we hope that when the Bill goes before the Select Committee, that Committee would try to insert some clause in the Bill which would make it obligatory on the Local Government to provide for these things, in other words, to minimise discomfort and risk to health as far as practicable. I say, as far as practicable, because so far as the climatic conditions go, nobody can control that. But subject to that, I say it should be possible to reproduce the conditions of detention in Bengal in the provinces to which these men may be removed."

But in the Select Committee where there were fortunately or unfortunately, such eminent members as Sir Hari Singh Gour and Diwan Bahadur Harbilas Sarada, people with big titles—there they have not embodied anything. I think they do not have the necessary experience; they were misguided there. They thought that some rules—which I understand

[Mr. S. C. Mitra.]

were circulated to these gentlemen—would be made and therefore they thought those rules must be applied and there would be no difficulty. In the Bill itself they say that rules must be made by each Local Government where these people are transferred. But how are these rules applied? Every letter from these people is censored; interviews must be in the presence of police officers, who without any reason whatever can curtail interviews at any moment. But our good friends thought perhaps that every word that the Government say must be correct, just as some illiterate people think that everything printed must be true. So they accepted that there are some rules; but to see if these rules are strictly followed, have they provided anything in the Bill itself? That is the difficulty, I know; and very wisely my friend, Mr. Ranga Iyer, refused to go to the Select Committee, because he knew that he could not agree to the transfer of detenus to other provinces which would involve much difficulties and sufferings; and that there is no provision in the rules by which you can protect these detenus, because Government claim that all their letters and all their communications and all their interviews must be subjected to strict censorship. Further there is no provision in the Bill to see that the rules will be properly enforced. Even as regards the Ordinances, we experience almost every day that when Government wish to tyrannise over people in spite of the rules in the Statute, nothing can prevent them. I know what happened in Chittagong, which is in my constituency. I know further that there was an honourable Englishman, the Commissioner, Mr. Nelson, who was asked to report about the Chittagong riots. He could not swallow all the dictations of the higher authorities: he made a report and I challenge them to contradict me. He said in his report that there was deliberate action by some police and unfortunately by some non-official Europeans who burnt houses and destroyed property. This is his finding in the report that the riots were created for reprisal. Our friends in the Bengal Council tried their best to get the Government to publish this Report or the substance of it. A journalist friend of mine came the other day from Bengal and he told me that in Nelson's Report, if anybody gets a chance to see it, he will find that he was fully convinced after inquiry that it is the same old Irish policy of Black and Tans that was being pursued and the same method is going gradually to be introduced in all parts of the country.

In my last speech on this subject I made it clear that you must try to put an end to the main cause, the root cause and try to eradicate it. It is no use trying to use these palliatives of Supplementary Bills, they will not cure the disease. My Honourable friend, Mr. French, made a speech the other day, and in that speech he contradicted the commission of atrocities that I referred to at Midnapore that give subsequently the cause for reprisal. He said my statement was incorrect, because he happened to be there after a month and found no trace of it. I am placing evidence before you now that he was incorrect or at least he had not sufficiently tried to investigate the truth. There was an unofficial report by a committee and the President of that Committee was Mr. J. N. Bose, a very respectable man whom even the Government in their wisdom selected as one worthy to be sent to the Round Table Conference even after he had made that report. He was challenged in the Bengal Council. Mr. Prentice, who holds the same position there as the Honourable Sir James Crerar holds here, asked:

"May I ask, if Mr. Basu is prepared to take responsibility for this statement?"

Babu Jatindra Nath Basu said "Yes."

Mr. Narendra Kumar Basu said:

"I submit that the report of that Committee, short extracts from which were read out by Mr. Neogy in the Indian Legislative Assembly, and which, with your permission, I shall read to this House, shows the way in which the police have been behaving in that part of the country, which is certainly not. . . ."

when he was interrupted. Now, Mr. French says:

"I know Midnapore district well. It is not a primitive or backward district; it is an educated and up-to-date place, and they know as well how to bring a suit against Government as in any part of India. They might have objected to going to criminal courts, but the civil courts are open. When I was a Joint Magistrate in Midnapore, I received a number of notices of civil suits and when I was there last year I got notices of civil suits also. If any thing had happened it would have been brought at once into the civil court for heavy damages."

May I ask the Honourable Member what was the objection on the part of the Government themselves, when this Report was published, to bring a case against these gentlemen, to prove that their reports were false? As a matter of fact the people in Midnapore district are *Satyagrahis*: they do not go to court. Mr. French may not know it, but I know it. I am a Congressman still today; and a Congressman will not go to a civil or criminal court and ask for justice. That is the reason why they did not do it. But what was the reason on the part of the Government not to vindicate their conduct when it was openly challenged in the House and the Report is a published document? Now, I shall proceed to give some facts for Mr. French's satisfaction. Later on, the same Mr. J. N. Basu in the Bengal Council said:

"In the villages I visited in the district of Midnapore there were some cases of the breach of the salt law, that is to say, there were cases of manufacture of contraband salt. But the way the authorities dealt with the situation was that there was a police cordon drawn round the whole village, and whether the inhabitants were offenders or not, every home was entered into, the inmates seized and beaten and the household property destroyed. I am sure that even in the centre of Africa, which is backward, we do not find a situation similar to what has been happening in Bengal—in British India—for the last few months, and upon which we cannot but look with disgust and shame. Sir, why should Government be afraid of coming out into the open, and why should they not appoint an independent committee and let people produce evidence before it to see whether persons who have been injured and whose rights have been trampled upon have been really offenders against the law?"

"I personally examined several hundred such persons and found that out of those persons about 15 were really offenders and the rest were ordinary peaceful citizens who had nothing to do with the breaches of the law. If there is an independent Committee there will be an opportunity for these men to come forward and give evidence."

But, Sir, his cry was a cry in the wilderness as it often happens in this House also. There was no Committee of any sort, in spite of his challenge to publish the Report, a copy of which must be available in the Government departments. No steps were taken to refute what he said, and here the Honourable Member may stand up and say that he made an inquiry and found that the facts stated were not accurate. But I shall give more details to convince him and to show what actually happened. I am now reading from a book called "India" published in England:

"The complaints against the Police and Excise officials can be classed under the following heads:

(a) Assaults: The evidence of the persons examined by the visiting members of the Committee showed that there was assault by the hands or by kicks and also by

[Mr. S. C. Mitra.]

canes or lathis. In two cases the beating was so severe that the person beaten had fainted. The assault was unprovoked. The persons assaulted consisted of villagers mostly, who were in their homes at the time of assault or passersby in public places or spectators near places where salt was being manufactured. There were also among the witnesses a few satyagrahis or volunteers or who were villagers who desired to offer Civil Disobedience by the manufacture of salt. In none of these cases it was found that any provocation had been offered to the police or any violence had been shown or directed to the Police or the officials. The scars of the wounds in some cases were so well-marked and large as to show that the beating had been very severe.

The Committee found some cases where women had been beaten with canes and they bore marks of assault on their bodies.

At Kholakhali seven women were examined, all of whom complained of severe assault by canes, fists and kicks. Their clothes had, in some cases, been torn off their bodies.

