

Monday, 19th September, 1932

THE ^{As}
LEGISLATIVE ASSEMBLY DEBATES

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FOURTH SESSION

OF THE

FOURTH LEGISLATIVE ASSEMBLY, 1932



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1932

Legislative Assembly.

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THE HONOURABLE SIR IBRAHIM RAHIMTOOLA, K.C.S.I., C.I.E.

Deputy President :

MR. R. K. SHANMUKHAM CHETTY, M.L.A.

Panel of Chairmen :

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SIR ABDUR RAHIM, K.C.S.I., Kt., M.L.A.

MR. G. MORGAN, C.I.E., M.L.A.

MR. MUHAMMAD YAMIN KHAN, C.I.E., M.L.A.

Secretary :

MR. S. C. GUPTA, C.I.E., BAR.-AT-LAW.

Assistants of the Secretary :

MIAN MUHAMMAD RAFI, BAR.-AT-LAW.

RAI BAHADUR D. DUTT.

Marshal :

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

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LEGISLATIVE ASSEMBLY.

Monday, 19th September, 1932.

The Assembly met in the Assembly Chamber at Eleven of the Clock, Mr. President (The Honourable Sir Ibrahim Rahimtoola) in the Chair.

MEMBER SWORN.

Lieut.-Colonel Alexander James Hutchison Russell, C.B.E., M.L.A.
(Government of India : Nominated Official).

QUESTIONS AND ANSWERS.

HEALTH OF MR. J. M. SEN-GUPTA IN JAIL.

378. ***Mr. S. C. Mitra :** (a) Is it a fact that Mr. J. M. Sen-Gupta has been kept in virtual solitary confinement ? If not, will Government be pleased to state whether Mr. Sen-Gupta is allowed to speak to or see other persons in the jail ? If so, who are the persons with whom he is allowed to speak in jail and for how long every day ? If he is not allowed to speak to or see other persons in jail, why have such restrictions been put upon him ?

(b) Is it a fact that according to the medical opinion the absence of society and fresh air has caused a bad effect on Mr. Sen-Gupta's health ? If not, do Government propose to obtain medical opinion on this point ? If not, why not ?

(c) Is it a fact that Mr. Sen-Gupta's blood pressure was over 180 m. m. and diastolic 122 in July, 1932 ? Is it a fact that it was about the same in February, 1932 ?

(d) Is it a fact that Mr. Sen-Gupta became seriously ill at Darjeeling ?

(e) Did Government consult their medical officers before Mr. Sen-Gupta's removal to Darjeeling as to whether a place with high altitude would be suitable for him, who was suffering from high blood pressure ? If not, why not ?

(f) Are Government aware that Mr. Sen-Gupta's blood pressure was about 160 before he was arrested under Regulation III ? If not, do they propose to enquire about it from Mr. Sen-Gupta's doctors ? If not, why not ?

(g) Did Mr. Sen-Gupta have continuous low fever several times during the period of his present imprisonment ? If so, when and for how long each time and for how many times ?

(h) If Mr. Sen-Gupta had low fever, did Government consult medical opinion as to the cause of it ? If not, why not ?

(873)

The Honourable Mr. H. G. Haig : (a) No. Mr. Sen-Gupta is allowed facilities for conversing with the Superintendent of the Jail and other members of the Jail staff who spend an hour or so in the morning and evening with him daily.

(b) Government are not aware of any medical opinion to this effect. The reports on his health show that it has improved. The necessity for obtaining any medical opinion on the point raised by the Honourable Member does not therefore arise.

(c) The figures given in the question are approximately correct.

(d) No.

(e) The point was not considered at the time of his arrest, but on the recommendations of the Civil Surgeon, Darjeeling, Mr. Sen-Gupta was removed to a lower altitude within about seven days.

(f) Government have no information regarding Mr. Sen-Gupta's blood pressure prior to his arrest under Regulation III of 1818 and removal to Darjeeling and do not consider any useful purpose would be served by obtaining this information now.

(g) He has suffered from one attack of fever only for about a week during the latter part of April last during which period his temperature in the evening varied from 99 to 99.8.

(h) The usual tests of blood and other factors were carried out for all specific infections and the findings in each case were negative. The question of consulting further medical opinion did not therefore arise.

Mr. K. C. Neogy : How is the Honourable Member in a position to state that Mr. Sen-Gupta is either improving or keeping good health unless he knows the state of health in which he was prior to his arrest ?

The Honourable Mr. H. G. Haig : I did not say that I was not aware of his state of health prior to his arrest : I said, I was not aware of the exact blood pressure.

Mr. K. C. Neogy : What is the information about his previous state of health that the Government had ?

The Honourable Mr. H. G. Haig : I think there is no difficulty in any competent medical officer forming an opinion as to whether over a period of four or five or six months a person's health is or is not improving.

Mr. K. C. Neogy : But I think the Honourable Member said that the Government had information as to his state of health before arrest. I want to know, what exact information the Government of India have.

The Honourable Mr. H. G. Haig : I said, the reports of his health show that it has improved.

Mr. S. C. Mitra : Will Government please explain what are the general steps they do take where State Prisoners are confined in one jail to provide them association ?

The Honourable Mr. H. G. Haig : I cannot say that there are any general steps ; I have already explained in answer to the Honourable Member's question what are the particular steps taken in the case of Mr. Sen-Gupta.

Mr. S. C. Mitra : May I take it that jail officers are asked to give him company by hours alternately ?

The Honourable Mr. H. G. Haig : That is what I have already stated.

Mr. B. V. Jadhav : So that he is always kept under surveillance in jail ?

The Honourable Mr. H. G. Haig : I am afraid I could not hear the Honourable Member's question.

Mr. M. Maswood Ahmad : Without consulting medical opinion, how can Government say that Mr. Sen-Gupta is improving ?

The Honourable Mr. H. G. Haig : I do not know what the Honourable Member means by saying "without consulting medical opinion". We have medical opinion.

Mr. M. Maswood Ahmad : The Honourable Member had said that Government did not see reason for further consultation.

MEDICAL TREATMENT OF MR. J. M. SEN-GUPTA IN JAIL.

379. ***Mr. S. C. Mitra :** (a) Did Mr. Sen-Gupta ask for Sir Nilratan Sircar, Dr. S. C. Sen-Gupta his cousin and family doctor, and Captain Dabiruddin Ahmad, the Police Surgeon of Calcutta, to be allowed to see him for medical consultation and advice ? If so, were they allowed to examine Mr. Sen-Gupta ? If not, why not ?

(b) Will Government be pleased to state what objection they had to allow Dr. Sen-Gupta, who is Mr. Sen-Gupta's first cousin to see him for medical advice and treatment ?

The Honourable Mr. H. G. Haig : (a) and (b). Mr. J. M. Sen-Gupta asked that he might be examined by Sir Nilratan Sircar and Dr. S. C. Sen-Gupta and both these doctors have been allowed to see him.

MAINTENANCE ALLOWANCE FOR THE DEPENDENTS OF MR. J. M. SEN-GUPTA WHILE IN JAIL.

380. ***Mr. S. C. Mitra :** (a) Is it a fact that Mrs. Sen-Gupta asked for Rs. 2,500 for Dwijen and Khitish, the dependents of Mr. Sen-Gupta ? If so, is it a fact that Government allowed only Rs. 1,000 ?

(b) Are Government aware that this reduction of the sum asked for is increasing the debts of Mrs. Sen-Gupta every month ? If not, do they propose to inquire into the matter ? If not, why not ?

The Honourable Mr. H. G. Haig : (a) In her application for an allowance Mrs. Sen-Gupta mentioned the names of these two persons as being clerks of her husband and stated that they required Rs. 75 per month each. As regards the allowance sanctioned for the support of Mr. Sen-Gupta's family, I would refer the Honourable Member to the reply given by me to clauses (b) and (c) of his question No. 197.

(b) I have no information about Mrs. Sen-Gupta's debts, and I do not propose to make an inquiry.

HEALTH FACILITIES FOR MR. J. M. SEN-GUPTA IN JAIL.

381. ***Mr. S. C. Mitra :** (a) Are Government aware that Mr. Sen-Gupta was all along used to an evening drive every day for keeping his health ?

(b) If so, do Government propose to arrange for an evening drive for Mr. Sen-Gupta with proper precautions and safeguards ? If not, why not ?

The Honourable Mr. H. G. Haig : (a) No.

(b) An application has recently been made by Mr. Sen-Gupta on medical grounds and is under the consideration of Government.

PAMPHLET ENTITLED "THE PROTECTION OF ENGLAND".

382. ***Mr. S. C. Mitra :** (a) Is it a fact that the Director of Public Information to the Government of India is distributing at Government expense a pamphlet entitled "The Protection of England" by Sir Stephen Tallents and published by Messrs. Faber and Faber, Limited ?

(b) Will Government be pleased to state the reason why this service is being rendered by Government to a private individual, and why such expenses are being incurred when there is so much financial stringency ?

The Honourable Mr. H. G. Haig : (a) and (b). It is presumed that the Honourable Member refers to a pamphlet entitled the "Protection of England". A few copies of this pamphlet were received by the Director of Public Information free of cost from England. The contents appearing to be of some popular interest, copies were despatched by him to certain papers and periodicals for review purposes. The total expenditure incurred was Rs. 1-10-0 for postage stamps.

RESTRICTIONS IN BURMA AND BENGAL FOR GERMAN AUTOMATIC REPEATENT ALARM PISTOLS.

†383. ***Mr. S. C. Mitra :** (a) Is it a fact that the purchase, sale or possession of German automatic repeatent alarm pistols do not require any licence in the whole of India with the exception of Burma and Bengal ?

(b) If so, will Government be pleased to state why such restrictions in Bengal and Burma have been imposed on such toys by Government ?

(c) Do Government propose to remove the said restrictions ; if not, why not ?

‡384.*

BIHAR AND ORISSA POSTAL CIRCLE.

385. ***Mr. Gaya Prasad Singh :** (a) Will Government kindly state if the proposal to abolish the Postal Circle of Bihar and Orissa has again been revived ? If so, are Government aware that when last time this proposal was mooted, there was strong public opposition in the Province ; and numerous protest meetings were held against the proposal ?

(b) Are Government aware that the volume of postal work in the Province of Bihar and Orissa is not much less than the volume of such work in many other Provinces ? Is there any proposal to abolish the

†For answer to this question, see answer to starred question No. 214.

‡This question was withdrawn by the questioner.

Postal Circle in other Provinces ? Will Government kindly place on the table a comparative statement showing the volume of postal work in all the Provinces of India ?

(c) Are Government aware that the abolition of the Postal Circle in Bihar and Orissa will result in great inconvenience and delay to the public of the Province ? And will they kindly state at whose initiation this proposal has again been mooted ; and also place on the table all correspondence on the subject ?

(d) Are Government aware that owing to frequent changes in the personnel of the Postmaster General, Bihar and Orissa, no important postal questions are initiated and tackled ; and that the public have to suffer in consequence ?

(e) Will Government kindly place on the table a statement showing the names of the Postmasters General, Bihar and Orissa, the period during which they held charge of their office, during the last six years ?

The Honourable Sir Frank Noyce : As regards parts (a) and (c) of the question, I would explain that the proposal has for some time been under examination, it was not revived after once being dropped ; but it has recently been definitely decided not to pursue it, as it is considered that the financial advantage that might be secured would be outweighed by the administrative objection to it.

In the circumstances I hardly think the Honourable Member will want answers to the remaining parts of his question.

Mr. Gaya Prasad Singh : I heartily thank the Honourable Member for his reassuring reply and, under the circumstances, I do not want to pursue the other parts of this question.

Mr. Gaya Prasad Singh : Since I gave notice of this question (No. 386†), I have received information that the racial discrimination complained of has been removed and, so, I do not want to ask this question.

†386. *Mr. Gaya Prasad Singh : (a) Is it a fact that the Indian Station Masters on the East Indian Railway, in the grade of Rs. 200 and above used to get formerly the same sort of uniform dresses as the European Station Masters of the same grade ; but this year an order has been passed modifying the previous practice ; and uniforms have been supplied to the Indian Station Masters irrespective of their grade, and the importance of their stations ?

(b) Is it a fact that this year, an Indian Station Master in the grade of Rs. 350 has been supplied the same sort of uniform clothing, as the one drawing Rs. 60 only, and that this is not the case with the European Station Masters ?

(c) Will Government kindly place on the table a copy of the previous order in this respect, and the one which has been passed this year ?

(d) Is it a fact that the Divisional Superintendent, East Indian Railway, Allahabad, objected strongly to this new arrangement, but his objection was over-ruled by the higher Railway authorities ? Will Government place on the table a copy of his objection in this respect ?

(e) Have uniform been supplied to the Station Masters, East Indian Railway, according to their grade, or nationality ? If according to their grade, why Station Masters of Etawah and Mirzapur, for instance, have not been supplied with the same sort of uniforms as supplied to the Station Masters of Patna City, Kuel Junctions, and Jumna Bridge ? Are all of them in same grade ?

NOTICE SERVED BY THE DISTRICT MAGISTRATE OF MIDNAPUR ON A VEGETABLE SELLER UNDER AN ORDINANCE.

387. ***Mr. Gaya Prasad Singh** : Has the attention of Government been drawn to the following notice issued by the District Magistrate of Midnapur (Bengal), and published in the *Liberty*, dated the 4th August, 1932 ?

"Whereas it appears that you, Balai Guchhait, of village Chilmara, have been for long time in the habit of selling vegetables daily in Anandpur Bazar ; and whereas that either of your free-will, or by some outside influence, you have ceased selling vegetables in Anandpur, which action is prejudicial to the public peace, therefore under Section 4 of Ordinance G. of 1932, I direct that you for one month from date of receipt of this notice, will sell vegetables at least twice a week in Anandpur, and will report yourself each time you visit Anandpur to the Sub-Registrar of Anandpur."

The Honourable Mr. H. G. Haig : I have seen the report in the paper referred to.

Mr. Gaya Prasad Singh : Will Government kindly state how discontinuance to sell vegetables is prejudicial to the public peace ?

The Honourable Mr. H. G. Haig : I have merely seen the report in a newspaper. I have no further information.

Mr. Gaya Prasad Singh : Is it a fact that the compelling of a man to sell a particular commodity against his wish was one of the objects for which the Ordinance was promulgated ?

The Honourable Mr. H. G. Haig : I would not suggest that it was one of the primary objects.

Sardar Sant Singh : Is it a secondary object ?

The Honourable Mr. H. G. Haig : I could imagine cases in which if a boycott against public servants had been instituted, there might be some justification for helping people to break the boycott.

Sardar Sant Singh : May I know how does it fulfil the object of the Government or the object of the law in directing a particular individual to sell this thing to Government servants ?

The Honourable Mr. H. G. Haig : I am afraid I am not acquainted with the conditions in the Midnapore district.

Mr. Gaya Prasad Singh : What I mean to ask is this : in this particular case this individual was asked or compelled to sell vegetables to the public and not to police officers or any Government servants : will Government kindly explain, how it comes under the Ordinance ?

The Honourable Mr. H. G. Haig : We merely have a newspaper report : but I am perfectly prepared if it will meet the Honourable Member to forward to the Government of Bengal a copy of these questions and answers.

Mr. K. C. Neogy : Will the Honourable Member be pleased to give us the name of this District Magistrate so that we can look for it in the next Honours List or in the list of inmates of the Ranchi Mental Hospital ?

The Honourable Mr. H. G. Haig : I have no doubt the Honourable Member will be able to find the name by referring to the Civil List.

ARREST AND RELEASE OF MAULANA MUJIB-UL-RAHMAN, A MEMBER OF THE ALL-INDIA 'JAMIAT-UL-ULEMA.'

388. *Mr. Gaya Prasad Singh : (a) Is it a fact that Maulana Mujib-ul-Rahman, a member of the All-India *Jamiat-ul-Ulema*, was arrested in Delhi in July, 1932, and was released after a week from the District Jail, Delhi, as no case could be established against him ?

(b) If so, why was he put to unnecessary trouble, harassment, and expense ? Has any punishment been given to those who were responsible for his arrest, or has the Maulana been awarded any compensation ?

The Honourable Mr. H. G. Haig : (a) Maulana Mujib-ul-Rahman was arrested on 15th July for an offence under section 17 (1) of the Criminal Law Amendment Act as it appeared from his speech that he had committed an offence. As, however, the evidence forthcoming was subsequently considered not strong enough to warrant the prosecution of the case he was discharged on the 21st July, 1932.

(b) There is no reason to hold that his arrest was unjustifiable and hence no question of punishment or compensation arises.

Mr. Gaya Prasad Singh : Is it not a fact, Sir, that this particular individual was arrested on insufficient evidence ?

The Honourable Mr. H. G. Haig : No, Sir ; I would not say that he was arrested on insufficient evidence, but eventually the prosecution decided that the case was not strong enough to go before a Court.

Mr. Gaya Prasad Singh : Then, Sir, does it not amount to arresting a person on insufficient evidence, because the case was not proceeded with ?

The Honourable Mr. H. G. Haig : No, Sir ; at the time of his arrest, the evidence appeared to be sufficient.

Mr. Gaya Prasad Singh : But it was not really so.

DISSATISFACTION AMONG TRAVELLING TICKET INSPECTORS AND EXAMINERS OF THE EAST INDIAN RAILWAY DUE TO THEIR TEMPORARY SCALES OF PAY.

389. *Dr. Ziauddin Ahmad : (a) Are Government aware that frequent experiments, viz., the T. T. I. system, the Crew system, followed by other changes, have been made by Divisional Superintendents on the East Indian Railway ?

(b) If so, are Government aware that these frequent experiments have given rise to a great deal of dissatisfaction among T. T. Is. and T. T. Es. on account of their remaining on temporary scales of pay ?

(c) Do the Railway Board propose to settle the question definitely ?