At Subarnadighi the girl in an advanced stage of pregnancy was found to be breathing with difficulty, tears trickling down from her eyes, and she bore marks of molestation on her person. It is surprising that a case like this should have happened with a Magistrate accompanying the police party. The girl was not physically capable of creating such troubles as might lead to her being assaulted. She had also no time to concoct a story, as the members arrived at her house soon after the police left her house.

In some cases the assault was directed not only physically to hurt the person assaulted but to humiliate him in the eyes of others. Some men were made to hold their ears and to stand up and sit down several times. Some men were also made to rub their nose on the ground.

(b) Damage or destruction or removal of property. The Police and Excise officers have the right to make house searches under certain specific circumstances. From what the visiting members saw with their own eyes, they found that in the cases in which the police and other officials had entered the houses of the villagers there was no circumstance which could lead to a house search.

If the entry into the houses was meant for the purposes of search, it was strange that such entry was not peaceful and was followed not by a lawful search, but by the destruction of property and beating of the inmates. There appeared to be no justification for such violence and interference with elementary personal rights.

The Committee do not see any justification for the breaking of the pots and pans, the destruction of domestic stores and foodstuffs, the smashing of vegetables and the scattering about of grain at the houses of the villagers. They fail to see how the smashing of conch bangles, the making of which is a local industry, or the pulling down of thatch from the roof of huts could have been of any use.

This is all from the Report. I would not have cared to read extensively from this book if my friend Mr. French had not provoked me to give him some facts. If he wants the names of the witnesses who gave evidence, they are all published in the book; it is now public property; he can buy a copy of this book and satisfy himself. I am referring to all these things only incidentally.

Sir, I was recently reading the book supplied by Government where they have given a list of dacoities and murders that were committed; till the earlier part of 1930, the cases that were reported are only of dacoities, and not a single European was touched. But later on in the year I find a number of cases where attempts were made or even assassinations were committed on Europeans, and if you enquire for the real cause you will find that it was the inhuman and brutal manner in which the *Satyagrahis* were treated that gave rise to revolutionary mentality amongst the younger generation. I will finish my speech by reading a small portion from the statement of the girl who was only the other day punished by the High

Court. From that statement Honourable Members will see how the young minds are working. Try to remove the causes that create that sort of mentality in the younger generation, approach the disease from that standpoint, and not by passing this "short and simple Bill." Sir, I shall now read from the statement of Miss Bina Das

Mr. C. C. Biswas (Calcutta: Non-Muhammadan Urban): It is a statement which was not allowed to be published in the Calcutta Press.

Mr. B. Das (Orissa Division: Non-Muhammadan): It was not allowed to be published except in the *Statesman*.

Mr. K. C. Neogy: Censorship varies in Bengal according to whether the paper is Indian or Anglo-Indian.

Mr. S. C. Mitra: She says this:

"I am emotional in my temperament. Every act of humiliation to my country, nay, any suffering even to an animal would cause the severest pain to me which would almost make me mad till it found expression in some work of relief. All the Ordinances, all measures to put down the noble aspiration for freedom in my countrymen came as a challenge to our national manhood and indignities hurled at it. This hardened even the feminine nature like mine into one of heroic mould.

I studied in the Diocesan College for my B.A. degree examination and passed my B.A., with Honours in English, and my father sent me to that college for an additional course of study for the B.T. examination in order to give me an opportunity to see the best side of British character. I gratefully acknowledge that I have immensely profited by my study under the sisters of my college. But, at the same time, with the comparative knowledge of things, I felt and felt with deep anguish that the Christ-spirit was not much in evidence in the administration of a Christian Government.

The series of Ordinances savouring of martial law, to my mind, showed nothing but a spirit of vindictiveness and were only measures to crush down all aspirations for freedom. The outrages perpetrated in the name of the Government at Midnapore, Hijli and Chittagong, which is my own district although I have never seen it, the refusal to publish the official inquiry reports were things I could never drive away from my mind. The outrage on Amba Dasi of Contai and Niharbala of Chittagong literally upset my whole being. I was a private tutor to the wife of a detenu. Every day I saw with my open eyes the sufferings of the poor wife leading the life of widowhood in the life-time of her husband, the almost demented mother, and the father every day sinking into the grave, without their having the faintest notion of the nature of the supposed guilt. I attended the court to see the trial of my own sister Kalyani Das. Her punishment to serve a term of rigorous imprisonment for attending a meeting, which could not be held, and for being member of an unlawful society, without any evidence to show that she was a member thereof except a leaflet which I learnt was published and circulated without her knowledge, was to my mind unjust. She is a graduate with Honours and lived in all the comforts of the life of a well-to-do respectable family, still for some days of her life in prison she was subjected to the ignominy of jail-dress and jail diet of an ordinary criminal and had even to pass sleepless nights and amongst such criminals. I saw all this with my own eyes and also saw the bitter tears welling out of my dear parents. I thought such must be the sufferings of many families and many men and women to be counted by thousands. All these and many others worked on my feelings and worked them into a frenzy. The pain became unbearable and I felt I would go mad if I could not find relief in death. I only sought the way to death by offering myself at the feet of my country and thus to make an end of all my sufferings and invite the attention of all by my death to the situation created by the measure of Government which can unsex even a frail woman like myself brought up in all the best traditions of Indian womanhood."

There are other portions, but I have read only the relevant portion, I have not read the whole thing, which is not necessary for my purpose. This proves another allegation why such harmless statements even are proscribed, and it clearly shows how the minds of these young impressionable youths are working. She came in contact as a tutor with the

[Mr. S. C. Mitra.]

wife of a detenu, and she was seeing from day to day what was happening in the country, and that is how she has imbibed this spirit. I should like to impress upon the Government that these measures will not help; they must go to the root cause. With these words I oppose this motion for consideration.

Mr. B. Sitaramaraju (Ganjam cum Vizagapatam: Non-Muhammadan Rural): I sympathise with the Honourable Member who has just now resumed his seat. If there is any person in this House who can tell us about the conditions under which detenus have to suffer, it is he. He has given those conditions under which the detenus are made to suffer, and the sympathy of this House is due to them.

Sir, the Honourable the Home Member has told us that this Bill is a short and simple Bill. It is a short Bill; it is a simple Bill; but he has not told us that this is a drastic Bill. It is that also. It is short, but it also makes short work of those liberties of the people, for which his ancestors fought and bled and which an Englishman today considers the proudest privilege which he has earned dearly for himself and his fellow subjects. The last speaker remarked that the titled gentlemen in the Select Committee were misled. I was one of the members of the Select Committee, but because I was not a titled person, perhaps I was not misled. I appended a note of dissent to that report, and the Committee's recommendations are not mine in so far as they differ from my views.