Mr. P. B. Rau : (a) Government are not aware of any experiments made by Divisional Superintendents who, except in regard to minor details, must act in this matter under instructions from their headquarters.

(b) In view of the reply given to part (a), this does not arise.

(c) It has now been decided to adopt, as a permanent measure, the

system of checking and collecting tickets recommended in the Moody-Ward Report on the East Indian Railway.

Dr. Ziauddin Ahmad : Has the Honourable gentleman read the questions put in this House in the last Session and also in the September Session ? There were a series of interpellations made upon this matter.

Mr. P. R. Rau : I have devoted a considerable amount of time to reading those questions.

Dr. Ziauddin Ahmad : I do not know what other methods are open to us to draw the attention of the Government, because a series of questions were put in the Assembly and the matter was also discussed in the debates. Will the Honourable gentleman tell me what other methods are open to us ?

(No reply.)

Dr. Ziauddin Ahmad : I want a reply to my question, Sir.

Mr. P. R. Rau : I do not know what is the question.

Dr. Ziauddin Ahmad : In view of the fact that we have drawn the attention of the Honourable Member repeatedly in the Assembly by means of questions and in debates and, also in view of the fact that his attention was also drawn in the Retrenchment Committee, I should like to know what are the other methods open to us by which we can draw his attention so that Government may not create discontent among the T. T. Es. on account of their remaining on temporary scales of pay ?

Mr. P. R. Rau : All the suggestions of the Honourable Member have received very careful consideration. Government have settled the question definitely, as I said in reply to part (c) of the question by deciding that the system of checking and collecting tickets recommended by the Moody-Ward Committee should be adopted as a permanent measure on the E. I. Railway.

Dr. Ziauddin Ahmad : There is a good deal of excitement and discontent among the T. T. Es. on account of the reduction in their pay and allowances. Will the Honourable gentleman settle this question justly and quickly ?

Mr. P. R. Rau : That point, Sir, is not what is referred to in this question. I think the Honourable Member is thinking of another question, of which he has given notice, and that question will arise at some future date.

FIRST CLASS PASSES GIVEN TO EUROPEAN AND ANGLO-INDIAN NURSES AND THE HEADMASTER OF THE OAKGROVE SCHOOL, ON THE EAST INDIAN RAILWAY.

390. *Mr. M. Maswood Ahmad : (a) Is it a fact that European and Anglo-Indian nurses and the Headmaster of the Oakgrove School on the East Indian Railway are allowed first class passes ?

(b) Do the nurses and the Headmaster referred to in part (a) belong to the superior service ?

(c) To what service do the Headmasters of the Indian High Schools on the East Indian Railway belong ? Is it not the same as that of the nurses and the Headmaster of the Oakgrove School ?

(d) Are the Headmasters of the Indian High Schools also granted first class passes by the East Indian Railway ? If not, why not ?

Mr. P. B. Rau : (a) Yes.

(b) No.

(c) The Headmasters of the Indian High Schools on the East Indian Railway hold a position analogous to that of the Upper subordinate grades of the railway. The question of the status of the staff of the Oakgrove School is under reference to the Agent, East Indian Railway, and I will lay a reply on the table in due course.

(d) No, for the reason stated in the reply to part (c).

JUDGMENT OF BOMBAY HIGH COURT *re* DISTRIBUTION OF HANDBILLS
ADVOCATING BOYCOTT OF BRITISH GOODS.

391. ***Mr. Gaya Prasad Singh :** (a) Has the attention of Government been drawn to the judgment of the Chief Justice, and Justice Nanavati of the Bombay High Court, delivered in August, 1932, in which they quashed the conviction and sentence of Rs 50 imposed on five school boys by the Viramgam Magistrate, under section 17 (1) of the Criminal Law Amendment Act, for the distribution of hand bills advocating the boycott of British goods—the High Court holding that “mere distribution of hand bills advocating the boycott of British goods, did not in itself constitute an offence. In order to justify the conviction under section 17 (1), it was necessary to prove that the accused assisted the operation of an unlawful association by advocating the boycott of British goods” ?

(b) Are Government aware that innumerable cases have been occurring all over the country in which persons have been convicted and sentenced for merely advocating the boycott of British goods ?

The Honourable Mr. H. G. Haig : (a) I have seen a press report of the judgment referred to.

(b) I have no information to that effect.

COMPOSITION OF INDIAN REGIMENTS.

392. ***Mr. B. V. Jadhav** (on behalf of Rao Bahadur M. C. Rajah) : Will Government be pleased to state how many Indian regiments there are in the Indian Army, and will they kindly give the composition of the regiments (1) according to provinces, and (2) according to communities ?

Mr. G. R. F. Tottenham : The Honourable Member will, I think, find all the information he requires in the Indian Army List, which gives the class composition of all regiments. If he is in any doubt regarding any particular unit I shall be pleased to supply him with further information.

COMPOSITION AND STRENGTH OF MADRAS REGIMENTS.

393. ***Mr. B. V. Jadhav** (on behalf of Rao Bahadur M. C. Rajah) : Will Government be pleased to state the composition and strength of the present Madras regiments ?

Mr. G. R. F. Tottenham : A statement is laid on the table.

Unit.	Class Composition.	Authorised Strength.
The Q. V. O. Madras Sappers and Miners.	Madrasis all classes ..	British officers .. 39
		British other ranks .. 57
		Indian officers .. 51
		Indian other ranks .. 2,340
The 4th Indian Divisional Signals, Indian Signal Corps.	Madrasis ..	British officers .. 10
		British other ranks .. 109
		Indian officers .. 2
		Indian other ranks .. 148
The Waziristan District Signals, Indian Signal Corps.	Madrasis ..	British officers .. 11
		British other ranks .. 156
		Indian officers .. 4
		Indian other ranks .. 206
The Corps of Madras Pioneers	50 per cent. Tamils ..	British officers .. 30
	15 per cent. Telegus ..	Indian officers .. 39
	35 per cent. <i>Adi-Dravidas</i> and Christians.	Indian other ranks .. 1,634

DISBANDMENT OF MADRAS REGIMENTS.

394. ***Mr. B. V. Jadhav** (on behalf of Rao Bahadur M. C. Rajah) : Will Government be pleased to state whether there is any proposal to disband the present Madras regiments, and if so, what decision have they come to ?

Mr. G. R. F. Tottenham : The abolition of all Pioneer units, referred to in reply to starred question No. 330, will involve the disappearance of the Corps of Madras Pioneers.

DISBANDMENT OF MADRAS REGIMENTS.

395. ***Mr. B. V. Jadhav** (on behalf of Rao Bahadur M. C. Rajah) : (a) Are Government aware of the proceedings of a public meeting which was held in Bangalore, attended by 50 prominent Indian officers of the army belonging to different units, wherein they unanimously resolved to send a memorial to Government praying that no more Madras regiments should be disbanded ? Have Government received that memorial ?

(b) Are Government aware that a great deal of uneasiness prevails on the subject, and will they be pleased to state what action they have taken or propose to take in order to allay that uneasiness ?

Mr. G. R. F. Tottenham : (a) A memorial has been received from certain pensioned Indian officers living in Bangalore.

(b) Government are aware of the feeling on the subject and they themselves regret the disappearance of a corps with such a fine record as the Madras Pioneers. They hope, however, that it will be possible to transfer a large number of Madrasis now serving in the Pioneers to Sapper and Miner units and to increase the number of Madrasis enlisted in future for these units.

CONVENTION CONCERNING SEAMEN'S ARTICLE OF AGREEMENT.

396. ***Mr. N. M. Joshi** : (a) Will Government be pleased to state whether they have formally ratified the Convention of the International Labour Organisation regarding Seamen's Article of Agreement ?

(b) If the Convention has not been ratified, will Government be pleased to state why they have not done so ?

The Honourable Sir C. P. Ramaswami Aiyar : (a) and (b). The Government of India have decided to ratify the International Convention concerning Seamen's Articles of Agreement and steps have been taken to communicate their decision to the Secretary General of the League of Nations.

CONVENTION CONCERNING THE MARKING OF WEIGHTS ON HEAVY PACKAGES TRANSPORTED BY VESSELS.

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

(a) what steps they have taken for the enforcement of the provisions of the Convention of the International Labour Organisation concerning the marking of weights on heavy packages transported by vessels ; and

(b) whether they are aware that the provisions of the Convention are actually being enforced ?

The Honourable Sir C. P. Ramaswami Aiyar : In consultation with the Local Governments and the Agent, Assam Bengal Railway, the Government of India came to the conclusion that for all practical purposes it was possible for the present to give effect to the provisions of the Draft Convention by means of bye-laws framed by the several Port Trusts, and at Chittagong, where the jetties belong to the Assam Bengal Railway by action under the Indian Railways Act. The several Port Trusts and the Agent, Assam Bengal Railway, have accordingly framed the necessary bye-laws.

2. The Government of India have no reason to believe that the provisions of the bye-laws (or in other words of the Convention) are not being enforced.

GOVERNMENT ORDERS NOT TO FILL IN ANY APPOINTMENT PERMANENTLY.

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

(a) whether the Government of India have issued orders not to fill in any appointment permanently with effect from the 15th July, 1931 ;

(b) whether the Director General, Posts and Telegraphs, issued similar orders much earlier to have effect from April, 1931,

and the Postmaster General, Bombay, directed similarly with effect from the 1st of July, 1930 ;

- (c) whether as a result the officials who have been holding vacant posts find it disadvantageous to proceed on leave, etc., owing to loss in emoluments, break in period counting towards increment in officiating posts and such other matters ; and
- (d) if the reply to above be in the affirmative, whether Government propose immediately to remove this disability by cancelling the said orders or whether they propose to minimise the hardship by confirming such officials on an analogy of Fundamental Rule 13 ?

The Honourable Sir Frank Noyce : (a) The orders of Government issued with effect from the 15th July, 1931, were that all persons not in Government service before that date should on appointment be given officiating status only. There were subsequent orders of the 24th September, 1931, which suspended for one year confirmations in posts which were likely to be dispensed with on account of retrenchment.

(b) The reply to the first part is in the affirmative. As regards the second part, orders to a similar effect were issued by the Postmaster General, Bombay, in June, 1930, in respect only of the non-filling up permanently of vacancies in certain posts in post offices in view of a proposal to reduce the status of some of these.

(c) Yes.

(d) The position is that so long as the retrenchment measures in the Posts and Telegraphs Department are not completed and pending the introduction of revised (reduced) scales of pay, vacancies likely to be affected by retrenchment are being filled on a provisional basis, that is in an officiating capacity. The Government of India realised that the orders in question may cause a certain amount of inconvenience to the officials directly affected, but that is inevitable meantime.

LOWER DIVISION POSTAL CLERKS AND STAMP VENDORS IN BOMBAY.

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

- (a) whether the pay of the lower division clerks and stamp vendors in Bombay is the same ;
- (b) whether the service of stamp vendors is inferior and non-pensionable ;
- (c) whether the cadre of the lower division clerks is considered higher and more responsible ;
- (d) whether the stamp vendors are, with a view to prove their fitness for appointment as lower division clerks, required to pass a test examination ; and
- (e) whether their posts are proposed to be converted to superior service carrying pension ?

Mr. T. Ryan : (a) Departmental stamp vendors in Bombay are paid on the same scale, namely, Rs. 60—4—100, as lower division clerks in that station.

(b) The service of departmental stamp vendors appointed on or after the 20th November, 1923, is inferior and non-pensionable, while those appointed prior to that date are in superior pensionable service.

(c) In general, yes. Departmental stamp vendors are treated as officials of the postmen class in all localities excepting those in Bombay, Rangoon, Madras and Calcutta (including Howrah and Alipore) whose duties and responsibilities are generally greater than those of men at other stations and who accordingly receive the same rate of pay as lower division clerks.

(d) Departmental stamp vendors like officials of the postmen class are required to pass a qualifying departmental test for promotion to posts of lower division clerks.

(e) The matter is under consideration but in view of the existing financial condition no early decision is likely.

RAILWAY MAIL SERVICE TRAINING CLASS AT BOMBAY.

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

- (a) whether the Railway Mail Service Training Class at Poona was discontinued and, if so, from what date ;
- (b) the date from which the same was reopened for training new recruits ;
- (c) whether the trained hands having various lengths of service in the Railway Mail Service were transferred to the Post Office and could have been retransferred to the Railway Mail Service ;
- (d) if the replies to above be in the affirmative, whether expenditure on reopening the Poona Railway Mail Service Training Class was a measure of economy ?

Mr. T. Ryan : The information is being obtained and will be laid on the table of the House in due course.

RECOVERY OF RENT FOR QUARTERS OCCUPIED BY POST OFFICE SIGNALLERS.

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

- (a) whether the signallers at certain Post Offices are provided with Government quarters ;
- (b) whether they were provided with rent free quarters till 1st May, 1931, since when the Department ordered recovery of house rent from them ;
- (c) whether this house-rent is recovered from those postal signallers whose presence is required in the interests of the department and, in certain cases, even from those who may not be occupying Government quarters ;
- (d) whether the All-India Postal and Railway Mail Service Union has protested against this unjust recovery and that no decision has yet been intimated to the Union ;
- (e) if reply to (d) be in the affirmative, whether Government have since come to a decision or propose to do so early ; and

(f) whether the matter has been under consideration for over a year :

Mr. T. Ryan : (a) Yes.

(b) The concession of rent-free Government quarters to postal signalers continued up to the 10th May, 1931. Government decided to recover rent from these officials from the 11th May, 1931.

(c) As regards the first part of the question Government have no precise information, but it has been decided that the fact that an official's occupation of Government quarters is in the interests of the service will not exempt him from payment of rent for them.

As regards the second part of the question it is a general rule that the holder of a post to which Government quarters are allotted is liable for payment of rent even if he does not occupy the quarters, unless the allotment is altered or suspended.

(d) Yes, but I must not be understood as accepting the Honourable Member's adjective.

(e) As indicated in the reply to part (c) Government have recently arrived at a decision on the general question of the grant of free quarters to the staff of the Posts and Telegraphs Department. Orders will issue shortly.

(f) Yes.

GRANT OF POWERS TO TOWN INSPECTORS IN THE BOMBAY GENERAL POST OFFICE.

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

(a) whether their examination of the question of granting powers, etc., to the Town Inspectors in the Bombay General Post Office has since been completed, and, if so, with what result ;

(b) whether it is a fact that the question was taken up for enquiry as long ago as September, 1927, and no solution has been reached till July, 1932 ; and

(c) the reasons for this period of delay ?

Mr. T. Ryan : (a), (b) and (c). The question of the powers of Town Inspectors has, as stated, been long unsettled. This is due to its disposal having had to be postponed pending developments which were likely to affect it. It is expected that a decision will be reached shortly.

LICENCE GRANTED TO SHIPPING BROKERS IN BOMBAY.

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

(a) whether their attention has been drawn to recommendation No. 158 contained in Appendix I, page 506 of the Labour Commission's Report, viz., that " the licence granted under section 24 of the Indian Merchant Shipping Act should not be renewed " ;

(b) the date on which the licence granted by the Local Government to the present Shipping Brokers in Bombay under the above section expires :

(c) the arrangements that Government propose to make after the termination of the present period of the licence ; and

(d) when Government propose to amend section 24 of the above Act so as to give effect to the above recommendation ?

The Honourable Sir C. P. Ramaswami Aiyar : (a) The recommendation is under the consideration of Government.

(b) The present licences expire on the 31st May, 1933.

(c) It has been decided that pending a decision on the recommendation the licences of the existing brokers may be renewed but that no new licences should be granted.

(d) Does not arise, as a final decision has not yet been reached on the recommendation.

Mr. N. M. Joshi : May I ask whether this is in accordance with the recommendation of the Royal Commission that the licenses should be renewed ?

The Honourable Sir C. P. Ramaswami Aiyar : What I was saying was that pending a decision on the recommendation, the licenses of existing brokers will be renewed, but that no new licenses will be granted.

Mr. N. M. Joshi : The question is, when will the licenses be ended ?

The Honourable Sir C. P. Ramaswami Aiyar : I do not know exactly the terms of the licenses, but presumably they are annual.

FUND COLLECTED BY SHIPPING COMPANIES IN BOMBAY FROM SALE OF PASSES TO VISITORS ON BOARD SHIPS.

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

(a) the total amount collected by the shipping companies in Bombay from the sale of passes to visitors on board ships during the last three years ;

(b) whether it is a fact that the amount is utilised in giving help to charitable institutions, like hospitals, infirmaries, etc. ;

(c) whether they are aware of the names of institutions and the amounts received by them as help during the period ;

(d) whether they are aware of the amount of the balance at present out of the fund ; and

(e) the name of the body that administers the fund ?

The Honourable Sir C. P. Ramaswami Aiyar : The attention of the Honourable Member is invited to the final reply placed on the table of the House on the 6th instant to a similar question asked by Mr. S. G. Jog on the 15th March, 1932.

RECOMMENDATIONS OF THE ROYAL COMMISSION ON LABOUR AS REGARDS MIGRATION AND FACTORY WORKERS.

405. *Mr. N. M. Joshi : Will Government be pleased to state what action has been taken either by them or by any of the Provincial Governments on the various recommendations made by the Royal Commission on Indian Labour in Chapter 2 of their Report ?

The Honourable Sir Frank Noyce : I propose, Sir, with your permission, to deal jointly with questions Nos. 405 to 422 which relate to action taken both by the Government of India and the various provincial Governments on the recommendations of the Royal Commission on Labour. Steps are being taken to collect and tabulate particulars of all the action taken on the Commission's recommendations. The results will, I hope, be printed shortly and I shall take steps to see that they are made available to Honourable Members. If, as I anticipate, they fill a fairly bulky volume, sufficient copies will be placed in the Library of the House.

RECOMMENDATIONS OF THE ROYAL COMMISSION ON LABOUR AS REGARDS FATORIES.