Sir, the Bill, as has been mentioned, is a short Bill. It provides, firstly, for the transfer of detenus from the province of Bengal to any other province, secondly, it seeks to remove the power given under section 491 of the Code of Criminal Procedure. So far as clause 2 is concerned, we agreed to the principle of transfer on the last occasion when the motion for reference to a Select Committee was moved, that it should go to that Select Committee. The House had practically agreed to that position taking into consideration the fact that the public opinion that was gathered was divided and therefore the Select Committee should take the whole thing into consideration and come to a decision as to giving effect to the principle of transfer without hardship. We in the Select Committee found it difficult to incorporate in clause 2 such conditions as would satisfy, at least us, as to the manner in which the detenus are to be treated. I was surprised when the Honourable the Home Member made his introductory speech today, that he made no statement as to the conditions under which or the comforts with which these detenus would be assured to be treated. Perhaps, when my Honourable friend, the Leader of the Nationalist Party, speaks on this motion, he will enlighten us as to what we did expect from the Government with regard to this, at this stage. Sir, my concern was not so much in regard to clause 2 as to clause 4; my objection was to the retention of clause 4. In my note of dissent I have stated that clause 4 would cut at the root of the fundamental rights of a citizen, and it is a disgrace to any Government which claims to be a civilised Government that it should allow such a clause to find a place in the Statute-book. When I said that, it was not a very original remark that I made. I told the Select Committee that it was not my own view, but it is the view of every eminent lawyer. I thought that if I were to refer to the remarks of a gentleman who holds the highest place in the legal profession in Madras, who is as much a Government official as

anybody else, being the Advocate General of that Province—I thought I could be able to influence the Select Committee with his remarks at any rate. I am referring to the remarks of Sir Alladi Krishnasami Aiyar, the Advocate General of Madras, who, though a titled person, though the Advocate General of Madras, is an advocate of high reputation who has disapproved the provision under clause 4, in unmistakable terms. He said:

“But in principle I am opposed to a provision like clause 4 which affects the only effective remedy available to a subject of questioning the acts of the executive. If the conditions of the Statute are satisfied, the detention is lawful and the High Court will not exercise the jurisdiction under section 491 of the Criminal Procedure Code. If, on the other hand, the detention is unlawful because the conditions of the Statute have not been complied with or the order has not been passed, say, by the proper authority, there is no reason why the subject should be deprived of his remedy under section 491 and the principle obtaining in every part of the British Empire, namely, that a person has a right to be protected from illegal imprisonment, should be departed from in this country. I realise that there is this thing to be said in favour of the retention of clause 4, that section 491 already contains a provision to the effect that the remedy under the section is not available to persons detained under Regulations. . . .”

Those were the remarks of the Advocate General of Madras, with which I am in agreement. He also made a further remark. He said whether it is competent for this Legislature to provide a section like that and do away with the powers of the High Court—whether the Legislature has got that power to do away with the inherent powers of the High Court was discussed. He mentioned also some rulings of the High Courts of Bombay, Calcutta and Madras. Whatever may be those rulings I am prepared to give in to the Law Member if the Honourable the Law Member is satisfied that we have such power. If we have not, then, as a Law Member of the Government of India, he would advise us I expect that we should not incorporate or provide a place for it in the Statute-book. But, Sir, whether it is within the power of this Legislature or not, there is another place where it will be questioned if any such clause finds a place in the Act. It is unnecessary for me to go into that question. (*An Honourable Member*: “You mean in the Heavens!”) Not so high above but—in the courts which always interpret the law. No doubt, the Honourable the Law Member would now say that if the procedure laid down in the Bengal Criminal Law Amendment Act is not followed, then such a conduct is illegal, and if that is illegal, our objection does not stand. As the Honourable the Law Member is nodding his head, I assume that that is so. Section 491 provides that where a person is illegally or improperly detained, then the powers of the High Court would come into operation. Therefore it is begging the question to say if the conditions laid down under the Bengal Criminal Law Amendment Act were not complied with that it would be illegal and therefore our objection is uncalled for. I would say this. It is only when it is illegal that this section 491, Criminal Procedure Code, would come in. As has been pointed out by the Advocate General of Madras in the quotation I read a little while ago, if the conditions of the Statute are satisfied, the detention is lawful. That is to say, if the procedure as laid down in the Bengal Criminal Law Amendment Act is followed, then the detention would be lawful and the High Court would not exercise the powers under section 491, but if that is not lawful even under the Act then where is the remedy. Therefore section 491 must be there to give us that guarantee that in case a person is detained unlawfully, or improperly, there is the remedy of going to a properly constituted authority to question that. I

[Mr. B. Sitaramaraju.]

would like to know what the Honourable the Law Member would say in justification of taking section 491 away under this Bill. If the action of the executive is illegal and improper or done without sanction by competent authority, then only this section would come in. In this connection I would like to invite the attention of the House to the proceedings of the Assembly in 1925. Then the *ex*-leader of the Nationalist Party, Mr. Rangachariar, spoke as follows:

"It is to deprive the High Court of that very small and not altogether effective power of examining the case of any person who has been arrested under this Act and detained without being brought to trial. Is it that the Bengal Government are afraid even that this shaded light of the High Court should not penetrate the dark corners of the action of the executive in this matter? What is the fear of the executive of the High Court? Why are they afraid of their own High Court in which you have got eminent judges. All that the High Court can do under section 491 of the Criminal Procedure Code is to call for the record, or rather to call upon the officer who detained the person without trial to show that the detention of the person is not illegal or improper."

Then again Mr. Jinnah, the then Leader of this Party said:

"The Bengal Act gives the executive and the police the power to arrest any citizen and to detain him indefinitely or for as long a time as they desire. Now, unless they strike at the root of the principle of the writ of *habeas corpus*, which is incorporated in section 491 of the Criminal Procedure Code, they cannot carry on that nefarious Statute to its logical conclusion, because if they detain a citizen under that abominable Act, there is section 491 and he is entitled to ask for a writ of *habeas corpus* and the result will be that the High Court, of which I am very proud in this country, will not tolerate that for a single moment. It is for that reason that the Government wish to use their axe at that writ of *habeas corpus* under section 491. That is their scheme, that is their design. They wish to pursue that scheme and design. They wish to persist in that policy obstinately and I say once more on the floor of this House that you will regret it and you will create more trouble than you imagine."

That was the opinion of a statesman. I have given you the opinion of an eminent lawyer from Madras and we, humble Members of the back benches, feel that if we contribute our quota to the cutting away of that fundamental basic principle of the liberty of a citizen, I for one would consider myself unfit to occupy any position in public life.

I am invited to bring to the notice of the House some opinions. I wish to quote only two. One is this:

"But if and when the Executive is misled by the Police reports not properly scrutinized and action is taken against undesirable constitutional agitators who may be dubbed as terrorists, then a chance may reasonably be given to such a person to get his position cleared by permitting him to apply for a writ of *habeas corpus* from the High Court. The support of the executive action by the High Court will strengthen the hands of the Executive and the veto of the High Court will inspire confidence in the justice of the Raj. It should not be forgotten that courts do inspire and restore this confidence which is sometimes rudely shaken by overzealous executive officials, who with the best of intentions are occasionally led astray and do not make proper use of powers vested in them. For reasons given above, I am of opinion that section 2 of the Bill may be enacted into law, but that section 4 would be dropped out."

This is the opinion of a District and Sessions Judge. I will give the opinion of the High Court Bar Association, Lahore:

"With regard to section 4 of the Bill, I must say that my Association are strongly opposed to the curtailment of the powers of the High Court. In the opinion of my Association, this suspension of the powers of the High Court is a negation of the rights of citizenship, because this suspension removes the only safeguard that the subject has against the Executive vagaries."