†406. *Mr. N. M. Joshi : Will Government be pleased to state what action, besides the circulation of a draft Bill for amending the Indian Factories Act, has been taken, either by them or by any of the Provincial Governments on the various recommendations made by the Royal Commission on Indian Labour in Chapters IV, VI and VII of their Report ?

RECOMMENDATIONS OF THE ROYAL COMMISSION ON LABOUR AS REGARDS MINES.

†407. *Mr. N. M. Joshi : Will Government be pleased to state what action has been taken, either by them or by any of the Provincial Governments concerned on the various recommendations made by the Royal Commission on Indian Labour as regards mines ?

RECOMMENDATIONS OF THE ROYAL COMMISSION ON LABOUR AS REGARDS RAILWAYS.

†408. *Mr. N. M. Joshi : Will Government be pleased to state what action they have taken on the various recommendations made by the Royal Commission on Indian Labour as regards railways ?

RECOMMENDATIONS OF THE ROYAL COMMISSION ON LABOUR AS REGARDS SEAMEN.

†409. *Mr. N. M. Joshi : Will Government be pleased to state what action has been taken either by them or by any of the Provincial Governments on the various recommendations made by the Royal Commission on Indian Labour as regards seamen ?

†For answer to this question, see answer to question No. 405.

RECOMMENDATIONS OF THE ROYAL COMMISSION ON LABOUR AS REGARDS DOCKS.

†410. ***Mr. N. M. Joshi :** Will Government be pleased to state what action has been taken either by them or by any of the Provincial Governments on the various recommendations made by the Royal Commission on Indian Labour as regards docks ?

RECOMMENDATIONS OF THE ROYAL COMMISSION ON LABOUR AS REGARDS ROAD TRANSPORT.

†411. ***Mr. N. M. Joshi :** Will Government be pleased to state what action has been taken either by them or by any of the Provincial Governments on the various recommendations made by the Royal Commission on Indian Labour as regards road transport ?

RECOMMENDATIONS OF THE ROYAL COMMISSION ON LABOUR AS REGARDS PUBLIC WORKS.

†412. ***Mr. N. M. Joshi :** Will Government be pleased to state what action has been taken by them or by any of the Provincial Governments on the various recommendations made by the Royal Commission on Indian Labour as regards public works ?

RECOMMENDATIONS OF THE ROYAL COMMISSION ON LABOUR AS REGARDS MINIMUM WAGES.

†413. ***Mr. N. M. Joshi :** Will Government be pleased to state what action has been taken either by them or by any of the Provincial Governments on the various recommendations made by the Royal Commission on Indian Labour as regards minimum wages ?

RECOMMENDATIONS OF THE ROYAL COMMISSION ON LABOUR AS REGARDS RESTRICTIONS ON THE SALE OF LIQUOR.

†414. ***Mr. N. M. Joshi :** Will Government be pleased to state what action has been taken either by them or by any of the Provincial Governments on the various recommendations made by the Royal Commission on Indian Labour as regards restrictions on the sale of liquor ?

RECOMMENDATIONS OF THE ROYAL COMMISSION ON LABOUR AS REGARDS DEDUCTION FROM WAGES.

†415. ***Mr. N. M. Joshi :** Will Government be pleased to state what action has been taken either by them or by any of the Provincial Governments on the various recommendations made by the Royal Commission on Indian Labour as regards deductions from wages ?

RECOMMENDATIONS OF THE ROYAL COMMISSION ON LABOUR AS REGARDS INDEBTEDNESS.

†416. ***Mr. N. M. Joshi :** Will Government be pleased to state what action has been taken either by them or by any of the Provincial Governments on the various recommendations made by the Royal Commission on Indian Labour as regards indebtedness ?

†For answer to this question, see answer to question No. 405.

**RECOMMENDATIONS OF THE ROYAL COMMISSION ON LABOUR AS REGARDS
HOUSING OF INDUSTRIAL WORKERS.**

†417. ***Mr. N. M. Joshi :** Will Government be pleased to state what action has been taken either by them or by any of the Provincial Governments on the various recommendations made by the Royal Commission on Indian Labour as regards housing of the industrial worker ?

**RECOMMENDATIONS OF THE ROYAL COMMISSION ON LABOUR AS REGARDS
MATERNITY BENEFIT LEGISLATION.**

†418. ***Mr. N. M. Joshi :** Will Government be pleased to state what action they have taken on the recommendations of the Royal Commission on Indian Labour as regards maternity benefit legislation ?

**RECOMMENDATIONS OF THE ROYAL COMMISSION ON LABOUR AS REGARDS
PROVISION FOR SICKNESS.**

†419. ***Mr. N. M. Joshi :** Will Government be pleased to state what action they have taken on the recommendations of the Royal Commission on Indian Labour as regards provision for sickness ?

**RECOMMENDATIONS OF THE ROYAL COMMISSION ON LABOUR AS REGARDS
PLANTATIONS.**

†420. ***Mr. N. M. Joshi :** Will Government be pleased to state what action has been taken, besides the Bill before the Assembly, either by them or by any of the Provincial Governments concerned on the recommendations made by the Royal Commission on Indian Labour as regards plantations ?

**RECOMMENDATIONS OF THE ROYAL COMMISSION ON LABOUR AS REGARDS
STATISTICS AND INTELLIGENCE.**

†421. ***Mr. N. M. Joshi :** Will Government be pleased to state what action has been taken either by them or by any of the Provincial Governments on the various recommendations made by the Royal Commission on Indian Labour as regards statistics and intelligence ?

**RECOMMENDATIONS OF THE ROYAL COMMISSION ON LABOUR AS REGARDS
APPOINTMENT OF LABOUR COMMISSIONERS.**

†422. ***Mr. N. M. Joshi :** Will Government be pleased to state what action has been taken by them or by the Provincial Governments as regards the appointment of Labour Commissioners as recommended by the Royal Commission on Indian Labour ?

APPOINTMENT OF INDIANS AS COLLECTORS OF CUSTOMS.

432. ***Mr. Lalchand Navalrai :** (a) Will Government be pleased to state how many Indians are working as Collectors of Customs in India and where ?

(b) If there be none, will Government be pleased to state the reasons for it ?

† For answer to this question, see answer to question No. 405.

(c) Do Government propose to appoint Indians in these posts ? If not, why not ?

The Honourable Sir Alan Parsons : (a) One ; in Madras.

(b) Does not arise.

(c) Certainly.

COLLECTORS OF CUSTOMS AND REVENUE.

424. *Mr. Lalchand Navalrai : (a) Is it a fact that the Collectors of Customs are in a better cadre, with higher salaries than the Revenue Collectors ?

(b) Is it a fact that formerly both the Customs Collectors and Revenue Collectors belonged to the same cadre ?

(c) Will Government be pleased to state reasons for the present difference and do Government propose to bring both the Customs and Revenue Collectors on the same level ?

The Honourable Sir Alan Parsons : (a) On the average Collectors of Customs receive higher pay than Collectors of districts.

(b) Not since 1906 at any rate.

(c) There is no comparison between the duties of Collectors of Customs and those of Revenue Collectors.

Mr. Lalchand Navalrai : Do they get the same pay ?

The Honourable Sir Alan Parsons : No. The pay of the Collectors of Customs is on the whole higher than that of the Collectors of districts. They are on entirely different scales of pay, and there is no comparison between their duties or responsibilities.

Mr. Lalchand Navalrai : Are the duties of the Collectors of districts less responsible than those of the Collectors of Customs ?

The Honourable Sir Alan Parsons : I should not like to express an opinion.

Mr. Lalchand Navalrai : Apart from opinion, I want to get information. What is that greater responsibility which entitles them to more pay ?

The Honourable Sir Alan Parsons : It is not a question of comparison between the responsibilities of two sets of officers, who carry out entirely different duties. The only similarity between these two sets of officers is that both happen to be called Collectors.

Mr. Lalchand Navalrai : May I take it that the Honourable Member is not in a position to estimate the difference between the duties of these officers ?

The Honourable Sir Alan Parsons : I could give an account, but not in reply to a supplementary question, of the duties of Collectors of Customs, and from some experience, although not recent, of the duties of Collectors of districts. We cannot compare them in any way ; they are entirely dissimilar.

Mr. Lalchand Navalrai : Is it not necessary that this question of difference should be gone into in detail by the Government in order to

find out whether there should be any difference in the scales of pay of these officers ?

The Honourable Sir Alan Parsons : No. It would be an entire waste of time.

APPOINTMENT OF INDIANS AS PREVENTIVE INSPECTORS IN THE KARACHI CUSTOMS OFFICE.

425. ***Mr. Lalchand Navalrai :** (a) Is it a fact that there are three Preventive Inspectors, one European and two Anglo-Indians, on the preventive list of the Karachi Customs Office ?

(b) If so, why are there no men of other denominations as Inspectors ?

(c) Is it a fact that one or two out of these three Inspectors are likely to retire soon ?

(d) If so, do Government propose to fill up these places by Indians ?

The Honourable Sir Alan Parsons : (a) There are three Preventive Inspectors, viz., one European, one Anglo-Indian and one Syrian.

(b) Inspectors are appointed according to merit and seniority. No officer of other denominations has been superseded.

(c) No.

(d) Does not arise.

PREVENTIVE OFFICERS IN THE KARACHI CUSTOMS OFFICE.

426. ***Mr. Lalchand Navalrai :** (a) Is it a fact that there are 19 Europeans and three Anglo-Indians as preventive officers in the Karachi Customs Office out of 37 ?

(b) If the answer to part (a) be in the negative, how many are there of that denomination ? If the answer to part (a) be in the affirmative, are Government prepared to equalise the number by increasing the number of men of other denominations ?

The Honourable Sir Alan Parsons : (a) No.

(b) The figures are :

Europeans	..	..	..	..	13
Anglo-Indians	..	..	..	..	6
Others	..	..	..	..	14
					—
				Total	.. 33
					—

PROMOTION TO THE GRADE OF EXAMINERS IN THE KARACHI CUSTOMS HOUSE.

427. ***Mr. Lalchand Navalrai :** (a) Will Government be pleased to state the number of clerks who have been raised in due course to the posts of Examiners in the Karachi Customs House and when were they so raised ?

(b) Is it a fact that during the last five years no clerk has been promoted to the grade of Examiners ? If so, why has this happened ?

(c) Has any direct recruitment to the post of Examiners been made during the past five years ? If so, when and in how many cases ?

(d) Are Government aware of the disappointment of the deserving clerks who are affected by direct appointments being made to the post of Examiners ?

(e) Do Government propose to fix the percentage for promotion to the grade of Examiners from amongst the clerks and for direct recruitment ? If not, why not ?

The Honourable Sir Alan Parsons : (a) Seven of the present staff of twelve Examiners were promoted from the clerical staff as follows :

1 in 1921.

1 in 1922.

3 in 1925.

1 in 1926.

1 in 1927.

(b) The last occasion on which a clerk was permanently appointed to the grade of Examiners was in August, 1927. (Clerks have officiated on occasions.)

(c) Yes, as follows :

1 in 1927.

1 in 1930.

1 in 1932.

(d) The qualifications for an Examiner's post are different from those for a clerical post. There are 122 clerks whereas there are 12 Examiners and when a clerk is appointed he cannot entertain much hope of being appointed an Examiner. It is only in exceptional instances that clerks are found to be suitable for transfer to the Examiners' grade.

(e) It is not as just explained practicable to fix any percentage for promotion of clerks.

PROMOTION OF LOWER AND UPPER GRADE CLERKS IN THE KARACHI CUSTOMS HOUSE.

428. ***Mr. Lalchand Navalrai :** (a) Will Government be pleased to state how are promotions given amongst the clerks of lower and upper grade in the Karachi Customs House—whether by seniority or by selection ?

(b) If by selection, are Government aware that this system has caused disappointment to the deserving senior men ?

(c) Do Government propose to recognise the claims of the senior clerks for promotion and fix a percentage for promotion from amongst them ?

The Honourable Sir Alan Parsons : (a) By selection, seniority being always given adequate weight.

(b) No deserving senior clerk has been passed over for promotion from the lower division to the upper division.

(c) As a general rule one-third of the vacancies in the upper division of clerks are given to non-graduate clerks. Efficiency would suffer if promotion to the upper division and higher selection posts were regulated by seniority alone.

SINDHIS IN THE POSTS AND TELEGRAPHS DEPARTMENT.

429. *Mr. Lalchand Navalrai : (a) Has the attention of Government been drawn to the article in the *Sind Observer*, Karachi, dated 30th July, 1932, under the heading "Sindhis in Posts and Telegraphs Department" regarding the unfair treatment meted out to the Sindhis, both Hindus and Muhammadans ?

(b) What steps do Government propose to take to remove the aforesaid complaint ?

The Honourable Sir Frank Noyce : (a) and (b). Government have seen the article in question and the attention of the Director of Posts and Telegraphs, Sind and Baluchistan Circle, is being drawn to the matter.

Mr. Lalchand Navalrai : Will the Honourable Member be pleased to find out how it has been disposed of ?

The Honourable Sir Frank Noyce : I will certainly ask the Director to report.

SINDHIS IN THE POSTS AND TELEGRAPHS DEPARTMENT.

430. *Mr. Lalchand Navalrai : (a) Is it a fact that there are five Superintendents of Post Offices in the Sind and Baluchistan Circles, all of whom are non-Sindhis—four Punjabis and one Anglo-Indian ?

(b) Is it a fact that there are 24 clerks in the office of the Director of Post Offices, Karachi, out of whom 19 are outsiders—non-Sindhis ?

(c) Is it a fact that out of the employees in the Persian Gulf Post Offices two are on the reserve list and out of the other 12, eleven are non-Sindhis ?

(d) If the answer to parts (a) to (c) be in the negative, will Government be pleased to state the actual number and the reason for maintaining non-Sindhis in preference to Sindhis ?

The Honourable Sir Frank Noyce : (a) Yes, except that of the existing incumbent only one is a Punjabi and none, Anglo-Indian.

(b) There are actually 29 clerks, of whom 20 are non-Sindhis.

(c) There are actually 13 posts in the Persian Gulf post offices, of which 6 are at present held by Sindhis.

(d) In making fresh recruitment to clerical posts, suitable Sindhi candidates are given preference to others. In the matter of promotion from one grade to another or of postings of Superintendents of Post Offices, the question of communal or racial consideration does not arise.

Mr. Lalchand Navalrai : Will the Honourable Member be pleased to consider the question of having a Sindhi as Superintendent of Post Offices when the next nominations come up ?

The Honourable Sir Frank Noyce : I have already stated that it is only in making fresh recruitments that suitable Sindhi candidates can be given preference over others.

RULES FOR ALLOTMENT OF CLERKS' QUARTERS IN SIMLA.

431. ***Mr. S. C. Mitra :** (a) Will Government please state if it is a fact :

- (i) that in the allotment of clerks' quarters in Simla preference is given to the lowest paid men eligible for a particular class of quarter and that house-rent allowances are paid to the higher paid employees entitled to that class or type of quarter ;
- (ii) that a large number of quarters is allotted to men in the attached offices, and if so, the reason for doing so ;
- (iii) that the full amount of house-rent is withheld from men in the Secretariat who are allotted quarters while only ten per cent. of pay is recovered from employees in attached offices ; and
- (iv) that the house-rent of Secretariat employees is higher than ten per cent. of their pay ?

(b) Do Government contemplate amending the allotment rules for Simla quarters in order to obtain the fullest benefit to public revenues ?

The Honourable Sir Frank Noyce : (a) (i) Other things being equal preference in allotments within each class of houses is given to clerks drawing low pay. Clerks who are in occupation of Government quarters do not draw house-rent allowance.

(ii) Clerks in the attached offices occupy a number of Government quarters. This is because they are also entitled to Government quarters and are allotted quarters in accordance with the rules governing the allotment of such quarters.

(iii) House-rent allowance is withheld in full from Secretariat clerks who are allotted quarters. Clerks in attached offices are not as a general rule entitled to house-rent allowance. They pay as rent up to ten per cent. of their pay.

(iv) The house-rent allowance of Secretariat clerks is higher than ten per cent. of their pay.

(b) Not at present. An amendment of the rules to effect a maximum return of rent to Government would be detrimental to the interests of the lower paid clerks who stand in the greatest need of relief in the matter of house accommodation at Simla.

Dr Ziauddin Ahmad : Am I to understand that the house-rent allowance of Secretariat employees is higher than ten per cent. ?

The Honourable Sir Frank Noyce : I have said so—that the house-rent allowance of Secretariat clerks is higher than ten per cent. of their pay.

Dr. Ziauddin Ahmad : When the Government rule is to charge not more than ten per cent., is it not unjust to charge more than ten per cent. ?

The Honourable Sir Frank Noyce : I should like to have notice of that question.

CONSTRUCTION OF BUILDINGS FOR MILITARY COLLEGE AT DEHRA DUN BY THE DELHI PUBLIC WORKS DEPARTMENT.

432. *Mr. S. C. Mitra : (a) Is it a fact that the construction of buildings for the military college at Dehra Dun has been entrusted to the Delhi Public Works Department ?

(b) If so, what is the rate settled for departmental charges which the Army will pay to the Delhi Public Works Department ? What was the original figure proposed ?

(c) Is it a fact that the retention or abolition of one Circle in the Delhi Public Works Department depended on the securing of the construction of the military college for the Delhi Public Works Department ?

(d) Will Government please state how the percentage of establishment charges to works has varied in Delhi during the past five years and whether Government are in a position to state how it compares with similar percentages in the United Provinces and the Punjab ?

The Honourable Sir Frank Noyce : (a) Yes.

(b) 17½ per cent.—16 per cent. for establishment (including 1 per cent. for audit) and 1½ per cent. for tools and plant. This is the figure which was originally proposed.

(c) The taking over by the Central Public Works Department of the work connected with the location of the Indian Military Academy at Dehra Dun was an additional reason for maintaining the present number of Superintending Engineers in the Central Public Works Department.

(d) The percentages the net cost of the total establishment of the Public Works Department bore to the total expenditure on works and repairs in Delhi, the United Provinces and the Punjab, during the years 1927-28 to 1930-31 are given in the Finance and Revenue Accounts of the Government of India and were as follows :

	Dehli New Capital works.	Delhi Province.	United Provinces.	Punjab.
1927-28	15.78	17.08	31.41	32.52
1928-29	17.65	17.42	30.54	34.20
1929-30	14.85	14.47	38.33	42.33
1930-31	19.92	20.25	49.76	51.17

The figures for 1931-32 are not available. The figures in respect of the United Provinces and the Punjab are combined figures for Civil Works and Irrigation Works, separate figures not being readily available.

PURCHASE OF STORES BY THE INDIAN STORES DEPARTMENT.

433. *Mr. S. C. Mitra : (a) Is it a fact that the Indian Stores Department levies a charge on the purchasing departments for stores purchased through it ?

(b) Does not that charge represent the whole of the revenue of the Indian Stores Department ?

(c) How do the prices obtained by the Indian Stores Department compare with those ruling in the market ?

The Honourable Sir Frank Noyce : (a) The Department does not make any charge to the non-commercial civil Departments of the Central Government. It makes a charge for stores purchased on behalf of other authorities.

(b) No. Besides the Departmental charges for the purchase of stores, the earnings of the Indian Stores Department also include :

- (1) Departmental charges for the inspection of stores purchased through it, if inspection is required.
- (2) Fees for inspection of stores purchased by other authorities.
- (3) Fees for tests and analyses, etc., carried out at the Government Test House and the Metallurgical Inspectorate.
- (4) Miscellaneous receipts, for rents of Government quarters provided for the staff at Jamshedpur and Cawnpore, sale proceeds of tender forms, etc.

(c) The Indian Stores Department conducts the business entrusted to it in accordance with principles which have been approved by Government. Purchases are made by inviting tenders and every endeavour is made to obtain the widest possible competition. The lowest satisfactory tenders are accepted and Government have no reason to think that these do not reflect the best prices obtainable in the market for supplies in accordance with the requirements.

PUBLIC SERVICE COMMISSION EXAMINATION FOR RECRUITMENT OF ROUTINE DIVISION CLERKS OF THE IMPERIAL SECRETARIAT.

434. *Mr. S. C. Mitra : (a) Is it a fact that about 100 candidates qualified for the routine division of the Secretariat at the last examination held by the Public Service Commission ?

(b) Is it also a fact that more than 80 of the candidates have been provided with permanent employment ? If not, how many have been so provided ?

(c) Are some of the remaining candidates now employed in temporary vacancies ?

(d) How many permanent vacancies are expected to occur during the next year ?

(e) Will Government please state whether the candidates numbering 20 or so still remaining to be provided will get preference over the candidates who qualify at the proposed examination in November ?

(f) If the answer to part (e) is in the negative, will Government please state the reason and the necessity for holding another examination when these qualified men with office experience are available ?

The Honourable Mr. H. G. Haig : (a) The examination was a competitive one. 100 candidates obtained not less than the minimum qualifying mark fixed for the examination.

(b) 68 candidates have been appointed to permanent vacancies. Five have been offered permanent appointments but have not yet joined.

(c) Yes.

(d) It is not possible to forecast with any accuracy the number of vacancies that will occur next year.

(e) No.

(f) Under the present system of recruitment, examinations are held to fill vacancies occurring during specific periods and candidates who compete in one examination but fail to secure vacancies to be filled on the results of that examination have no claim to vacancies to be filled on the results of a subsequent examination. As candidates are aware of this condition, they have no ground for complaint.

Dr. Ziauddin Ahmad : Is this examination a qualifying one or a competitive one ?

The Honourable Mr. H. G. Haig : It is a competitive one.

Dr. Ziauddin Ahmad : Am I to understand that only as many candidates are allowed to pass as there are vacancies ?

The Honourable Mr. H. G. Haig : A certain number of vacancies are to be filled and they are filled by those who stand highest in the examination.

Dr. Ziauddin Ahmad : My question was different. If the examination is a competitive one, then as many candidates will be declared to have passed as there are number of vacancies and, therefore, the question of appointing the rest does not arise ?

The Honourable Mr. H. G. Haig : That is so, Sir, but there is a certain complication introduced which may possibly give rise to a little misunderstanding. We have also a minimum qualifying mark fixed. Any candidate who does not secure that, even if there were a vacancy for him, would not be appointed.

Mr. Gaya Prasad Singh : May I take it that those who obtain the highest number of marks are invariably appointed ?

The Honourable Mr. H. G. Haig : I cannot say that. The system may be affected to some extent by our communal rules.

Dr. Ziauddin Ahmad : Is it not the case then that certain persons who attain a minimum standard are also declared to have passed ? Then it is a qualifying examination, not a competitive one ?

The Honourable Mr. H. G. Haig : I do not think I should say that they were declared to have passed. All that is said that they have obtained a minimum qualifying mark. Those who have passed are really those to whom appointments could be offered.

Mr. Gaya Prasad Singh : Is it a fact that some of those candidates who have obtained lesser marks are appointed over the top of those who have obtained higher marks.

The Honourable Mr. H. G. Haig : I think the object of having a minimum qualifying mark is that nobody should be appointed who has not secured that minimum mark.

Dr. Ziauddin Ahmad : Are the examinations held every year ?

The Honourable Mr. H. G. Haig : At present the system is to hold the examination every year for the number of vacancies that occur during that year.

APPOINTMENT OF THE CHIEF SUPERINTENDENT IN THE FINANCE DEPARTMENT.

435. ***Mr. S. C. Mitra :** (a) Is it a fact that an officer in the Finance Department made proposals for the retrenchment of all Indian Superintendents ? If so, why ?

(b) Is it a fact that he has given an undertaking to the Anglo-Indian Superintendent that the latter would be made Chief Superintendent over his seniors ? Is it a fact that it has been decided that the Anglo-Indian Superintendent will be appointed Chief Superintendent on return from leave ?

(c) If the answer to part (b) is in the negative, are Government prepared to order that the post of Chief Superintendent should go to the seniormost Superintendent ?

The Honourable Sir Alan Parsons : (a) and (b). No.

(c) It is intended that the post should be filled by strict selection.

APPOINTMENTS VACANT IN THE FINANCE DEPARTMENT.

436. ***Mr. S. C. Mitra :** (a) Is it a fact that some appointments are vacant in (i) the Upper Division Upper Time-Scale and (ii) the Lower Division Selection Grade in the Finance Department ?

(b) If so, how long have these appointments been vacant ? When do Government propose to fill them ?

(c) Is it a fact that appointment to these grades is intended to be governed by selection ? If so, how many appointments in the past to these grades have been made by selection ?

(d) Do Government propose to consider the relative merits of the whole staff with a view to giving promotions to the best men in the appointments that are vacant ?

The Honourable Sir Alan Parsons : (a) and (b). One appointment is vacant in the second division special grade of the Finance Department, with effect from the 20th July, 1932. The claim of a candidate to fill it is under active consideration.

(c) Yes : selection subject to the fulfilment of certain specified conditions has been the traditional practice in Finance Department.

(d) Does not arise.

SCHEME FOR SEPARATION OF FOREIGN POSTS WORK.

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

- (a) the date from which the scheme of the separation of Foreign Post work was approved of by them as an experimental measure ;
- (b) the period for which it was originally sanctioned and the periods of extensions granted, if any ;
- (c) whether the Directorate, the Postmasters' Union and the Postal Union are opposed to the measure ;
- (d) whether the Postmasters' Union has suggested a measure for the working of the Foreign Post ; and
- (e) if the replies to the above be in the affirmative, whether, in view of the opposition to the scheme, Government propose to consider the question of abolishing the separation and giving effect to the measure suggested in its place by one of the Unions ?

The Honourable Sir Frank Noyce : (a) and (b). The scheme of centralisation of Foreign Post work in Bombay was introduced, as a temporary measure, for 6 months, with effect from the 1st November 1931. It was extended first for a period of 2 months and subsequently for a further period.

(c) It is a fact that criticisms of the scheme have been received from the Postmasters' Association and the All-India Postal and Railway Mail Service Union. As regards the Directorate no final decision on the suitability of the scheme has yet been reached.

(d) Yes, but there are reasons to think that it is impracticable.

(e) The scheme aims at greater efficiency as well as economy, and as it is still under trial Government are not prepared to make any definite statement at this stage.

SPECIAL PAYS AND ALLOWANCES ENJOYED BY THE STAFF OF THE GOVERNMENT OF INDIA.

438. *Mr. S. C. Mitra : Have Government undertaken the overhauling of the special pays and allowances granted to servants of the Central Government as recommended by the General Purposes Retrenchment Committee ?

The Honourable Sir Alan Parsons : Yes.

ACTION ON RECOMMENDATIONS OF THE GENERAL PURPOSES SUB-COMMITTEE.

439. *Mr. S. C. Mitra : Will Government please state what action has been taken on the recommendations in the first chapter of each of the three reports of the General Purposes Sub-Committee of the Retrenchment Advisory Committee ?

The Honourable Sir Alan Parsons : Part III of the Report has only recently been published and is still under the consideration of Government. The first chapters of Parts I and II contain general observa-

tions, interspersed with suggestions which have been repeated under the respective heads of Demands. For the action taken on them the Honourable Member is referred to the "Summary of the results of retrenchment operations in Civil expenditure and in Military estimates" which was laid on the table of the House during the last Budget session.

NUMBER OF INDIANS AND EUROPEANS RETRENCHED IN THE GOVERNMENT OF INDIA DEPARTMENTS.

440. *Mr. S. C. Mitra : Will Government please state how many (a) Indian and (b) European officers have been retrenched as a result of the retrenchment campaign in the different Departments of the Government of India ?

The Honourable Mr. H. G. Haig : Information is being collected and, when complete, will be laid on the table.

REDUCTION OF THE OVERSEAS PAY PAID IN ENGLAND.

441. *Mr. S. C. Mitra : Do Government propose, as a measure of economy, to reduce the overseas pay paid in England to the level of the overseas pay paid in India ?

The Honourable Sir Alan Parsons : No.

LEE CONCESSIONS GRANTED TO PERSONS APPOINTED IN INDIA.

442. *Mr. S. C. Mitra : (a) Is it a fact that some of the Lee concessions have been granted to subordinate and ministerial employees of Government ? Is it also a fact that in cases of doubtful domicile the benefit has been given to the Government servants concerned ? Is it not a fact that Anglo-Indians have received the benefit of the concessions intended for persons who were recruited from Europe ?

(b) Are Government prepared to consider the cancellation of the Lee concessions granted to persons appointed in India ?

The Honourable Mr. H. G. Haig : (a) Certain passage concessions have been given to members of non-Superior Services who are of non-Asiatic domicile provided they satisfy the conditions laid down in the Home Department Memorandum No. F.10/4/30-Establishments, dated the 6th August, 1930, a copy of which will be found in the Library. Domicile is determined in accordance with the provisions laid down in Appendix B to Schedule IV to the Superior Civil Services Rules. An Anglo-Indian is entitled to the concession if he proves that he has a European domicile. The question is not dependent on race.

(b) No, Sir. The grant of this concession is carefully restricted, as the orders I have mentioned above show.

Mr. K. C. Naogy : In the case of those Anglo-Indians whose domicile has been declared to be non-Indian, has any note been taken of these instances in connection with the figures for Indianisation supplied; in reply to questions asked in this House or in other official statements ?

The Honourable Mr. H. G. Haig : You mean, "are they regarded as non-Indians?" We are referring of course to the non-superior services, and I am not sure that we have given any figures of Indianisation. There are very few non-Indians in these services.

Dr. Ziauddin Ahmad : The question was, "should not all those persons who are drawing these concessions be classed as non-Indian?"

The Honourable Mr. H. G. Haig : That certainly is a point that deserves consideration.

Mr. K. C. Neogy : Well, there are certain Indians who do get the Lee concessions.

Mr. Lalchand Navalrai : In view of the general complaint that the Lee concessions should be abolished, is there any likelihood of revising them or taking them away?

The Honourable Mr. H. G. Haig : No, Sir. I can hold out no prospect of such a contingency. (Laughter.)

Mr. Lalchand Navalrai : What are the reasons for holding out no prospect?

The Honourable Mr. H. G. Haig : I think, Sir, this question is coming under discussion in connection with a Resolution.

Mr. K. C. Neogy : Will the Honourable Member kindly examine the position and find out exactly whether, for purposes of Indianisation figures, these Anglo-Indians whose domicile has been declared to be non-Indian are treated as Indians or not, either in the superior or in the inferior services?

The Honourable Mr. H. G. Haig : I think the position is as stated by the Honourable Member, but I shall make inquiries.

Mr. K. C. Neogy : Thank you.

REDUCTION IN DINING CAR AND OTHER CHARGES ON RAILWAYS.

443. ***Mr. S. C. Mitra :** (a) Are Government aware that :

- (i) the dining car charges on railway trains have not been reduced ;
- (ii) the conveyance charges are what they were two years before ;
- (iii) no reduction has been made in the third class fares for servants,
- (iv) the reduction of the travelling allowance from one and three-fifth fare has involved a hardship on Government servants who go on tour ; and
- (v) the reduction of the travelling allowance has resulted in less touring ?

(b) Do Government propose to lay down a schedule of rates which dining car contractors, hotel-keepers, etc., should charge Government servants in order that the total expense may not exceed the allowance paid by Government ?

Mr. P. R. Rau : (a) (i). The charges for meals supplied in dining cars are settled by Railway Administrations with their dining car con-

tractors without any reference to Government who are, therefore, not aware of the alterations made in these charges from time to time.

(ii) Government have no information.

(iii) Yes.

(iv) No. The reason for the reduction of the supplement for railway journeys from three-fifths to one half of a fare was the general increase in railway fares from the 1st October, 1931, which had the effect of generally making the cash value of the reduced supplement about equal to that of the former supplement.

(v) No.

(b) Government do not propose to interfere in the fixing of the tariff of charges for meals supplied in dining cars, and they are not in a position to influence the rates charged in hotels, etc.

Dr. Ziauddin Ahmad : Sir, in view of the fact that the Honourable gentleman always travels under extraordinary concessions and that, therefore, he is not in a position to judge the real effect of the answer to part (iv) of the question, is any other member of the Civil Service or other able to answer this part of the question ?

Mr. P. R. Rau : I did not catch the point, Sir.

Dr. Ziauddin Ahmad : With reference to the answer to paragraph (iv) of the question, in view of the fact that the Honourable gentleman of the Railway Board always travels under extraordinary concessions and never pays for his luggage and other services, will any other member of the services who travels under these conditions reply to this part of the question ?

Mr. P. R. Rau : It does not concern me, I understand ?

CARETAKERS OF THE IMPERIAL SECRETARIAT BUILDINGS AND THE LEGISLATIVE BUILDINGS, NEW DELHI.

444. ***Mr. S. C. Mitra :** (a) Is it a fact that one Mr. Palmer was the Superintendent Caretaker of the Imperial Secretariat Buildings as well as the Caretaker of the Legislative Buildings, New Delhi ? If so, for how long was he in charge of both those buildings ?

(b) Is it a fact that two different caretakers for the Secretariat buildings and the Legislative buildings have now been appointed ? If so, why in place of one caretaker two have been appointed ?

The Honourable Sir Frank Noyce : (a) Mr. Palmer was appointed as Superintendent, Caretaker of the Imperial Secretariat Buildings in 1926. He was also in charge of the Council House from January, 1930, to April, 1932.

(b) Yes. But there was no increase in the number of appointments. Mr. Palmer was formerly assisted by an Assistant Caretaker and there was a separate Caretaker for certain buildings in Old Delhi. As a matter of administrative convenience, the Assistant Caretaker was posted to the charge of the buildings in Old Delhi and the Caretaker for Old Delhi was transferred to the charge of the Council House and of certain other work.

Mr. Gya Prasad Singh : May I know whether this new arrangement has resulted in any increased expenditure to Government ?

The Honourable Sir Frank Noyce : Not so far as I am aware.

CONVEYANCE ALLOWANCE FOR THE CARETAKER OF THE LEGISLATIVE BUILDINGS, NEW DELHI.

445. *Mr. S. C. Mitra : Is it a fact that the present caretaker of the Legislative buildings, New Delhi, has been put in charge of the surplus furniture of Old Delhi as well and is it a fact that he has been allowed conveyance allowance for going to and coming from Old Delhi ? Is it a fact that this caretaker used to draw a motor cycle allowance when he was caretaker of Old Delhi ? If so, will Government be pleased to state whether that conveyance allowance is being paid to the present caretaker of Old Delhi ? If not, why not ?

The Honourable Sir Frank Noyce : (a) The present Caretaker of the Council House at New Delhi, is in charge of the surplus furniture at New and Old Delhi, but receives no conveyance allowance on that account.

(b) He used to draw a Motor Cycle Allowance when he was in Old Delhi as he had other duties in addition to those of Caretaker. No conveyance allowance is paid to the present Caretaker in Old Delhi as he has no such additional duties to perform.

APPOINTMENT OF INDIANS AS CARETAKERS OF GOVERNMENT BUILDINGS IN NEW DELHI AND SIMLA.

446. *Mr. S. C. Mitra : (a) Will Government be pleased to state the number of caretakers under the Chief Engineer, Delhi, and will they be pleased to state how many of such caretakers are Indians ?

(b) If there are no Indians, will Government be pleased to state the reasons why no Indian has been appointed as caretaker either of the Secretariat buildings or the Legislative buildings, New Delhi, or the Gorton Castle, Simla, up till now ?

The Honourable Sir Frank Noyce : (a) There are five Caretakers under the Chief Engineer, Central Public Works Department, two of whom are Indians.

(b) Does not arise.