I need say nothing more to commend the rejection of the clause by the House, if it is not even amended as we desire.

Mr. Muhammad Azhar Ali (Lucknow and Fyzabad Divisions: Muhammadan Rural): Sir, I have read through this inhuman Bill, which I cannot describe as being anything but a piece of legislation which will not be liked by any section of people in this country. First of all I must refer to the very matter which my friend, Mr. Raju, was just adverting to. It is section 491 of the Criminal Procedure Code which has been set at naught by this proposed legislation, which is going to be hurled at the country's head at this most auspicious time of the year. Sir, if the present Government of India and its members are prone to go headlong into the abyss they are leading to, I am very much afraid that they are launching on a very dangerous pastime. Sir, I find that the powers of the High Court, which are considered universally to be the most sacred prerogative of the High Courts in England and which are vested in Indian High Courts by section 491, are being taken away by the present executive Government by one stroke of the pen. Sir, if the High Court Judges are not competent to cope with the present conditions, and if they are not considered fit enough to decide on the merits and demerits of appeals and to exercise the powers of the *habeas corpus* section, I think it amounts to saying something which is really a great insult to the present High Courts. Sir, we Indians have always had very great respect for the High Courts of our own country (Hear, hear) and we know that the High Courts of India generally follow the rulings and interpretations of the High Courts in England. Sir, my idea is that if the powers under the *habeas corpus* section are taken away, that will not only be heaping an insult on the Indian High Courts, but it will also be an insult really to the whole of the British Empire and the British constitution. Sir, if we stand here to say that proper food is not given to the detenues, if we stand here to say that proper precautions are not afforded to the detenues, that they have very little of comfort in the jails where they are locked in and a lot of similar other harshness, such propositions may sound somewhat incongruous in the present atmosphere, and our friends on the Treasury Benches might say, "Well, we want to arm ourselves for every emergency". But, Sir, to suffer this elementary constitutional right of the people, this constitutional right of the High Courts, to be taken away is really an insult which no Honourable Judge can ever bear with equanimity. Sir, my friend, Mr. Raju, has just read what are the rights under section 491. It is the writ of *habeas corpus* which any individual in India or in England can resort to if he in any way feels aggrieved; he can at once rush to the High Court and have the wrong set right, but by taking away this right, it is every individual of India who is being deprived—mind you, not only the detenues at present—of an elementary right; and my idea is that if these proceedings go on, it will be very difficult indeed for the executive Government to stop anywhere. Sir, the executive Government are trying, without trial to put people into jails and to send them from one province to another—a course which is very much disliked, as I read from the reports, and is distasteful to other Governments and other provinces, but, in the teeth of their opposition, this legislation is being enacted, and we appear to be absolutely helpless at the present moment. Sir, the Government claim that it is only a preventive measure, but the way in which it is being enacted and administered, as we have just heard from my friend, Mr. Mitra, cannot but make one feel that it is not only preventive but a most

[Mr. Muhammad Azhar Ali.]

inhuman and cruel engine of oppression. Sir, if you want that the people of this country should remain loyal, and if you want that the people of this country should remain peaceful, my submission is that this is not the way in which you should treat them. It is humiliating to those who go to jail; it is humiliating to their wives and children and other relations, and if they and the general public become desperate, my submission is that it is not the public that is to blame but it is the executive Government which is answerable for all these consequences. Sir, with these remarks, I sit down and oppose.

Mr. T. N. Ramakrishna Reddi (Madras ceded Districts and Chittoor: Non-Muhammadan Rural): Sir, I am not using a mere idle phrase when I characterize this Bill as the most barbarous Bill that can ever find its place on the Statute Book, even though the Honourable the Home Member characterized it as a very short Bill dealing only with one aspect of the question. Sir, the only justification for introducing this most barbarous measure, as we have been told by the Government Benches, is the prevalence of the terrorist movement in Bengal. Sir, at present we are not dealing with the original measure—the Bengal Criminal Law Amendment Act—but we are considering only the Supplementary Bill dealing with the transfer of detenus from one province to another. If, Sir, we have allowed this Bill to go to Select Committee, it is because we feel that this terrorist movement ought not to progress. We are at one with the Government in seeing the terrorist movement put down at any cost. Of course, we approach this subject from a different view point from that of the Government. The Government want to put down this terrorist movement because they want to maintain law and order in the country. Sir, we on this side of the House want to put down this terrorist movement because we feel that the continuance of this movement will only retard the progress of the nation to full self-government. Sir, this nihilist movement has never succeeded in any country, and we believe it will not succeed in this country also. Sir, from this point of view we are at one with the Government in seeing that this terrorist movement is put down. But, Sir, this Bill does not deal with the terrorists as such: it deals with suspects, people who, as the Bill itself says, are merely suspected of committing certain offences or who are about to commit certain offences; it does not deal directly with terrorists; and so, in the actual application of the enactment, we must show some amount of consideration. Sir, the persons who are brought under the purview of this Bill are not actual terrorists, but suspected participants in that movement. The Government, Sir, anyway have vast powers of dealing with the movement. In the maintenance of law and order the officials in the lowest rung of the administrative ladder are made responsible for bringing these people to book. So, Sir, we must treat this Bill with a great amount of circumspection as the executive are liable to be misled by these overzealous lower officials who may catch hold of any and every inconvenient person who comes in their way.

Sir, as I said, if we allowed this Bill to go to the Select Committee, we did so on certain conditions and we specifically charged the members of the Select Committee with the duty of embodying certain amendments and to take certain points into consideration when the Bill was considered in the Select Committee. Sir, in this connection I would like to refer to the speeches that were made by certain responsible Members from this side of the House when the Bill was referred to the Select Committee.

Members who were to constitute the Select Committee were definitely asked to propose certain amendments which would lighten the hardships of the detenus. The Honourable Member, Diwan Bahadur Mr. Mudaliar, when he spoke on this Bill on the last occasion, clearly stated that he would support the Bill going to the Select Committee on certain conditions. He laid down as a condition that in the Select Committee they should consider the advisability of introducing a clause whereby, whenever a detenu is transferred to a different Presidency, the opinion of that Provincial Government should be taken into consideration. He considered this as the most important thing that the Select Committee ought to have taken into consideration. This is what he said:

"Therefore, I would suggest in the first place that when this Bill goes to the Select Committee there must be a provision that no detenu should be transferred to any other province unless the specific consent of the Government of that province or the Administration in that area is taken."

Further on he says:

"Now, I suggest that there should be a very definite provision that the conditions under which these detenus live if at all they should be transferred to any place outside their own province should be adequately safeguarded, safeguarded by legislation, and that is what I am suggesting to the Select Committee."

Then he goes on:

"There ought to be a provision that in the matter of dieting, in the matter of clothing and in the matter of those amenities which are essential for the ordinary comforts of life, they should have those amenities which they were accustomed to have in Bengal"

Sir, the Honourable the Leader of the Nationalist Party, who was also a Member of the Select Committee and who, I think, presided over that Committee, also clearly stated in his inimitable words what the sufferings of these people are. This is what he said:

"Honourable Members on this side of the House, it has been said, are not unanimous upon the main issue. I know the feeling of my people and I know the feeling of those who sit around me, and I am voicing their feeling when I say that, however reluctant they would be in ordinary times to strengthen your hands, they are prepared to waive their objections in view of the exceptional circumstances and the difficulties of the situation."