GRADES OF PAY FOR INDIAN AND ANGLO-INDIAN CARETAKERS OF GOVERNMENT BUILDINGS IN NEW DELHI AND SIMLA.

447. *Mr. S. C. Mitra : (a) Is it a fact that the very few Indian caretakers who are at present serving under the Chief Engineer, Delhi, are paid a lower salary than the Anglo-Indian caretakers for the same jobs ?

(b) Will Government be pleased to state the names of buildings where they had Anglo-Indian caretakers before and where now they have replaced those Anglo-Indians by Indian caretakers during the last two years ? Will they be pleased to state whether in those cases they have fixed lower salaries for Indian caretakers than the salaries drawn by

previous Anglo-Indian caretakers of those very buildings ? If the answer is in the affirmative, will Government be pleased to state the reasons for making such racial discriminations ? Do Government propose to put the Indian caretakers in the very grades originally fixed for Anglo-Indian caretakers of the same buildings ? If not, why not ?

(c) Will Government be pleased to state the grade of pay fixed for the Kennedy House caretaker's post and the grade of pay fixed for the Old Delhi caretaker's post when these were held by Anglo-Indian caretakers and what are the grades of pay fixed for the present caretakers ?

The Honourable Sir Frank Noyce : (a) They are paid lower salaries, but the charges of the various appointments of caretakers are not of equal responsibility.

(b) The old Secretariat buildings, Metcalfe House and Alipore House in Delhi are in the charge of an Indian caretaker. It is true that he draws lower pay than his predecessor, Mr. Thomas, but the latter was also in charge of certain other buildings in Delhi and also of certain furniture in Delhi and New Delhi.

The Council Chamber, Kennedy House, and certain other buildings in Simla are also in the charge of an Indian caretaker. He is a comparatively young man and draws less pay than did his predecessor who was much older.

The pay of each caretaker is fixed according to his qualifications and experience and the responsibilities of his charge. There are no special scales for Anglo-Indians and there are no grades.

(c) The pay of the caretaker in charge of Kennedy House, the Council Chamber and certain other buildings in Simla was formerly Rs. 160. It is now Rs. 100.

The caretaker of the buildings in Old Delhi drew pay on the scale of Rs. 300—10—350 a month. The present caretaker draws a fixed pay of Rs. 110 but as I have explained in reply to part (b), the duties of the present incumbent are considerably lighter than those of his predecessor.

PLACING OF THE SIMLA GOODS SHED UNDER THE STATION MASTER, SIMLA.

448. ***Mr. S. C. Mitra :** (a) Is it a fact that goods clerks and the goods sheds attached to the Railway stations are always placed under the control of the respective Station Masters and the Station Superintendents ?

(b) Is it a fact that the goods clerk and the goods shed attached to the Simla Station are not under the Station Master but are under the direct control of the Assistant Transportation Officer ?

(c) Are Government aware that the public and the illiterate business section are much inconvenienced in approaching an official of the position of the Assistant Transportation Officer and have to do so through the Head Clerk of the office ? If not, do they propose to inquire into the matter ? If not, why not ?

(d) Do Government propose to place the goods shed under the control of the Station Master, Simla, working under the superintendence and control of the Assistant Transportation Officer ? If not, why not ?

Mr. P. B. Rau : (a) No. In some stations goods sheds are under the Station Masters and in others goods clerks themselves are in charge of the goods sheds.

(b) Yes. The Station Master, Simla, as also the Chief Goods Clerk are under the direct control of Assistant Operating Officer, Simla.

(c) The Agent, reports that the Assistant Operating Officer, Simla, is not aware that the public is or has been inconvenienced. In fact the Assistant Operating Officer has frequent interviews and meetings in his office with the public and trailers and complete satisfaction has been expressed by them.

(d) The administration do not intend to make any change at present, as it is considered that the present arrangement is more satisfactory and gives better service to the public.

COMMUNAL REPRESENTATION IN THE INDIAN STORES DEPARTMENT.

449. ***Sardar Sant Singh :** (a) Will Government please lay on the table a statement showing the communal representation in the permanent ministerial establishment of the Headquarters Office of the Indian Stores Department ?

(b) Is it a fact that there are permanent vacancies in the clerical staff of the office of Chief Controller of Stores, Indian Stores Department ? If so, do Government propose to confirm men belonging to minority communities against those posts in order to remove communal disparity ?

The Honourable Sir Frank Noyce : (a) A statement is laid on the table.

(b) Yes. The orders of the Government of India regarding communal representation will be followed :

Statement showing the communal composition of the permanent ministerial establishment of the Headquarters office of the Indian Stores Department on the 1st September, 1932.

Hindus ..	.. 87	Europeans and Anglo-Indians ..	5
Muhammadians ..	.. 17	Indian Christians ..	2
Sikhs ..	.. 7	Other communities ..	2

PUBLIC SERVICE COMMISSION EXAMINATION FOR RECRUITMENT OF CLERKS IN THE GOVERNMENT OF INDIA OFFICES.

450. ***Sardar Sant Singh :** (a) Is it a fact that the Public Service Commission is holding an examination for selection of candidates for clerical appointments in the Government of India offices ?

(b) Will Government please state if all the candidates who qualified at the examination held in 1926, 1929 and 1931, have been provided in permanent vacancies ? If not,

(i) how many of them are holding temporary vacancies ; and

(ii) why have they not been confirmed in permanent vacancies ?

The Honourable Mr. H. G. Haig : (a) Yes, a competitive examination.

(b) The Honourable Member is presumably referring to the examinations for the Typist and Routine Grade. All the candidates who qualified for such grade in 1926 and 1929 have been provided either with permanent appointments or with temporary appointments likely to be made permanent. Of the candidates who obtained marks which were not less than the minimum qualifying mark fixed by the Public Service Commission for the examination held in 1931, 19 failed to secure permanent posts in the Typist and Routine Grade owing to the fact that there were no vacancies for them. This is in accordance with the new system of recruitment which came into force on the 1st April, 1930, and under which candidates who qualify at one examination have no right to vacancies to be filled on the result of a subsequent examination.

Mr. Lalchand Navalrai : May I know if the reason why this examination is going to take place is, because there is a demand for these clerks ?

The Honourable Mr. H. G. Haig : What examination is the Honourable gentleman referring to ?

Mr. Lalchand Navalrai : With reference to the answer to clause (a) that the Public Service Commission is going to hold an examination for the selection of candidates for clerical appointments, is it the case that there is a demand for engaging these clerks and that is why the examination is going to take place, or only in order to put these candidates on the List ?

The Honourable Mr. H. G. Haig : The examination is going to be held because certain vacancies have to be filled.

PERSONS HOLDING SUBSTANTIVELY TEMPORARY APPOINTMENTS IN THE INDIAN STORES DEPARTMENT.

451. ***Sardar Sant Singh :** (a) Is it a fact that there are permanent as well as temporary clerical appointments in the office of the Chief Controller of Stores, Indian Stores Department, and that passed candidates of 1926 and 1929 have been appointed against these vacancies ?

(b) Is it a fact that the persons who qualified in 1926 and 1929 are still holding appointments temporarily in the Indian Stores Department and they are not being nominated by the Public Service Commission in permanent appointments in other offices on the ground that they held substantively temporary appointments ?

The Honourable Sir Frank Noyce : (a) and (b). Yes.

PERSONS HOLDING TEMPORARY APPOINTMENTS IN THE INDIAN STORES DEPARTMENT AND OTHER OFFICES.

452. ***Sardar Sant Singh :** (a) Will Government please state :

(i) the number of men who qualified in 1926 and 1929 who are still holding temporary appointments in the Indian Stores Department and other offices ; and

(ii) the period of their service in these offices ?

(b) Do Government now propose to nominate these men against permanent vacancies in other offices in preference to those candidates who qualified themselves in 1931 ?

The Honourable Mr. H. G. Haig : (a) My information is that there are a few such clerks but their exact number and length of service are being ascertained and I will lay the information on the table when collected.

(b) I understand that the Honourable Member's point is that the candidates who qualified at the 1926 and 1929 examinations should have been given preference to those who qualified in the 1931 examination in respect of employment in the Third Division. The orders regulating recruitment, a copy of which will be found in the Library, provide that once a candidate has accepted employment he becomes a departmental candidate. Such men must ordinarily look to the Department in which they are employed for promotion or confirmation and have no claim to such promotion or confirmation by transfer to another Department. Government have recently issued orders removing the restriction on permanent employment in the Third Division of those candidates who qualified for the First or Second Divisions only at the 1926 and 1929 examinations and are still holding temporary appointments in those Divisions.

RETRENCHMENT IN THE ALL-INDIA SERVICES.

453. ***Sardar Sant Singh :** (a) Is it a fact that men with more than 25 years' service are being kept while young men of the All-India Services are being thrown out ?

(b) How many of the retrenched officers are Europeans and how many Indians belonging to the following services :

(1) Indian Civil Service, (2) Indian Medical Service, (3) Indian Forest Service, and (4) Indian Police Service ?

(c) Is it a fact that some of the Indians are being retrenched on the plea of inefficiency ? If so, were they ever tried in other Provinces also ?

(d) Will Government please state the number of Indians and Europeans separately in each of the above mentioned services who have been detained at the efficiency bar ?

The Honourable Mr. H. G. Haig : Sir, with your permission, I propose to reply to questions Nos. 453 and 454 together. The information asked for by the Honourable Member is not at present available. I am making inquiries and hope to be able to furnish the information in due course.

RETRENCHMENT IN THE ALL-INDIA SERVICES.

†454. ***Sardar Sant Singh :** (a) Is it a fact that before any one is discharged or dismissed on account of inefficiency or for other reasons Government always warn in writing the individuals concerned two to three times to improve ?

(b) If the reply to part (a) be in the negative, why do not Government inform the individuals concerned of their inefficiency and give them time to improve in the required directions ?

†For answer to this question, see answer to question No. 453.

(c) How long do Government generally take to remove a servant on the charges of inefficiency and incapability ?

(d) How many officers belonging to each of the Imperial services who have been removed or are being removed were warned and for how many times ?

(e) What is the nationality of each of the retrenched officers ?

EMPLOYMENT OF SIKHS IN CERTAIN OFFICES.

455. **Sardar Sant Singh :** (a) Is it a fact that passed Sikh candidates are not available on the Public Service Commission list for employment in the ministerial establishment of the Government of India Secretariat and their attached and subordinate offices ?

(b) If so, what steps do Government propose to take to continue their recruitment in conformity with the proportion required for this community ?

(c) Is it a fact that there is not a single Sikh clerk or assistant or that they are a negligible number in the following offices ?

- (1) Public Service Commission ; (2) Director General of Archaeology ; (3) Director General, Posts and Telegraphs ; (4) Survey of India Office ; (5) Controller of Standardisation ; (6) Assistant Military Secretary's Personal ; (7) Director of Intelligence Bureau ; (8) Director of Public Information ; (9) Indian States Forces Office ; (10) Foreign and Political Press ; (11) General Staff Branch ; (12) Judge Advocate General Branch ; and (13) Military Secretary's Branch ?

(d) Are Government prepared to appoint at least an adequate number of Sikhs or to adopt such methods as will enable Government to comply with the demand for employment of Sikhs coming from any of the above or other offices ? If not, why not ?

The Honourable Mr. H. G. Haig : (a) and (b). I presume that when the Honourable Member speaks of "passed Sikh candidates", he means Sikh candidates who obtained not less than the minimum mark fixed by the Public Service Commission at the last competitive examination for recruitment to the ministerial service. All such Sikh candidates have been provided with posts in the Government of India Secretariat or Attached Offices. Any existing or prospective vacancies up to the end of September, 1933, for which Sikh candidates may be required, will be filled on the result of the examination to be held in November, 1932.

(c) A statement showing the communal composition of the clerical staff of the Government of India Offices on the 31st December, 1931, will shortly be available in the Library.

(d) I would invite the attention of the Honourable Member to the Home Department Office Memorandum No. F.176/25-Ests., dated the 5th February, 1926, which explains the policy of the Government of India as regards representation of minority communities in the Government of India Secretariat and their Attached and Subordinate Offices, and of which a copy is available in the Library. I would add that definite proportions of vacancies are not reserved for particular minority communities.

APPOINTMENT OF SIKHS IN THE GENERAL STAFF BRANCH.

456. *Sardar Sant Singh : (a) How many lady and Muhammadan clerks have been asked for by the General Staff Branch and how many Sikhs ?

(b) If no post has been reserved for a member of the Sikh community, will Government please state why the claims of Sikhs are being ignored ?

Mr. G. R. F. Tottenham : (a) (i) Lady clerks 16
(ii) Muslim clerk 1
(iii) Sikh clerk 1

Of the 16 lady clerks, eight are required to fill vacancies caused by the retrenchment of First and Second Division posts previously held by European ex-soldier clerks. The remaining eight are required to replace lady clerks at present temporarily employed who have not qualified by passing the Public Service Commission examination.

(b) Does not arise.

Dr. Ziauddin Ahmad : I am sorry, I could not follow the answer. Did the Honourable Member say one Muslim clerk and one Sikh clerk ?

Mr. G. R. F. Tottenham : Yes.

Dr. Ziauddin Ahmad : Is the Honourable Member aware that the Muslim population is 24 per cent. and the Sikh population is only one per cent. ?

Mr. K. C. Neogy : Does the Honourable Member accept as correct the underlying assumption of this question that the Muhammadan and Sikh clerks are as attractive as lady clerks ?

Mr. G. R. F. Tottenham : No, Sir.

RESERVATION OF SEATS FOR LADY CLERKS IN THE ARMY HEADQUARTERS.

457. *Sardar Sant Singh : (a) What are the special reasons for reserving 21 seats in the Army Headquarters for lady clerks ?

(b) How many, in the same way, have been reserved for the Muslims, Hindus and Sikhs separately ?

(c) Is it not a fact that the lady clerks are far more expensive to Government than male clerks ?

(d) In view of the present financial stringency, do Government propose to consider the advisability of employing male clerks who are far less expensive ? If not, why not ?

Mr. G. R. F. Tottenham : (a) The precise number of vacancies for lady clerks in Army Headquarters has not yet been settled but the reason why they will be comparatively numerous is that the policy is being tried at present of replacing a number of British soldier clerks by ladies on lower rates of pay. Further a certain number of unqualified lady clerks are at present employed temporarily because qualified ones were not available, and it is desired to replace them by qualified lady clerks as soon as possible.

(b) The total number of vacancies, as also the number intended to be filled by different communities, will be announced shortly.

(c) In the Second and Third Divisions the starting pay of lady clerks is slightly higher than that of men clerks. In the First Division it is the same. The starting pay of ex-soldier clerks however is considerably higher than that of lady clerks.

(d) No, Sir, for the reasons explained in reply to parts (a) and (c) above.

Mr. Lalchand Navalrai : Will the Honourable Member please state if there are any lady clerks other than European, Eurasian and Christians ?

Mr. G. R. F. Tottenham : I do not think there are any at present.

Mr. Lalchand Navalrai : Will the Honourable Member please say why they are not engaged ?

Mr. G. R. F. Tottenham : We shall be very glad to employ any lady clerks of any community who can pass the examination.

Mr. Gaya Prasad Singh : May I know, Sir, if the lady clerks get higher pay than the men clerks ? Why are they employed ?

Mr. G. R. F. Tottenham : As I tried to explain, Sir, we are employing these lady clerks in place of soldier clerks whose pay is very considerably higher than that of lady clerks.

Mr. Gaya Prasad Singh : If men clerks are employed in place of lady clerks, will it not be in the interests of economy especially when the lady clerks are getting higher pay ?

Mr. G. R. F. Tottenham : That is a possible argument ; but I think that experience both here and in other parts of the world has shown that there are certain types of work—generally speaking, I am afraid, the more monotonous and uninteresting jobs—which are performed more satisfactorily by the female of the species.

SIKH STAFF OFFICERS ON STATE RAILWAYS, ETC.

458. ***Sardar Sant Singh :** Will Government please state the number of Sikhs employed as staff officers on the Indian State Railways and in the offices under the control of the Chief Commissioner of Railways during the years 1930-31 and 1931-32 as against Hindus, Muhammadans and Anglo-Indians ?

Mr. P. R. Rau : I would refer the Honourable Member to a reply given by Sir Alan Parsons to a very similar question put by him on the 9th March.

PERCENTAGE OF SIKHS ON STATE RAILWAYS.

459. ***Sardar Sant Singh :** What was the percentage of Sikhs in all services on the State-managed Railways as a whole before the retrenchment began and what is their percentage at the present time ? Were any special measures taken to maintain their percentage at the same level ? If so, what ?

Mr. P. B. Rau : Government regret that the information required is not available ; the form of the statistics hitherto maintained by railways, which was approved by the Central Advisory Council for Railways did not show Sikhs separately.

The instructions issued to State-managed Railways were that all practical steps should be taken to see that the unfortunate necessity for reducing staff did not operate to the detriment of communities not at present adequately represented in the railway services.

Sardar Sant Singh : Will the Honourable Member make an inquiry and find out the percentage ?

Mr. P. B. Rau : For the future, I believe, it has been decided that the forms of statistics should show separately. But to collect the figures of the past, I think, requires an extraordinary amount of labour which I am not prepared to undertake at present.

ABSENCE OF SIKH ACCOUNTANTS IN RAILWAY AUDIT AND ACCOUNTS OFFICES.

460. ***Sardar Sant Singh :** Will the Railway Member kindly refer to his reply given to starred question No. 724 on the 9th March, 1932 (regarding absence of Sikh accountants in Railway Audit and Accounts offices), and state why the Sikhs were not kept on when there was not a single Sikh in that office in that grade ?

Mr. P. B. Rau : As was explained in reply to the question referred to, the posts of accountants in the office of the Controller of Railway Accounts are filled from the cadre of accountants in the Railway Accounts and Indian Audit and Accounts Departments, and the posting of individuals at any particular time is determined by the exigencies of the moment. It is impossible to apply communal considerations to the staff of individual offices.

OPEN SALE OF MEAT BY HAWKERS IN NEW DELHI.

461. ***Sardar Sant Singh :** Will Government please state if they have now stopped the open sale of meat by hawkers, etc., in New Delhi ? If not, why not ?

Mr. G. S. Bajpai : I would invite the attention of the Honourable Member to the first part of the reply given by Sir Frank Noyce to his question No. 719 on the 9th March, last. Bye-laws have since been framed and introduced by the New Delhi Municipal Committee to regulate the manufacture, sale, preparation and exposure for sale, of specified articles of food (including meat) and drink. It is hoped that this will stop the sale of meat in the manner complained of.

APPOINTMENT OF SIKH OFFICERS IN THE IMPERIAL SECRETARIAT.

462. ***Sardar Sant Singh :** (a) Will Government kindly state the number of Muhammadans and Hindus as against Sikhs in the Government of India Secretariat drawing more than Rs. 1,000 per mensem ?

(b) Is it a fact that the number of Muhammadans has rapidly increased in such appointments since 1922 ?

(c) Is it also a fact that no steps were taken to increase the number of Sikhs and their number has become nil? If so, why?

(d) In conformity with its declared policy do Government propose to bring into the Secretariat sufficient number of Sikh officers also and thus redress the grievances of the Sikh community? If not, why not?

The Honourable Mr. H. G. Haig : (a) There are 24 Hindus, six Muhammadans, and no Sikhs drawing more than Rs. 1,000 per mensem in the various Departments of the Government of India.

(b) In 1922 there were no Muhammadans in these posts drawing more than Rs. 1,000 per mensem. There are now six.

(c) and (d). The Honourable Member appears to be under a misapprehension as to the policy of Government. Government aim at securing by special rules of recruitment that there should be no undue preponderance of any community in the services. But promotions and selections are made on the basis of merit and suitability, not on communal considerations.

Sir Muhammad Yakub : Will Government be pleased to state in how many Departments the Sikhs are over-represented?

The Honourable Mr. H. G. Haig : I am afraid, I shall require notice of that question.

Sardar Sant Singh : Will the Government kindly state since when the Muhammadans had been represented as a separate community in the services of the Government of India, what steps have Government taken to improve their status and do they mean to stop it?

The Honourable Mr. H. G. Haig : I think our present rules date from 12 Noon. the year 1926.

Sardar Sant Singh : Do the Government intend to stop the recruitment of Muhammadans because they are over-represented?

The Honourable Mr. H. G. Haig : I do not think there is any suggestion that Muhammadans are over-represented.

Dr. Ziauddin Ahmad : Will the Government of India follow the example of the Government of Madras and finish with this unfortunate controversy for ever?

The Honourable Mr. H. G. Haig : What is the practice of the Government of Madras?

Dr. Ziauddin Ahmad : The Government of Madras have ordered the employment in a certain rotation of all communities. I think I handed over a copy of those orders to the Home Department.

The Honourable Mr. H. G. Haig : I am afraid I have not got a copy now.

Mr. Gaya Prasad Singh : Why do not Government introduce the practice of competitive examination, and eliminate all distinctions of caste, creed and colour?

The Honourable Mr. H. G. Haig : It was precisely because that system did not yield altogether satisfactory results that the new system was introduced in 1926.

Mr. Gaya Prasad Singh : Is it because Government want to exploit communal differences that they are having recourse to the present practice ?

The Honourable Mr. H. G. Haig : No, Sir. The position is that it is not reasonable that certain communities should not have proper representation in the public services.

Mr. Gaya Prasad Singh : Then, why not introduce the system of nomination in the Civil Service competition as well ?

The Honourable Mr. H. G. Haig : The Government follow exactly the same principle in the Civil Service examination as they follow in regard to representation in all public services.

Sardar Sant Singh : May I know if this system of communal representation in the services is prevalent in any other country in the world ?

Mr. K. Ahmed : That question does not arise, Sir.

UNSTARRED QUESTIONS AND ANSWERS.

TRANSFER OF CERTAIN RAILWAY MAIL SERVICE OFFICIALS TO THE BOMBAY GENERAL POST OFFICE AND THE MOFUSSIL.

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

- (a) the number of time-scale and selection grade officials of the Railway Mail Service B Division and Foreign Mails Division that have been transferred from those Divisions to the Bombay General Post Office and the mofussil ;
- (b) whether these officials were transferred as a result of retrenchment in staff in the Railway Mail Service ;
- (c) whether the seniority of Postal officials has thereby been affected both in time-scale and selection grade to some extent and whether these Railway Mail Service officials were transferred in the interests of service ;
- (d) whether there have been vacancies in the Railway Mail Service since their transfer to the Post Office side in the time-scale and selection grade ; and
- (e) if the reply to the above be in the affirmative, whether these officials will be re-transferred to the Railway Mail Service in the vacancies that have occurred there ?

Mr. T. Ryan : As the Honourable Member has not stated the period for which the information is required, I regret that it is not possible for me to reply to his question.

ABOLITION OF THE LOWEST SELECTION GRADE EXAMINATION IN THE POST OFFICE.

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

- (a) whether the Director General, Posts and Telegraphs, by a recent Circular abolished the lowest selection grade examination in the Post Office ;

(b) whether he has also announced that an examination would be introduced for the posts of Inspectors and Head Clerks to Superintendents of Post Offices ;

(c) whether the curriculum for the said examination has since been published ; and

(d) if not, when it will be ready and given effect to ?

Mr. T. Ryan : (a) and (b). Yes.

(c) No.

(d) Probably shortly.

FEE CHARGED FROM RAILWAY EMPLOYEES BY THE MEDICAL OFFICER, NORTH WESTERN RAILWAY, DELHI.

33. Mr. S. C. Mitra : (a) Are Government aware that the District Railway Medical Officer, North Western Railway, Delhi, has been charging a fee of Rs. 10 from each Railway employee of the North Western Railway sent to him for annual medical examination ?

(b) Is it a fact that there were hundreds of employees sent to him for medical test ?

(c) Will Government please state whether the District Medical Officer, North Western Railway, Delhi, can charge any fee from the Railway employees under the rules when they are sent by their Department for medical test ?

(d) Will Government please state whether there is any check on the District Medical Officer, North Western Railway, Delhi, against this procedure of his of charging fees from the Railway staff ?

(e) Does the Medical Officer in question pay any income-tax on the income derived from the fees collected from the Railway employees ?

(f) Do Government propose to hold an inquiry in the matter for the information of the House ?

Mr. P. R. Rau : (a) No.

(b) The number of employees that have been sent to the District Medical Officer, North Western Railway, Delhi, for annual medical examination since he was posted to Delhi on 1st October, 1931, is 159.

(c) No fee is chargeable.

(d) The regulations governing the medical examination of employees have been published in full in the North Western Railway Gazette and are available for the information of all employees.

(e) The Chief Medical and Health Officer, North Western Railway, is satisfied that there is no truth in the allegation that the District Medical Officer, Delhi, charges a fee from railway staff irregularly. The question therefore does not arise.

(f) No.

CONSTRUCTION OF DOUBLE-STOREYED SHOPS ON THE BAIRD ROAD, NEW DELHI.

34. Mr. Gaya Prasad Singh : (a) Is it a fact that 15 shops are now under construction on the Baird Road in New Delhi ?

(b) Is there now a proposal on foot to give permission to the owners to build a double storey on these shops ?

(c) Is it a fact that there are a number of orthodox clerks' quarters in close proximity to these shops ?

(d) In case double-storied shops are built, are Government aware that the privacy of these quarters will be affected ?

(e) Do Government propose to refuse permission to build a second storey on the shops mentioned in part (a) above ?

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

(b) Not at present.

(c) and (d). There are a number of Orthodox quarters close by and the building of double storeys on these shops would affect the privacy of some of them to some extent.

(e) Does not arise.

REVISED SCHEMES OF PENSION IN THE POSTS AND TELEGRAPHS DEPARTMENT.

35. Mr. Amar Nath Dutt : (a) Is it a fact that Government issued a Circular to all the recognised organisations of the staff in the Posts and Telegraphs Department to obtain their opinion on certain proposed revised schemes for pension ?

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

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

The Honourable Sir Alan Parsons : (a) I take it that the Honourable Member is referring to the scheme for substituting a contributory provident fund or other benefits of a corresponding kind for the existing pensionary system. If so, the answer is in the affirmative.

(b) No ; out of the 160 Associations which were addressed only 24 replied before the date by which replies were invited.

(c) No. All Local Governments have recently been consulted and their replies are awaited.

REVISION OF THE PENSION SCHEME IN THE POSTS AND TELEGRAPHS DEPARTMENT.

36. Mr. Amar Nath Dutt : (a) Is it a fact that a large number of the employees in the Posts and Telegraphs Department in subordinate services are not in receipt of any pension ?

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

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

Mr. T. Ryan : The attention of the Honourable Member is invited to the reply given by me to Mr. S. C. Mitra's identical unstarred question No. 271 in the Legislative Assembly on the 29th March, 1932. No decision has yet been reached in the matter.

INSPECTORS OF PEONS AND INSPECTORS OF POST OFFICES IN THE TELEGRAPH AND POSTAL BRANCHES.

37. Mr. Amar Nath Dutt : (a) Will Government be pleased to state how many Inspectors of Peons and Inspectors of Post Offices are employed in the Telegraph and Postal Branches, respectively ?

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

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

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

Mr. T. Ryan : The Honourable Member's attention is invited to the reply given in this House on the 29th March, 1932, to Mr. S. C. Mitra's identical unstarred question No. 269.

DELIVERY OF PRESS AND TRIPLE RATE MESSAGES.

38. Mr. Amar Nath Dutt : (a) Is it a fact that press and triple rate messages are sent out singly for delivery to ensure their prompt disposal ?

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

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

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

(e) Is it a fact that the Press get concession rates (very much cheaper than the ordinary rates) for sending their messages ? If so, do Government propose to charge for expeditious delivery of their telegrams ?

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

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

Mr. T. Ryan : The three questions Nos. 38, 41 and 42 are dealt with together.

The attention of the Honourable Member is invited to the replies given in this House on the 29th March, 1932, to Mr. S. C. Mitra's similar unstarred questions Nos. 274 and 275. As regards the latter portion of part (e) of question No. 38, Government do not propose to curtail the existing concessional rates.

SUPPLY OF UNIFORMS TO THE INFERIOR SERVANTS IN THE POSTS AND TELEGRAPHS DEPARTMENT.

39. Mr. Amar Nath Dutt : (a) Has the attention of Government been drawn to the article published at page 315 of the *Telegraph Review* of September, 1931, under the caption, "Inferior Staff to go without uniform" ?

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

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

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

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

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

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

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

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

(j) Is it a fact that complaints were made by the peons expressing their inability to wear tattered dresses while discharging their duties in the office ?

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

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

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

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

Mr. T. Ryan : Questions Nos. 39 and 40 are answered together.

The attention of the Honourable Member is invited to the replies given by me in the Legislative Assembly on the 29th March, 1932, to Mr. S. C. Mitra's unstarred questions Nos. 267 and 268 which have been reproduced *verbatim* in the Honourable Member's present questions.

SUPPLY OF UNIFORMS TO THE INFERIOR SERVANTS IN THE POSTS AND TELEGRAPHS DEPARTMENT.

†40. **Mr. Amar Nath Dutt :** Is it a fact that Government have issued revised rules for the supply of uniforms to the peons in the Posts and Telegraphs Department ? If so, what are they ?

DISCONTINUANCE OF THE *Bhaga* SYSTEM OF DELIVERY OF MESSAGES IN THE TELEGRAPH DEPARTMENT.

†41. **Mr. Amar Nath Dutt :** (a) Is it a fact that under the *Bhaga* system which was in force in the Central Telegraph Office, Calcutta, up to the beginning of 1931, it was required to give five messages in one lot for a bicycle messenger and three messages for a foot messenger for every delivery, and that if the full number was not available after waiting for a reasonable time they would be sent out with a lesser number of messages but their earnings would remain the same ?

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

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

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

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

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

Bhaga SYSTEM OF DELIVERY OF MESSAGES IN THE TELEGRAPH DEPARTMENT.

†42. **Mr. Amar Nath Dutt :** (a) Will Government please quote the rule or order under which the *Bhaga* system in the Telegraph Department was first introduced ?

(b) If there be no rule or order, will Government be pleased to state (i) how it came to be introduced and (ii) whether there was some order permitting its introduction ?

†For answer to this question, see answer to question No. 39.

†For answer to this question, see answer to question No. 38.

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

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

(e) Will Government be pleased to state why the system has been stopped ?

(f) Do Government propose to conform to the age long procedure ? If not, why not ?

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

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

TRAVELLING ALLOWANCE FOR TELEGRAPH ENGINEERING SUPERVISORS.

43. **Mr. Amar Nath Dutt :** (a) Will Government be pleased to state whether the Telegraph Engineering Supervisors drawing a pay of Rs. 200 or less are required to do the same duties as the higher paid Engineering Supervisors without any distinction ?

(b) Will Government be pleased to state whether these Engineering Supervisors have often to perform long journeys at night to give tests at distant places before sun-rise ?

(c) Is it a fact that these Engineering Supervisors have to travel in intermediate class ?

(d) Are Government aware that intermediate class being generally congested, the travelling public have to pass sleepless nights ?

(e) Is it a fact that these Engineering Supervisors are required to proceed at once to distant places on arrival after journey overnight ?

(f) Is it a fact that the Engineering Supervisors are not entitled to avail themselves of the railway station waiting rooms which are open to first and second class passengers only, nor are they entitled to use inspection bungalows ?

(g) Is it a fact that these Engineering Supervisors have some time to travel in trains with Line Inspectors and Sub-Inspectors who are their subordinates and are also entitled to intermediate class accommodation ?

(h) If answers to the above be in the affirmative, do Government propose to allow them second class travelling allowance ? If not, why not ?

Mr. T. Ryan : (a) All Engineering Supervisors, who are borne on one scale of pay, viz., Rs. 120—5—140—10—290—20—350 are required to carry out the same kind of duties, irrespective of the pay they draw.

(b) Such journeys are not frequent.

(c) The officials in question are entitled to travel in intermediate or in the second class according to their rates of pay.

(d) Government have no reason to suppose that the facts are as stated by the Honourable Member.

(e) This is not of usual occurrence, though conditions may sometime necessitate it.

(f) Such of them as hold intermediate class passes obviously cannot use waiting rooms reserved for first and second class passengers. It is not understood what inspection bungalows are referred to. If Public Works Department bungalows are meant they cannot occupy those bungalows which are meant for gazetted officers, but they can occupy such inspection quarters and Dak Bungalows as are open to upper subordinates of all other Departments.

(g) Yes, if they are holding intermediate class railway passes.

(h) The Honourable Member was himself a signatory to the report of the Posts and Telegraphs Sub-Committee of the Retrenchment Advisory Committee. In paragraph 73 of that report, it was recommended that the officials mentioned in paragraph 72, including the officers in question, should no longer be specially classified for purposes of travelling allowances, and there is no reason to exempt them from the effects of such recommendations.

RECRUITMENT OF STAFF FOR THE SUBORDINATE ENGINEERING BRANCH OF THE TELEGRAPH DEPARTMENT.

44. **Mr. Amar Nath Dutt :** (a) Will Government be pleased to state the number of men recruited for the Subordinate Engineering Branch of the Telegraph Department during 1930 and 1931—(i) from the Departmental men and (ii) from outside ?

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

(c) Will Government be pleased to state the number of Departmental telegraphists who have not been allowed to appear in the examination for (i) having exceeded the age-limit, (ii) unsatisfactory record of service, or (iii) any other reason ?

(d) Will Government be pleased to state the number of Departmental candidates who were exempted from the bars referred to in part (c) in consideration of their nationality or community ?

(e) Will Government be pleased to state the number of Departmental candidates who were not so exempted though they possessed previous experience in the Engineering Branch including the Telephone Branch for a considerable period ?

(f) Will Government be pleased to state if any of the men mentioned in part (e) were recommended by the heads of their Circles including the Engineering Officers ?

(g) Is it a fact that the Department is heavily overstaffed with Departmental telegraphists and that outside recruitment means additional expense ?

(h) If the reply to part (g) be in the affirmative, will Government be pleased to state the reasons for not appointing the Departmental candidates referred to in (e) and (f) in vacancies in the Engineering Branch with a view to reducing surplus staff and employing qualified hands at less cost ?

(i) Do Government contemplate to throw open appointments of Engineering Supervisors to the existing signalling staff by sending all telegraphists for training as Supervisors ?

Mr. T. Ryan : (a) to (h). The Honourable Member apparently refers to the recruitment of Engineering Supervisors. If so, there was no recruitment of this class of officials in 1930. As regards recruitment in 1931 and parts (b) to (h) of the question, the Honourable Member is referred to the reply given in this House on the 29th March, 1932, to parts (a) to (i) of Mr. S. C. Mitra's unstarred question No. 276.

(i) No.

EXAMINATIONS FOR TELEGRAPH MASTERS AND BAUDOT SUPERVISORS.

45. **Mr. Amar Nath Dutt :** (a) Will Government be pleased to state if the Telegraph Mastership and Baudot Supervisorship examinations have been stopped for two years in order to stop congestion of passed hands having no prospect of their promotion to the grade of Telegraph Master in the near future ?

(b) Is it a fact that there are other avenues of advancement to a Telegraphist having passed the Telegraph Mastership or the Baudot Supervisorship examination such as Baudot Supervision, Testing, etc. ?

(c) Is it a fact that the technical works have to be entrusted to unpassed hands in many offices for want of qualified candidates ? Is it a fact that according to the Posts and Telegraphs Manuals this should not be allowed to continue ?

(d) If the answers to parts (a), (b), and (c) be in the affirmative, do Government propose to re-open the Telegraph Mastership examination ? If not, why not ?