Further on he says:

"At the same time, they want that when this provision emerges from the Select Committee, you will consider dispassionately that, let us hope, with a certain feeling of generosity, that the removal of the detenus from Bengal does not add to their privations and sufferings more than you can help. That would give to all of us feeling of assurance that, though you are bureaucrats you have not ceased to be human and, though the Government of India is a machine, it is not wholly soulless. That is a charge that I may be permitted to make to you when you sit on the Select Committee. Mitigate their difficulties, assuage their feelings as far as you possibly can consistently with the primary purpose you have in view of isolating them from their surroundings so as to restrict the limit of mischief that you apprehend."

Then in the most feeling terms he says:

"And when you take them away from the familiar scenes and familiar faces where they do not hear voice in which their mothers spoke, or hear the songs which their mothers sang nor hear the songs which their village folks sang, where they see strange faces and hear alien tongues, that, in itself, is a very great deprivation to people removed from one province to a wholly different and distant province. Remember that, and, having remembered that, when you sit on the Select Committee do not weigh your justice in golden scales but let these people feel that, while you are

[Mr. T. N. Ramakrishna Reddi.]

anxious to avoid the mischief, while you are circumscribing their liberties, you are, at the same time, not impervious to the appeals of humanity and compassion and that you will treat them as mere prisoners of State who have not yet been convicted of any crime."

Then, Sir, my Honourable friend Mr. Biswas, to whose speech the Honourable the Home Member paid such a glowing tribute, also spoke of the duties of the Select Committee in following terms:

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

Sir, I have at some length read out the abstracts from the speeches of the Honourable Members when this Bill was referred to the Select Committee. We referred the Bill to the Select Committee on the distinct understanding that some such provision should be made with regard to the condition of the detenus when they are transferred to other provinces. Sir, it appears to me that those Honourable gentlemen who spoke on this Bill in this House were suffering from linguistic paralysis when they sat on the Select Committee. Why did they not express the same words in the Select Committee? If their views were not accepted, they should have appended their minutes of dissent. I do not find any such minute of dissent. What they have said is this: "We do not propose that any amendment should be made in the Bill and we recommend that the Bill be passed as introduced". That is how the Bill has emerged from the Select Committee and I charge the Committee with breach of good faith. That is one of the reasons why I oppose the consideration of this Bill. I do not want to take up any more time of the House, but I may say in passing that the most monstrous part of the Bill is where it takes away the powers of the High Court with regard to *habeas corpus*. There are some amendments with regard to that and I will develop my points on the appropriate occasion.

Pandit Satyendra Nath Sen (Presidency Division: Non-Muhammadan Rural): Sir, coming as I do from the province which this Bill affects and affects most vitally, I feel it my duty to stand up and oppose it. I expected that all my lawyer friends at least from Bengal would be present and take part in the discussion on this Bill because, although it is full of various illegalities, it has after all the semblance of law. Sir, the Bill has emerged from the Select Committee exactly as it was originally drafted by some infallible hand and there are reasons for it. Barring a few exceptions the Select Committee consisted of Members whom I can characterise as permanent figures, because they are always chosen by Government to say ditto to their Master's voice. In this case also the result

4 P.M. has been exactly as was anticipated by us and has fully justified the careful composition of the Committee. In discussing the merits of the Bill, I am reminded of a Bengali saying which is current in Eastern Bengal and which means, "Well, I have no mind to oust you from your household, but I am simply tilling your courtyard". The history of this saying is that an influential person wanted to eject his poor neighbour from his household but instead of taking a rough and rude attitude towards him by asking him directly to quit he began to till his courtyard, evidently for

the purpose of plantation knowing full well that in that way the neighbour would be forced to quit in no time. In the case of the Bengal detenues also the principle has been exactly the same as I have just enunciated. By this Bill the Government want to transfer the prisoners from Bengal to any other part in British India from one end of the country to the other.

(At this stage Mr. President vacated the Chair which was taken by Sir Hari Singh Gour.)

This is apparently a simple measure but to put it frankly and briefly, I am constrained to say that Government want to kill these unfortunate Bengali youths by transplanting them from their native place to a foreign soil under different climatic conditions without any proper care and by placing them "among new faces, other minds". The detenues will have to undergo untold sufferings in their diet and habits as well as in regard to their interviews; and what is their fault? Nobody knows it. They do not know it, and their friends and relatives do not know it, and even perhaps the Government do not know it, because the Government sometimes may be simply working on the report of some C. I. D. officers who are even more enthusiastic than the Government themselves in these matters in order to justify their own existence. Apart from these sentimental considerations and considerations of health, etc., I have other reasons to oppose this Bill. Government always indulge in tall talk of deficit and retrenchment and so forth, but do they really mean it? Government want to transfer these detenues to distant places, and that will entail enormous cost, because they will have to pay railway fares to these detenues and they are to be escorted by high officers who will have to be paid their daily allowances of various kinds. This will certainly entail heavy expenditure. If the Government have not yet realised their financial condition, they will never realise it at all. The Province of Bengal takes pride in accommodating some 15,000 prisoners, or near about that figure. If Bengal can accommodate 15,000 souls, I think she has room enough to accommodate a few more. Therefore, instead of passing this Bill, I would suggest to Government to construct new jails if the existing jails are insufficient, and that will open a new field of work to the large number of unemployed people and relieve them in these days of economic depression. These are the grounds on which I should like to oppose the Bill. Last, but not least, comes clause 4 which strikes at the very root of the fundamental rights of citizenship. On these grounds, I oppose this Bill.

Raja Bahadur G. Krishnamachariar (Tanjore *cum* Trichinopoly: Non-Muhammadan Rural): Sir, I beg to submit a few observations in connection with clause 4 of the Bill, for I have no doubt that the amendment of this clause was the only condition upon which the Bill was sent to the Select Committee, which condition has not been fulfilled, and as a result thereof, I respectfully beg to submit, my Honourable friend Sir Abdur Rahim is bound to have the Bill thrown out. I find that my Honourable friend Sir Abdur Rahim in his speech said that he hoped that the Select Committee would take particular care to ensure the convenience and other conditions upon which these prisoners will be transferred from one province to another. So far as the Select Committee is concerned, they have not added a single comma nor have they even dotted the i's or crossed the t's.

Sir Cawasji Jehangir (Bombay City: Non-Muhammadan Urban): Who was the Chairman of the Select Committee?

Raja Bahadur G. Krishnamachariar: I really do not know. My Honourable friend Pandit Sen said that the Select Committee in this House seemed to be a fixture and it was always the same. Men may come and men may go, but the Select Committee here goes on for ever, and I therefore troubled myself very little as to who the Chairman was, or as to who anybody else was.

Mr. C. S. Ranga Iyer (Rohilkund and Kumaon Divisions: Non-Muhammadan Rural): I am quite willing to furnish my Honourable friend with the information. The Chairman of the Select Committee was the Leader of my party, who was muzzled in the Chair.

Sir Cawasji Jehangir: Who muzzled him?

Mr. C. S. Ranga Iyer: He muzzled himself.

Raja Bahadur G. Krishnamachariar: The Chairman of the Committee unfortunately got muzzled. He was the Chairman but he did nothing. Coming to the point, when my Honourable friend Mr. Raju was fortunate enough to catch the eye of the Honourable the President, I thought he was going to speak a bit longer on what I considered to be the most important point in his note of dissent. He says in his minute of dissent:

"The majority of this Committee are of opinion that I cannot press for the deletion of this clause, on the ground that in referring this Bill to the Select Committee, the Assembly agreed to the principle underlying this clause and that it is not open for me to raise this question here."

Sir, if I have stood up this afternoon to submit my few observations, it is to emphasise what I have more than once submitted to this House that they have got very very extraordinary, if I may submit with respect, queer ideas as to the functions of the Select Committee. Whenever you raise questions like this on the second reading, they always say, "Go to the Select Committee" and when you go to the Select Committee, you forget all about it, or even if some members of the Select Committee raise the point, immediately they are told that the principle has been accepted. Then what is it that you have got to do in the Select Committee? So far as I have been able to read the proceedings of the second reading of this Bill, this question was not raised except by you, Sir, and you simply referred to it as a matter of protest. There was no discussion, but on the contrary the Honourable the President, in bringing Mr. Das to order when he was discussing this subject, distinctly ruled that the scope of the discussion at the time of the second reading of the Bill was this:

"May I ask the Honourable Member what relevancy all this has got? The issue before the House is simply this that the Criminal Law Amendment Act should be supplemented by authorising Government to transfer to other provinces detenus who are now restricted to Bengal. On that issue the Honourable Member will be perfectly relevant in making as long speech as he likes. But this is not the occasion, etc. . . ."

Mr. Das was reading from General Crozier's book and all that sort of thing, and so the Honourable the President, in ruling him out of order or perhaps in bringing him back to his bearings, stated that the only issue was whether these prisoners should be transferred from Bengal to any other

place. That is the point. Therefore, Sir, the question of clause 4 was not debated. The matter was referred to Select Committee, everybody forgetting its existence except you. What happened in the Select Committee? I now understand that as Chairman you were not able to say anything or do anything, with the result that the majority held that you could not debate upon that and you could not move that it should be deleted. And now it comes here again and what is the result? Some Honourable Members of this House object to the deprivation of the fundamental right embodied in the *habeas corpus* section. They were not told anything; they were sent to the Select Committee. The Select Committee would not listen to their objection and it comes back here. I say, Sir, that is an illegality, which completely vitiates the proceedings of the Select Committee and the report that you now have before you, the Report that you are now asked to consider, is absolutely void and of no legal effect whatsoever. I therefore submit that upon that Report of the Select Committee it will not be in order for this House to take the Bill into consideration. That is my first and most important objection.

My next objection is,—and I say it in all humility but at the same time with all the force that I can command—that this Legislature is not competent to take away the right of *habeas corpus* from any subject of the Crown by its own act. Now, Sir, the Legislative Assembly is not a sovereign Legislature. It only exercises delegated powers, and one of the powers that it cannot exercise is to legislate upon matters which will take away the allegiance of any subject to the Crown. Now, Sir one of the most important rights secured to a subject of the Crown in the Magna Charta is this right of *habeas corpus*. A subordinate Legislature, a Legislature with only delegated authority, cannot deprive the subject of that right, while it yet professes to do things legally and carefully. Consequently, Sir, I respectfully submit that the existence of this provision in clause 4 of the Bill is *ultra vires* of this Legislature, and therefore I submit that upon that ground also this House will not allow this Bill to proceed further except upon the deletion of this clause. And what is the trouble about section 491? As my friend Mr. Raju has read from the section, it is a very innocent section. Where an act of the executive is being tested not by one of the members of the executive but by some independent authority, why do you fight shy of that? Sir, the Advocate General of Madras,—whom I congratulate upon having attained his Knighthood and that for a very good reason too,—said that if your statute had been applied then there is no illegality, but if your statute has not been applied then there is an illegality. Sir, I presume he is perfectly right, but not being accustomed to these high-flown passages from the great law officers of the Crown, I am not able to understand what that conundrum is. If it is not legal, it is not legal, and if it is legal, it is legal. I daresay there is no difficulty about it. Under the circumstances and in view of the fact that no ground has been mentioned by the learned Mover of this Bill why do you want that this provision of the *habeas corpus* should be removed the jurisdiction of the High Court be taken away? That is a matter upon which, so far as I know, there has been absolutely no declaration whatsoever. You, Sir, at the time of the second reading of the Bill, as I said, repeated your protest, a hundred times repeated in this House, against the deprivation of the right of *habeas corpus*. The Honourable the Home Member congratulated you, took to your speech very kindly, complimented you and threw his compliments all round and said that his task was very much lightened.

[Raja Bahadur G. Krishnamachariar.]

But was it lightened? You raised an important issue; there was no reply to that on the part of the Honourable Member and, as I said, it went to the Select Committee and not only you but everybody else who wanted to raise this question was muzzled. I would therefore very respectfully submit that upon these grounds this Bill should not be taken into consideration but should be rejected straightaway without further consideration.

(At this stage Mr. President resumed the Chair.)

Sardar Sant Singh (West Punjab: Sikh): Sir, there are progressive laws, there are oppressive laws and there are suppressive laws. As regards progressive laws, since the inauguration of this House we have had no occasion and no instance. As regards oppressive laws, on account of the kind consideration of His Excellency the Governor-General we are spared the pains of going into them and they are passed over our heads. As regards suppressive laws, we have got this instance in point. Now, when I read the provisions of this Bill, I was reminded of a similar twin brother to this law and that was probably the last measure of the old Council, I mean the Rowlatt Act. The provisions of that law are well-known to all as they are now historical and they were taken exception to by all the reasonable men of the time. I am tempted to tell you that a meeting held in Lyallpur to record our protest against that measure was presided over by my humble self. A speaker at the meeting aptly described that Bill in one phrase. The Bill aims at "no vakil, no *daleel*, and no appeal". This phrase has since become historical, but it will be of interest to Honourable gentlemen to know that this little phrase cost the President and the speaker four years and Rs. 1,000 fine. After a bit of inconvenience in jail for six months, the appeal was accepted and we came out all right. There was no apology in those days. But that is a digression.

Later on, what was the fate of that Council which passed the Bill? It went out of existence and a new House under the new reforms came into being. Now, what I thought when I read the provisions of this Bill, was that this was a very good measure with which to sing the death-knell of this House; and to those optimistic friends of mine like Sir Hari Singh Gour, before whom I bow as being my leader, I will say that he has done well in Select Committee in recommending it to be passed without any changes; so that the death-knell of this House will be sung earlier and the next Assembly may come into existence sooner than we imagine. This House is not liked by anybody. It is not liked by the Government because they do not trust it. It is not liked by the Members of the House because they tabled Resolutions that this House should be suspended. And it is not liked by the outside public because they say that we are too docile to oppose any measure of repression. So the sooner it comes to an end the better it will be for all concerned.