Mr. T. Ryan : (a) Yes.

(b) Telegraphists who have passed the Telegraph Masters' examination or the Baudot Supervisors' examination draw a special pay while actually employed on Baudot supervision or testing duties but they continue to remain in the cadre of telegraphists.

(c) Only in case of short vacancies when qualified officials are not locally available. As regards the latter part of the question there is nothing in the Posts and Telegraphs Manuals prohibiting such temporary arrangements.

(d) Government do not propose to hold the examination in the near future in view of the number of passed candidates already available.

EXAMINATION FOR TELEGRAPH MASTERS.

46. **Mr. Amar Nath Dutt :** (a) Are Government aware of the fact that question No. 2 of subject I of the last Telegraph Mastership examination was set from outside the syllabus prescribed for such examination ?

(b) Will Government be pleased to state whether the maximum marks for this paper were reduced from 100 to 90 ?

(c) Is it a fact that those who attempted that question and secured some marks, lost the same owing to this change ?

(d) If the answer to part (c) be in the affirmative do Government propose to count the marks obtained in question No. 2 by those candidates who answered that question, or grant them some other concessions to make up the aggregate ? If not, why not ?

Mr. T. Ryan : (a) Yes in subject II.

(b) Yes.

(c) Yes.

(d) No. The question was treated as cancelled and the marks assigned to it were deducted from the possible total for the paper and also from the total fixed for a pass.

GRANT OF A LOCAL ALLOWANCE TO CLASS II TELEPHONE OPERATORS AT COCHIN.

47. **Mr. Amar Nath Dutt :** (a) Is it a fact that the Postal Clerks and Class I Telephone Operators and Linemen at Cochin are in receipt of a local allowance ?

(b) Is it a fact that Class II Telephone Operators of Cochin are not in receipt of the local allowance ?

(c) If the reply to parts (a) and (b) be in the affirmative will Government state the reason for this distinction ?

(d) Do Government propose to grant the local allowance to Class II Telephone Operators ? If not, why not ?

Mr. T. Ryan : (a) and (b). Yes.

(c) and (d). Telephone Operators, Class I, at Cochin draw a compensatory allowance because postal clerks on the ordinary time-scale serving in that locality, with whom the former are graded for purposes of pay and allowances, are in receipt of such an allowance. Telephone Operators, Class II, at Cochin draw pay sanctioned for lower division clerks in that locality and neither of these classes of officials has been allowed any compensatory allowance. In existing financial conditions, it is not possible to make a new grant of compensatory or other allowances to either of these classes : the question of reducing or abolishing the compensatory allowance at present drawn by ordinary time-scale clerks or Telephone Operators, Class I, is under examination.

REVERSION OF SOME POSTMEN TO THE GRADE OF TELEGRAPH PEONS.

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

(b) Is it a fact that many Telegraph peons went through this competitive examination and being found fully qualified were appointed as postmen ?

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

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

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

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

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

Mr. T. Ryan : (a) No.

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

RULES GOVERNING TRANSFER OF SALARIED HANDS AND PIECE-WORKERS TO PERMANENT ESTABLISHMENT IN THE GOVERNMENT OF INDIA PRESS, CALCUTTA.

49. **Mr. S. C. Mitra :** Is it not a fact that the Honourable Sir Joseph Bhore stated on the 18th March, 1932, that transfer to permanent establishment is governed by definite rules both in the cases of salaried hands and piece-workers in the Calcutta Press ? If so, will Government be pleased to lay on the table a copy of the rules as stated ?

The Honourable Sir Frank Noyce : (i) Yes.

(ii) Subject to the condition that men over 25 years of age are not ordinarily transferred from the temporary establishment to the permanent establishment and such a transfer requires the sanction of the Controller, the rule is that senior men, if they are efficient, have preference over junior men, and the criteria for selection are quick and correct work, general good conduct, regular attendance and good health.

PAY FOR SUNDAYS AND GAZETTED HOLIDAYS TO PIECE-RATED EMPLOYEES OF THE GOVERNMENT OF INDIA PRESSES.

50. **Mr. S. C. Mitra :** (a) Is it not a fact that Government stated on the 18th March, 1932, that the piece-rated employees of the Government Presses are allowed Sundays and Gazetted holidays like the salaried staff ?

(b) Is it not a fact that the salaried staff of the Government Presses are allowed Sundays and Gazetted holidays with full pay ?

(c) If the answers to parts (b) and (c) are in the affirmative, is it the intention of the Government to allow the piece-rated employees of Government Presses full pay on Sundays and Gazetted holidays ? If not, why not ?

The Honourable Sir Frank Noyce : (a) The statement made was that piece-rated employees of the Government of India Press, Calcutta, like the salaried staff are allowed Sundays and gazetted holidays according to the list published annually in the Calcutta Gazette.

(b) Yes.

(c) Piece-work employees in the Government of India Presses are not ordinarily allowed payment for Sundays and gazetted holidays on which they do not work. Piece-workers in permanent superior service may however at their option have gazetted holidays actually enjoyed by them counted against the leave on average pay admissible to them under the special leave rules applicable to them, and if so counted, the holidays are paid for. Other piece-workers are under certain conditions allowed payment for 16 days in a year to cover absences on account of holidays, sickness or leave.

PLACING OF THE INKMEN OF THE GOVERNMENT OF INDIA PRESSES ON THE SUPERIOR SERVICE.

51. Mr. S. C. Mitra : (a) Is it not a fact that in a hand press in Government Presses the services of the pressmen and inkmen are obtained for printing and those of the fly-boys for supplying ink ?

(b) Is it not a fact that the inkmen of the Government Presses are assistants of the pressmen ?

(c) Is it not a fact that the inkmen officiate and are also permanently appointed in the posts of pressmen when occasions arise ?

(d) Is it not a fact that the duties of the pressmen are of a skilled nature and they have been placed on the superior service ?

(e) Is it not a fact that the inkmen—the assistants of the pressmen and who also carry on the duties of the pressmen—have been placed on the inferior service ?

(f) Is it not a fact that the distributors, galley proof-pressmen and inkmen were all on the inferior service ?

(g) Is it not a fact that the distributors and the galley proof-pressmen have now been placed on the superior service ?

(h) If the answers to parts (a) to (g) are in the affirmative, will Government be pleased to state the reasons for placing the inkmen on the inferior service ? Do Government propose to place the inkmen of the Government Presses on the superior service ? If not, why not ?

The Honourable Sir Frank Noyce : (a) and (b). Inkmen and Fly-boys are assistants to Pressmen and Machinemen.

(c) Yes, if they show sufficient intelligence and ability.

(d) Yes. Pressmen are treated as in superior service if their emoluments are not less than Rs. 15 a month.

(e), (f) and (g). Inkmen have always been classed as in inferior service. All distributors were formerly treated as in inferior service but since 1920 they have been treated as in superior service, if their earnings exceed Rs. 15 a month. The classification of Galley Proof-Pressmen follows that of Pressmen who have for a long time been treated as in superior service subject to the condition mentioned in (d) above.

(h) The work of Inkmen is of a mechanical nature not involving any particular skill and it is not proposed to place them in superior service.

GOVERNMENT PRINTING WORK PLACED WITH PRIVATE PRESSES.

52. Mr. S. C. Mitra : (a) Is it not a fact that Government own well-equipped Presses managed by experienced and efficient staffs ?

(b) Is it not a fact that all the printing works of Government can be done at, and by the staff and machineries of, the Government Presses ?

(c) Is it not a fact that a considerable amount is paid annually to the private contractors for printing works of Government ?

(d) Are Government aware that the private contractors make a large profit out of the orders placed on them by Government ?

(e) Is it not a fact that the works entrusted to the private contractors can be done at the Government Presses ? Will Government be pleased to state the quality and quantity of machines at present fitted in the Government Presses and the nature of the works which are being entrusted to the private contractors ?

(f) If the answers to part (a) and to the first part of part (e) are in the affirmative, have Government considered whether it is economical to stop placing the printing orders with private contractors and having them done at the Government Presses ?

The Honourable Sir Frank Noyce : (a) Yes.

(b) No, not with the existing staff and machinery.

(c) I do not know what the Honourable Member regards as 'a considerable amount'. A contract exists for the printing of Posts and Telegraphs forms to the approximate value of Rs. 2,20,000. Other work which the Government of India Presses cannot undertake is placed with private printers.

(d) Government have no reason to believe that excessive profits are made by the contractors.

(e) I would refer the Honourable Member to what I have said in reply to part (b) of his question. As regards the second part, the labour of compiling the information relating to the machines would be incommensurate with its utility. The work entrusted to private printers consists of the overflow from the Government Presses, the preparation of blocks, colour work, printing in most of the vernaculars, lithography and all items of a very specialised nature.

(f) Does not arise.

NON-PAYMENT TO PRESSMEN AND INKMEN OF THE GOVERNMENT OF INDIA PRESSES FOR GETTING THE FORMES READY.

53. Mr. S. C. Mitra : (a) Is it not a fact that the same amount of time and labour are to be taken for getting the formes both of machines and hand-presses ready in Government Presses ?

(b) Is it not a fact that duties of getting the formes ready for the machines are entrusted with the machinemen and machine-inkmen and for the hand-presses with the pressmen and inkmen, in the Government Presses ?

(c) Is it not a fact that the machinemen and machine-inkmen, pressmen and inkmen are all piece-workers ?

(d) Is it not a fact that the earnings of the piece-workers are calculated on their outturn and the pensions are also calculated on their average earnings ?

(e) Is it not a fact that the machinemen and machine-inkmen are paid for the time and labour spent for getting the formes ready ?

(f) Is it not a fact that the pressmen and inkmen are not paid for the time and labour spent for getting the formes ready ?

(g) If the answers to parts (a) to (f) are in the affirmative, will Government be pleased to state the reasons for what is stated in part (f) ? Are Government aware that it adversely affects the earnings as well as pensions of the pressmen and inkmen of the Government Presses ?

The Honourable Sir Frank Noyce : (a) No. In general more work is involved in getting ready a forme in machine presses than in hand presses.

(b) The position is not exactly as stated in the Honourable Member's question. In machine presses the duty of getting the formes ready is entrusted to machinemen ; the machine-inkmen merely assist them. Similarly in hand presses the duty is entrusted to the Pressmen and inkers merely assist the Pressmen.

(c) Machinemen and machine-inkmen at the Calcutta and Aligarh Presses are piece-workers but holders of similar appointments at the Simla and Delhi Presses are salaried employees. Pressmen and Inkmen are, however, piece-workers at all the Government of India Presses.

(d) Yes.

(e) Yes.

(f) and (g). Pressmen and inkmen are paid for getting the formes ready. The Honourable Member has possibly been misled by the fact that while forme work is separately computed in the case of piece rates for machine printing the Press Work Rates for the hand presses are consolidated rates inclusive of payment for the work of getting formes ready.

EMPLOYMENT OF LINO AND MONO OPERATORS OF THE GOVERNMENT OF INDIA PRESSES ON SALARIED SYSTEM.

54. Mr. S. C. Mitra : (a) Are Government aware that in the provincial Government Presses like Bombay, Bengal, Madras, Central Provinces, United Provinces, Assam, Burma, etc., all the industrial hands such as compositors, binders, distributors, lino and mono operators are employed on the piece-system ?

(b) Is it not a fact that in the Presses under the Government of India, industrial hands like the compositors, binders and distributors are employed on the piece-system ?

(c) Is it not a fact that the lino and mono operators in Government Presses are employed on the salaried system ?

(d) If the answers to parts (a) to (c) are in the affirmative, will Government be pleased to state the reason why lino and mono operators are employed on the salaried system ?

The Honourable Sir Frank Noyce : (a) Government have no information.

(b) Compositors in the Government of India Presses at Calcutta and Delhi are on the piece system. Binders at Calcutta only are on the piece system. Distributors at Calcutta and at Delhi are on the piece system.

(c) Yes.

(d) It is considered more convenient to employ Lino and Mono Operators on the salaried system. They are, however, not allowed to draw their salary in full if their average outturn falls below a prescribed minimum. On the other hand, they receive a bonus when it exceeds a certain limit.

RECRUITMENT TO THE POSTS OF, AND SENIORITY AMONGST, THE ACCOUNTANTS OF THE OFFICE OF THE CHIEF ACCOUNTS OFFICER, EASTERN BENGAL RAILWAY.

55. Mr. S. C. Mitra : (a) Will Government please state the number of posts of Accountants (Grades I and II) in the office of the Chief Accounts Officer, Eastern Bengal Railway, and how many of them are at present filled up by men, transferred from other Railways and the Civil Department, and how many by departmental promotion of the qualified men of the same office ?

(b) Was it the intention of Government, after the separation of Railway Audit from Accounts, to treat the cadre of Accountants in the office of the Chief Accounts Officer, Eastern Bengal Railway, as a local cadre, i.e., it will be filled up, as far as practicable, by men of the same office who would duly qualify for promotion to the cadre of Accountants ?

(c) Will Government kindly state the number of Assistants who were attached to the Combined Audit and Accounts Office (before the separation) and are qualified for promotion to the cadre of Accountants and how many of them have been promoted either substantively or in an officiating capacity in Grades I and II of the cadre ?

(d) If all the qualified Assistants mentioned in part (c) have not been promoted to the cadre of Accountants, will Government please state whether they have considered that this is not in direct contravention of paragraph 67 of the memorandum of the Financial Commissioner of Railways on the separation of Audit from Accounts ?

(e) Will Government please state whether relative seniority amongst the Accountants, fixed prior to the separation as per seniority list of Accountants in the Railway Audit Department, is being observed in the case of Accountants who are at present working in the office of the Chief Accounts Officer, Eastern Bengal Railway ? If not, why not ?

Mr. P. E. Rau : (a) The sanctioned number of posts of Accountants Grades I and II are 17 (eight in Grade I and nine in Grade II). At present seven posts are held by Accountants transferred from other railways

and the Civil Department, three by reserved Accountants of the Audit Department, and seven by qualified employees of the Eastern Bengal Railway, of this last two were probationary.

(b) and (d). The intention is ultimately to have local cadres and promote men according to merit and seniority on their own lists but it is impossible to fix a local cadre for each office finally until the question of the permanent transfer of men in the Audit Department is finally settled.

(c) There were six assistants qualified for promotion, of these five have been promoted.

(e) The reply to the first part is in the affirmative and the second part does not arise.

PRIVATE HOUSES BUILT IN MUSLIM GRAVE-YARDS IN AJMER.

56. **Khan Bahadur Haji Wajihuddin :** (a) Are Government aware that questions were asked in the Legislative Assembly, in the winter session of 1932, on the subject of the construction of private houses in the Muslim grave-yards in Ajmer and the Municipal Board, Ajmer's part in the matter ?

(b) Will Government please state what action has been taken in connection with the questions referred to in part (a) above ?

(c) Is it a fact that more than a dozen resolutions were passed by the Public Works Sub-Committee of the Municipal Board, Ajmer, in April and May, 1932, refusing permission to put up construction of private houses in the demarcated Muslim grave-yards and to remove such construction ?

(d) Is it a fact that none of the resolutions referred to in part (c) above was actually complied with ? If so, why ?

(e) Is it a fact that the question of the demarcation of Muslim grave-yards, which was settled in 1925, under the supervision of Colonel Watson, Chief Medical Officer, has now been re-opened by the Municipal Board, Ajmer ? If so, why ?

(f) Is it a fact that Colonel Howson, the then Chairman of the Municipal Committee, Ajmer, in his letter No. W.116 of 8th April, 1932, to the Commissioner, Ajmer-Merwara, in writing about the building of houses in Muslim grave-yards in Ajmer, wrote " that matter has now reached the stage of being a public scandal and in my opinion it has resulted in the complete defiance of Municipal law " and " Municipal law has ceased to function in this area " ? If so, what action did the Commissioner, Ajmer-Merwara, take on the said letter ?

(g) Will Government please put on the table of the House a copy of the letter of Colonel Howson referred to in part (f) above ?

(h) Are Government aware that in the Muslim grave-yards the building of private houses is causing much heartburning among the Muslim public of Ajmer-Merwara ?

(i) What action do Government propose to take in the matter ?

Mr. H. A. F. Metcalfe : The information asked for has been called for and a reply will be laid on the table in due course.

**POPULATION OF COMMUNITIES AND CLASSES, ETC., OF CERTAIN CONSTITUENCIES
APPENDED TO THE COMMUNAL AWARD.**

57. Mr. Gaya Prasad Singh: (a) Will Government be pleased to state the population of classes and communities, whose voters will elect in each province the Members shown in the column "General" of the statement of allocation of seats in the provincial legislatures appended to the Communal Award?

(b) Will Government be pleased to state the population of Muslims in Assam, and their proportion to the total population?

(c) Will Government please give the communal composition of the constituency called "Labour Special" in each province?

(d) Will Government be pleased to state how the constituency of commerce, industry and mining in Bengal is composed, and what is the proportion of the European voters in this constituency in Bengal?

The Honourable Sir C. P. Ramaswami Aiyar: (a) The Honourable Member is referred to paragraph 7 of the Communal Decision. As regards the population figures of the various classes and communities whose voters will be entitled to vote in a general constituency, I can only refer the Honourable Member to the census tables.

(b) I would refer the Honourable Member to the figures given on page 73 of the Indian Franchise Committee's report.

(c) The seats allotted to labour will be filled from non-communal constituencies, as prescribed in paragraph 14 of the Communal Decision.

(d) If the Honourable Member is referring to the future composition I am afraid that it is not possible, in advance of the delimitation of constituencies and the preparation of electoral rolls, to supply him with the information he requires. For the existing composition I would refer him to the election returns for 1929-1930, a copy of which is available in the Library of the House.

THE CHILDREN (PLEDGING OF LABOUR) BILL.

PRESENTATION OF THE REPORT OF THE SELECT COMMITTEE.