Coming now to the provisions of the Bill, it is said that it is a single clause measure. It is so. But this single clause is just like poison gas: it will, if let out of the pipe, kill combatants, non-combatants and the civilian population all together. If I stand up to oppose that clause I will be at once dubbed as a man lacking a sense of responsibility and not fit for being granted further powers to govern my own country. If I stand up to support it, then my friend, Mr. S. C. Mitra, will come down upon me

and say that this is the result of your legal training that you give your consent to such a Bill. I am therefore in a difficulty. I may assure Honourable Members on the Treasury Benches that I do not like the terrorist movement. The terrorist movement does not seem to be liked probably by those very people who practise it, because in the various statements of the approvers in the various conspiracy cases they have openly tried to dissociate themselves from the principles of killing or taking innocent lives. But all the same we find this phenomenon that they have taken to killing innocent people. Why is this? That is a point which requires serious consideration.

My Honourable friend the Home Member says that the terrorist movement is becoming very dangerous in Bengal and requires to be suppressed. So far I am willing to go with him; but our ways differ when we come to prescribing the remedy for this disease. The remedy he suggests makes the executive the supreme authority in the country: I want the law to be the supreme authority. This is our difference. He wants all powers to be in his hands, while I want to place all power in the hands of my friend, the Honourable Sir B. L. Mitter, the Law Member. That is our difference. If we can only agree to the transfer of power from the executive to the law courts and to the High Courts, I am with him. But if he wants that the executive should be armed with all the weapons which unfortunately I must confess have not been properly used in the past in this land, I take strong exception to arming the executive with further powers. My object is very simple. The police who collect the evidence and the Magistrates who try the cases are both Government servants. So far in India the judiciary has not been separated from the executive. The police is the executive and the Magistrate is partly executive. By proposing such a measure the Government clearly indicates that they do not place confidence in their own executive officers, that they cannot trust the Magistracy of the land; they cannot place full faith in the judgment of the Magistrates of their own creation. That is a sort of charge against the Magistracy; but I can assure them that they are mistaken. I do not know about other provinces; I have never had the honour of practising in any other province or in many of the courts of my own province even; but I can assert without any fear of contradiction from any serious minded lawyer that within my experience of now fully twenty-four years, one year less than a quarter of a century, in the criminal courts of my district, the Magistrates are very docile to the police; they will act as the police asks them to do. If the Treasury Benches find any difficulty in placing faith in Bengal Magistrates or in U. P. Magistrates, I will recommend Magistrates from my own province. You might send them any suspects with the flimsiest evidence against them, and you will find no difficulty in securing corrections at least in the trial courts.

Mr. S. C. Mitra: That means two years: now they get five years.

Sardar Sant Singh: I do not mind the period: I say that to detain a person without trial for a single day is a sin against society, and treason against citizenship. If you really mean to develop a sense of responsibility in the masses of the people, you will have to trust them and you will have to give them a fair trial and a fair hearing. You cannot suppress one vice by committing another vice. You cannot suppress one evil by committing another evil; sin can be crushed by virtue, not by another sin; two wrongs have not gone so far to make one right.

An Honourable Member: But two negatives make one positive.

Sardar Sant Singh: Two negatives have not made a positive so far; you can go on multiplying zero any number of times, but it will always remain a zero. You can never suppress any feeling, any movement by doing other acts of injustice to suppress them. The best course for you is to lodge a complaint and give the man a chance of being heard. If he is really the guilty man, the culprit given to acts of violence or committing illegalities, there is the police to look after him. But if you cannot catch him in committing any overt act, of course you have got your C. I. D. to look after him and watch his movements till he commits any such acts or till you get evidence of the nature to get him convicted in a court of law. You must make out a case against him and you will find that there will be more confidence in your administration; there will be less discontent against you and more confidence in your administration.

What is the meaning of rule of law if it does not mean that every man is presumed to be innocent until and unless he is proved to be guilty? What is the meaning of that noble phrase let 99 guilty persons escape but not one innocent person be punished? Are these idle phrases? Have not these phrases got the experience of ages behind them? Was it not the result of experience of wise men? History is full of such tragedies as is being enacted in India to-day. The irresponsible despot, unchecked by popular control, persistently refuses to recognise the existence of a discontent, declines to remove the causes but tries to suppress the individuals who step forward to give expression to particular grievances. He seems to succeed for the time being, and is thereby further intoxicated. This process continues till resentment is intensified and swallows up the despot and his Empire. You want this enactment as a bulwark against chaos, anarchy and disorder. If that is so, then I will say that this measure will not provide that bulwark. In spite of the Ordinances that have been issued and worked most unsympathetically in the provinces the movement has not been suppressed. Have there been no terrorist crimes after the issue of these Ordinances? The Honourable the Home Member in his speech while referring this Bill to the Select Committee the other day, said that even until that very day there were crimes committed by the terrorists. If the Ordinances have failed to reach them, is it not high time to change your attitude towards them? Is it not high time that you looked beneath the surface of things and devised measures which are reasonable and which will appeal to the moderate element in this House who have come to co-operate with you? If you have no other alternatives to your Ordinances, then I say, Sir, that there is complete bankruptcy of statesmanship in the opposite Benches.

Now, Sir, let us examine what will be the effect of this measure, for one minute, if it is passed by this House. A detenu is arrested; he is kept in jail. It causes heart-burning amongst his relatives. There was resentment already in the mind of one man in the first instance before his arrest. The bitterness is added to by his arrest; you spread that bitterness to his relatives. That detenu is removed from his usual place of residence and sent away to a far off land to unfamiliar surroundings, where he is made to take food which he had never taken in his life; where he is thrown into a society whose ways he does not know, where he cannot understand the temperament of the people and where he is quite ignorant of the language of the

place. After some time, moved by considerations of humanity, you permit him interviews with his relations once in three or six months. Those relations come together and try to meet him in jail. This causes another revival of the same bitterness not only amongst those relatives who are going to meet him, but also amongst the relatives of those relations who actually meet him, who have had to travel long distances at their own expense in these days of no income and great expense. Thus the bitterness goes on multiplying. It is just like a whirlpool in water into which a stone has been thrown. The circular eddies go on extending till they reach the bank. The same will be the resulting effect in the case of this measure also. The bitterness will spread and spread from house to house and from family to family. It will spread even to those who are now sympathetically inclined to this administration. Therefore, I submit, that before you persist in passing this measure, you should realise the consequences that are likely to follow. May I enquire what is your ultimate objective? You are of course not going to detain a man for his life. Are you providing any measures or doing anything to disabuse the mind of the detenu of the terrorist activities? There is no such provision either in this Bill or in the Bengal Act. What do you propose to do to improve the man while he is in custody? If you have no proposals to offer in this respect, then I may tell you that it will be far better to shoot that man straightaway than to allow bitterness to spread. (Applause from the Nationalist Benches.) What is the good of enforcing a lingering life of imprisonment in that manner? Such a life is not worth living. We expected that the Select Committee would come forward with some constructive proposals as to how the detenues are to utilise their time while under detention, how they could be made better citizens when they come out of detention. There is no suggestion of any kind. We cannot support a barren measure of this character where a man will have no trial, no hearing and no appeal. With these few remarks, Sir, I oppose this Bill.

Sir Gowasji Jehangir: Mr. President, I did not address this Honourable House when the Honourable the Home Member moved the first reading of this Bill, and although the measure was criticised by certain Honourable Members, I believe, from all sides of the House, it was decided that it should go to Select Committee. Now, Sir, if I may respectfully point out, there appears to me to be some confusion of thought. When we accepted the principle of this Bill with some criticism, we did so because we do not by this Bill make any new enactment giving any further powers to any Local Government to arrest and detain without trial. The powers that the Bengal Government have got to arrest and detain without trial are powers taken under a local Act, with which we in this House have nothing to do. Those who passed that Act are responsible for it; those who work it are further responsible to their people. A clear cut issue was placed before us. We were asked to help the Bengal Government under certain peculiar circumstances. They desired that some of their detenues might be sent to other parts of India, and in order to do that, the Government of India had to come before this House. Therefore the only principle to which we agreed was that, with the sanction of the Government of India, the Bengal Government should be allowed to send certain of its detenues to other parts of India. Beyond that we accepted no other principle in this House. Therefore, in my humble opinion all discussion as to the advisability or non-advisability of arresting people and keeping them for years in prison without trial does not arise

[Sir Cowasji Jehangir.]

on this Bill. We discussed that principle at some length when it was brought prominently before this House by a motion moved by my Honourable friend Sir Hari Singh Gour. That discussion is finished and gone. The Government have heard what we had to say. The Government, I trust, have not only heard but digested the remarks of many of the Honourable Members on this side of the House. Therefore, I personally do not see any necessity of again going on with a discussion which is irrelevant to this Bill.

Now, Sir, certain criticisms were made at the first reading of this Bill which were most relevant. It was pointed out to the Government that, if this House gave the power to Government of sanctioning the removal of detenus from Bengal to other parts of India, care must be taken to see that those detenus lived in other parts of India under more or less the same conditions as they would have lived under in their own province. It was also pointed out to Government that interviews should not be made impossible; in short, that the life of a detenu should be no harder or no worse than it would have been in his own province. That was the main principle enunciated by several Honourable Members on this side of the House, and it was the most relevant principle which could be enunciated with regard to this Bill.

Now, Sir, we have the report of the Select Committee. It is signed by Sir Hari Singh Gour, Sir James Crerar, Diwan Bahadur Harbilas Sarda, Mr. R. S. Sarma, Mr. S. R. Pandit, Mr. M. A. Azim, and Mr. Arthur Moore, without minutes of dissent. They accept the whole Bill as originally presented to the House. There are two other signatures, Mr. B. Sitaramaraju, and Mr. Abdul Matin Chaudhury, and their minutes of dissent have a special interest for us of the Independent Party as they happen to be both members of our Party. (Mr. B. Das: "For the whole House.") They happen to be members of our Party, and they are of course Members of the House. They happen to be members of our Party, and therefore, their criticisms to me, have a peculiar interest. I have no criticisms to make against my Honourable friend Sir Hari Singh Gour. He accepted the principle of the Bill. He may have disagreed with the criticisms that have been expressed on the first reading of the Bill, and he signed the report. I have no complaints against that, nor have I any complaints to make against any of the other Honourable Members who have signed the report without dissenting minutes. They are welcome to their views, they are within their rights; but it does seem rather strange that, not having penned a single minute of dissent, Member after Member of this House should rise and deliberately oppose the whole of the Bill for reasons which are more or less irrelevant, with the exception of my Honourable friend Mr. Raju, whose criticisms were I consider of such value that they ought to appeal to Honourable Members opposite.

I am not a lawyer, but I fail to understand why clause 4 was included in the Bill, and I await enlightenment from the Honourable the Law Member on this point. The Bengal Criminal Law Amendment Act gives certain powers to the Government of Bengal. No Court can deprive the Government of Bengal of those powers; they are statutory powers; they are given to the Government of Bengal under a statute. Why, then, deprive anybody of contesting or being able to contest the point in a

court of law if he considers that the Government of Bengal have exceeded their powers? So far as I can make out—I am not a lawyer—this clause prevents anybody from appealing against the Government of Bengal for having taken action illegally

The Honourable Sir Brojendra Mitter (Law Member): In that case section 491 will apply.

Sir Cowasji Jehangir: Then, why insert this clause in this Bill?

The Honourable Sir Brojendra Mitter: There are good reasons.

Sir Cowasji Jehangir: I should like to hear those good reasons. If there are good reasons for inserting the clause in the Bill, which on the face of it does not seem necessary, I have got plenty of patience to wait and hear my Honourable friend. But, in the meantime, an amendment has already been tabled which will clear that point completely. If it is so important in the opinion of the Government that this clause should be retained, then I trust that they will see no objection, at any rate, to accepting the amendment that has been tabled by my Honourable friend Mr. Raju

Mr. K. Ahmed: Will you please read the Statement of Objects and Reasons?

Sir Cowasji Jehangir: Of what? Of the Bill?

Mr. K. Ahmed: Yes, of the original Bill.

Sir Cowasji Jehangir: Do you expect that I have not read it? My Honourable friend may be accustomed to speak on a Bill without reading the Objects and Reasons, but I am not accustomed to do that. I always read the Objects and Reasons of a Bill before I stand up to speak on it.

Mr. K. Ahmed: Then please read it again when you go home this evening.

Sir Cowasji Jehangir: The next point I would like to deal with is this question of interviews and food. It may not be possible to provide for these matters in the Bill itself; it may have to be done by rules; but I do expect the Government to give an assurance to the House that these detenus will live in the province to which they are sent under, as far as possible, the same conditions under which they live or would have lived in Bengal. I desire to have that assurance from Government, and, what is more, I desire the Government to assure us that they will see that those assurances are carried out by the Provincial Governments. Sir, I have great sympathy with my Honourable friend Mr. Mitra and my Honourable friend from the Punjab. They speak with experience which none of us possess. (*An Honourable Member*: "Question".) Who says "Question"? Have you been a detenu?

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

Sir Cowasji Jehangir: Then the Honourable Member cannot speak with experience. These two Honourable Members have been detenus and we must listen to them with sympathy and realise that, after all, we

[Sir Cowasji Jehangir.]

who have not had that experience can on certain occasions speak light-heartedly. But let us see, at any rate, if we are to pass this Bill in order to facilitate the administration of the Government of Bengal, that these detenus are no worse off than they are at present, and if Government will give that assurance

Mr. S. C. Mitra: Mere assurance will not do. You must see that the assurance is carried out.

Sir Cowasji Jehangir: When Government give that assurance, I generally take it that it will be carried out.

Mr. S. C. Mitra: Sir James Crerar will be in his home safe.

Sir Cowasji Jehangir: There will be his successor whom we can cross-examine. Every word that Sir James Crerar says will be not only his bond but the bond of the Government.

Mr. S. C. Mitra: We are not so sanguine, from our experience in the past.

Sir Cowasji Jehangir: I trust that the assurance will be so phrased that there will be no room for doubt in the mind of any Honourable Member of this House.

The Assembly then adjourned till Eleven of the Clock on Saturday, the 12th March, 1932.