The Honourable Sir Frank Noyce (Member for Industries and Labour): Sir, I beg to present the report of the Select Committee on the Bill to prohibit the pledging of the labour of Children.

**ELECTION OF A MEMBER FOR THE STANDING COMMITTEE ON
ROADS.**

The Honourable Sir Frank Noyce (Member for Industries and Labour): I beg to move:

"That this Assembly do proceed to elect, for the remainder of the financial year 1932-33, a Member for the Standing Committee on Roads, to fill the vacancy caused by the death of Rai Bahadur Pandit Trilok Nath Bhargava."

The motion was adopted.

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : I may inform Honourable Members that for the purpose of election of a Member to the Standing Committee on Roads the Assembly Office will be open to receive nominations upto 12 noon on Tuesday, the 20th September, and that the election, if necessary, will take place in this Chamber on Wednesday, the 21st September, 1932. The election will be conducted in accordance with the principle of proportional representation by means of the single transferable vote.

THE CODE OF CRIMINAL PROCEDURE (AMENDMENT) BILL.

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : Legislative business.

The Honourable Mr. H. G. Haig (Home Member) : I beg to move :

“ That the Bill further to amend the Code of Criminal Procedure, 1898, for a certain purpose, as reported by the Select Committee, be taken into consideration.”

When the House agreed to refer this Bill to a Select Committee, I think there was general assent to the proposition that there is a serious abuse of judicial procedure which requires to be removed. The abuses are briefly, in the first place that there is no limit to the number of compulsory adjournments that can be claimed as a right, in the second place that there is no obligation on any person who has stopped the case on the ground that he is going to apply to the High Court, that there is no obligation on him actually to make such an application, and in the third place that there is no effective penalty on frivolous or dishonest applications. The general result of these conditions is very serious delay, and a delay, I regret to say, that is often produced with the object of tampering with the prosecution witnesses. Now, Sir, our Bill sought to remove these abuses by certain definite provisions. In the first place, a compulsory adjournment could only be claimed if the application for transfer was made before the trial began. In the second place, we provided that the adjournment need not necessarily take place at once, but that it should be open to the court to complete the prosecution evidence before making the adjournment. In the third place, we proposed to give the High Courts full powers of penalising frivolous and vexatious applications.

Now, Sir, in the course of the very interesting debate that we had when the motion for referring the Bill to Select Committee was under discussion, my Honourable friend, Mr. Puri, made a valuable suggestion. He suggested that we might possibly reach an agreement on the principle of allowing one, but only one, compulsory adjournment during the course of the trial. It was very largely on the basis of that suggestion that we approached this matter in the Select Committee. Now, Sir, in the course of our discussion in the Select Committee, it became evident that there were two lines of thought, that there were those who thought primarily of the interest of the accused in a case in which he is liable to be prejudiced, there were those—and I admit frankly that it was my own view—who thought primarily of the possibilities of abuse of procedure by unscrupulous persons. As our discussions proceeded, I think we all came to the conclusion, and certainly that is my own view, that a fair settlement must take account of both these points of

[Mr. H. G. Haig.]

view and I hope it will be found by the House that in fact the Bill, as amended by the Select Committee, does take account of both these points of view. In endeavouring to reach an agreement with the views of some of the Honourable Members opposite, it was necessary for the Government to accept certain variations in the proposals that they had originally laid before the House. The first was this : we agreed that it should not be necessary that an application should be made before the trial begins in order that a compulsory adjournment could be secured. I was convinced myself in the course of the arguments that prejudice might well become apparent for the first time after the trial begins and that therefore there is no real justification in principle for providing that this system of compulsory adjournment should only take effect in the case of an application made before the trial begins. That was the first point in which we met Honourable Members opposite.

The second point was one of very great importance. We have agreed not to press our proposal that it should be open to the magistrate to conclude the prosecution evidence before granting an adjournment. Now, Sir, that was a point to which, I confess, I personally agreed with some reluctance ; for we had to consider that this provision about allowing the prosecution to complete its case before adjournment was granted was one of the great safeguards against tampering with the prosecution witnesses,—an admitted practice and abuse. But, Sir, we were convinced that if in fact a case were being tried before a prejudiced court the power of that court to conclude the evidence for the prosecution after application for transfer has been made might really result in definite prejudice to the accused ; and for that reason and in spite of the danger which I have just mentioned to the House we agreed that when this adjournment is claimed it should be made immediately. The result, therefore, of the Bill as it emerges from Select Committee is that one compulsory adjournment on an application for transfer can be claimed. that it can be claimed immediately and that it can be claimed at any stage of the case.

Now, Sir, these are the main principles of the Bill as it now emerges from Select Committee, but we have thought it necessary that certain safeguards should be provided against an abuse of this procedure. In the first place, we regarded it as essential that there must be some provision against a dishonest application which was merely intended to delay the case without any intention of going to the High Court. We propose to secure that by authorising the magistrate when the application is made to take a bond from the applicant, a bond without sureties, for an amount not exceeding Rs. 200, that in fact he will do that very thing for which he has secured the adjournment of the case. In the second place it is necessary that there should be very definite penalties provided at the discretion of the High Court for frivolous and vexatious applications. I myself, Sir, would have been very well pleased to leave the amount of this penalty to the discretion of the High Court. Other Honourable Members felt that it was desirable that some upper limit should be fixed, and we finally agreed on a sum of Rs. 250. Well, Sir, these two conditions,—the right of the court to demand a bond that in fact the applicant will go to the High Court, and in the second place the provision for the High Court to deal effectively with frivolous and

vexatious applications,—these two conditions are in our view essential as an insurance against *malafide* applications. I would ask the House to remember that the power of demanding one compulsory adjournment which this Bill concedes is a very important power in the hands of those who may be prepared to abuse it. We must at any rate make those who may be tempted to use the power in this way hesitate. The Bill as amended gives, I submit, all reasonable safeguards to a person who has *bonafide* grounds for making an application, while it prevents the worst abuses of the present system and minimises the danger arising from those opportunities that have not been altogether removed. I commend the Bill to the House as a fair solution of difficulties that have perplexed the Legislature and impeded the work of the courts for many years.

Sir Muhammad Yakub (Rohilkund and Kumaon Divisions : Muhammadan Rural) : Sir, when this Bill was first presented before the House, two of its provisions were extremely dangerous and harmful to accused persons. The first was, that an accused person could make an application for transfer only before the trial was started, and the second was, that in case of vexatious applications, unlimited powers were left in the hands of the courts to award any amount of compensation they liked. These were the two vulnerable points in the Bill against which strong objection was raised on the floor of the House. Now that the Bill has emerged from the Select Committee, I am very glad that these two objectionable features of the Bill have been removed ; and I take this opportunity of congratulating the Honourable the Home Member on the compromising spirit which he has shown in meeting the wishes of the Honourable Members of this House in Select Committee. If, in future, Government adopt this spirit of compromise and conciliation as regards measures which come before the House, I am sure the backbone of the opposition will be broken and Government will be able to pilot their Bills easily through this House. Sir, there is no doubt that section 526 of the Criminal Procedure Code was liable of being abused like the other enactments, but really the cases in which such power was abused by ordinary accused persons in ordinary cases were very few. The power was really abused in political trials and political cases, and probably it was this fear of abuse of power in political trials which was haunting the minds of Government and for which they have produced this Bill. The ordinary accused certainly would think twice before he would put an application for transfer of a case because, in the first place, during the pendency of the application in the High Court, he will remain in the lock-up and no accused would like to remain in the lock-up for any period of time if he can afford to avoid it. Moreover, in cases in which the application for transfer was rejected, the accused was always afraid that the trying magistrate would be very displeased with him and probably he will not be able to get an unprejudiced trial, and for these reasons, in ordinary cases, applications for transfer were very rare. As regards the political trials, these applications are meant as propaganda and whatever provisions we may add in the criminal law of the country, in the political trials, the accused will always, somehow or other, find some ways to make their propaganda and it will be difficult for any legislature to provide against abuse of such character. Now that the two objectionable features of the Bill have been removed in the Select Committee, I think that the Bill in its present form will meet with the wishes of the House.

[Sir Muhammad Yakub.]

as well as the wishes of the Government, and with these remarks I support the motion that the Bill be taken into consideration.

Mr. Lalchand Navalrai (Sind : Non-Muhammadian Rural) : Sir, I am sorry I do not rise to congratulate the Honourable the Home Member for the little mercy he has shown in Select Committee. I will presently show that he has given one concession of only one compulsory adjournment but he has put conditions and restrictions which go to show that what he has given with one hand he has taken away with the other. I do not also propose to congratulate the Honourable Sir Muhammad Yakub for having given his support to the Home Member with regard to certain conditions which have been inserted in order to remove the difficulties. It was made known to the House when this Bill was being sent to the Select Committee that both sides of the question were not being considered in the House. The difficulties that were put before the House and the abuses which were pointed out as being practised by the litigants were put very forcibly and vehemently from the other side, I mean, the Treasury Benches. But, on this side, I was sorry to find that the difficulties of the public were not being so much considered. I made this very clear at that time and I do not want to take up the time of the House by repeating the inconveniences which were in existence before 1923 in the way of the litigants to get an adjournment for applying for transfer. Before 1923 when an application for transfer was made—and even though it was presumably made on grave grounds,—as there was a penalty attached to it—and even when a man had a grievance for believing that he could not get a fair and impartial trial from a magistrate or court, yet his right to apply for an adjournment, in order to move the High Court, was fettered by impediments in his way. He had to apply at the commencement of the hearing and not later. There were several other difficulties also in the way ; the principal difficulty was that the whole discretion was given to the magistrate or court to give an adjournment or not which was operating very hard upon the litigants. We know how many a magistrate and court autocratically use their discretion, and even thwart the very principle enunciated in a particular Act. Therefore, in 1923, these questions were considered and, I say, considered very well from all points of view and it was decided that when the accused or complainant had to apply to a High Court in order that his grievance may be removed and to have his case tried in a court, which was impartial, from a court, which had otherwise shown an attitude of not being just, such a person had a right to get adjournments for the purpose. These matters were all placed before the House the other day when this House decided to send this Bill to the Select Committee. At that time it was pointed out that it will be very hard if the old provisions of the Criminal Procedure Code are revived and reverted to. I do realise that Government are bent upon not giving such conveniences to the accused to apply for transfer only on account of the present conditions and environments of the political situation. But that is because political criminal cases have been sent up indiscriminately by Government—in which a large number of accused, say, 100 or 50, have to stand a joint trial and then they find that there are grounds with several accused to get adjournment ; and on that account they find that many adjournments have to be secured and, therefore, on this account they should not be impatient to deny them a fair trial, before a fair court. It is only on that ground that the Treasury Benches are keen

on getting this Bill passed in the way in which it has emerged from the Select Committee. But I shall appeal at least to the lawyer portion of this House to realise the evil, because I see that the laymen, though they are more affected than the lawyers in this connection, do not appreciate the gravity of it—I would appeal to Members on this side to give full consideration to this Bill and not merely to have a superficial view of it. You all know how this Bill the other day went to Select Committee. On this side of the House, my Honourable friend, Mr. Puri, put the case of the accused very enthusiastically, keenly and properly. But he made one suggestion and it was made only to meet the Government side, I should say—and I say it with all earnestness—that his suggestion seemed to me to have been made not with the intention of removing the difficulties of the Government and also giving convenience to the accused, but it was only made with the intention to come to a certain compromise, because, as the House is now constituted, any measure can be carried through the House by Government if they wish it. From that point of view, my Honourable friend, Mr. Puri, suggested that one compulsory adjournment must be given. Then the Bill went to Select Committee. But what I now find is this : I am sorry the Honourable Mr. Puri is not here today in his seat ; but I shall presently show that while Mr. Puri's intention in getting one compulsory adjournment has been complied with in the Select Committee, conditions have been put and restrictions have been imposed to such an extent that what the Government are giving with one hand, they are taking away with the other ; and that is what has happened with regard to this one compulsory adjournment in Select Committee.

Now, what do we find ? We find that even in the Select Committee my Honourable friend, Mr. Puri, had no support from his colleagues ; they did not appreciate the difficulties of the accused sufficiently, and so he had perforce to agree to a compromise again, because he must have thought that there was a majority against him and so it was better to agree to a compromise in spite of the hard conditions imposed on the accused than to lose the whole case. Therefore, Sir, it is now for the House to consider those conditions and decide whether the rights of the accused have been cut away or not. No doubt, one compulsory adjournment has been provided for by the Select Committee, but they have imposed such a condition that it will discourage all *bona fide* applications from persons really aggrieved. Under the condition imposed, it would seem as if the accused is going to be bound down like a bad character—he is asked to give a bond, to go and apply within a time, for transfer of the case which is also to be fixed by the magistrate,—and the accused has to apply within that specified time, and if he does not apply within the prescribed time, he will have to pay a penalty to the extent of Rs. 200 by forfeiture of his bond. Now, I would like the House to ponder over this point. The accused comes to court and asks for time. He has a real grievance to asking for an adjournment, and the magistrate says : “ I am giving you so much time, say five or six days and you should go and apply within that time. If you do not apply within that time, you will have to pay a penalty of Rs. 200 ”.

Now, Sir, I shall present to the House the difficulties of the accused. Supposing he gives a bond and gets an adjournment. He comes out and has to apply for transfer on the ground of a usage or a difficult point of law being involved in his case which would entitle him to make an

[Mr. Lalchand Navalrai.] application for a transfer. He has five days for it. Within those five days, he consults better authorities and they tell him that it is no use applying for a transfer on that ground and that he should, leaving that particular point, take other points and carry on with his case. Then the accused comes to the court not having made an application ; in that case he will have to pay Rs. 200, all for nothing. Is that not a very hard condition, Sir ?

Then take another instance. A man takes an adjournment. Meantime, he finds that a move is going on for actual withdrawal of the case. Better counsels prevail on the Government and they withdraw the case. But within the time that was given to the accused, he did not apply for a transfer, and in that case the magistrate can ask him to pay Rs. 200.

Then take a third instance. The accused finds that within the time allowed, but before he goes to apply, the magistrate concerned gets transferred and no necessity for getting the case transferred arises. Yet, when he comes back to court, he may have first of all to pay Rs. 200.

These are, Sir, some of the difficulties which the accused persons will have to face. Why make only a show of giving a privilege to an accused ? It is not always that a man would go and apply for transfers, because he has to spend a good deal of money. There are so many things in his way which he will have to consider before applying for a transfer. Therefore, Sir, I submit that this clause which has been put will work very hard, and this is a matter which the Honourable the Home Member should seriously consider.

Then, again, look at the fallacy of this provision. It is stated here :

" If in any inquiry under Chapter VIII or Chapter XVIII or in any trial, any party interested intimates to the Court at any stage, before the defence closes its case, that he intends to make an application under this section, the Court shall, upon his executing, if so required, a bond without sureties, of an amount not exceeding two hundred rupees, that he will make such application within a reasonable time to be fixed by the Court, adjourn the case for such a period....."

Now, Sir, I lay emphasis on these words :

" He has to make an application within a reasonable time to be fixed by the Court."

This time is fixed not for making an application and getting a transfer, but for merely making an application also the time is fixed by the court. Supposing 10 days are fixed, and if he does not apply within 10 days, but does on the 11th day, what happens then ? He could be made to pay the penalty all the same. I will draw the attention of the Honourable the Home Member that there is no necessity of putting in this period, because, further on, it is stated in the Bill :

" The Court shall adjourn a case for such period as he will have sufficient time for the application to be made and an order to be obtained thereon."

When you are giving that discretion to the magistrate to give a reasonable time, why give him another discretion to fix a time within which the accused must apply. I, therefore, submit, Sir, that this provision will work very hard.

Then, Sir, coming to the consequences of a frivolous application. The other day the Honourable the Home Member made a statement that the High Courts have not exercised or have very rarely exercised the

powers of punishment for frivolous or vexatious applications in practice. If it is so, people have not got mad now to make frivolous applications. Therefore, if you are going to put any restriction on that, please, don't put any more restrictions than those which already exist. There is already a provision in the Code that if one has made a false or frivolous or vexatious application, he shall be mulcted at the discretion of the High Court with costs. Why are you going to fix a certain sum and say that this measure has emerged out better from the Select Committee ? I say, it has come out worse. I submit that you should not increase the compensation to Rs. 250. The difficulty that the Government felt was this. The word "costs" has been changed into "compensation", and the reason for the same is found in the Statement of Objects and Reasons, where it is stated :

"....applications in the High Court are opposed usually by or on behalf of the Legal Remembrancer, who is paid by salary and not by fees, which makes it difficult to assess his reasonable expenses incurred in opposing the application."

I do not agree with this reason at all. It is not an insurmountable difficulty ; it can be removed by fixation of fees for the Legal Remembrancer. Why should the Legal Remembrancer alone oppose these applications ? I am told that it is not always the Legal Remembrancer who opposes these applications. It must be remembered that the party has not only to pay the other side's costs, but has to bear his own costs. Therefore, I submit that this limit of Rs. 250 is too high. I will show how. If a false and frivolous case actually is brought before a court, and the magistrate finds that it is false, the man who brought it may be punished under section 250 of the Criminal Procedure Code, and he can be punished only to the extent of Rs. 100. Comparing that position, and bearing in mind the words of the Honourable the Home Member who explained the position with his usual lucidity and in a kind way of compromising matters when he said that this Bill had been fairly treated in the Select Committee, I would ask him to go further and make it more fair. If a person who brings a false or frivolous case can be punished only with Rs. 100, I do not see why a person who merely makes an application for transfer should be punished with Rs. 250. Is that justice, is that fairness ?

Again, as regards the several accused before the court, I may say that it is not always that all the accused would be anxious to put impediments in the way of the case being tried by the magistrate. Therefore, the provision made in this Bill, in respect of several co-accused, is most objectionable. There is absolutely no reason why, after one accused has applied and got an adjournment, if circumstances arise when some of the other accused may have to resort to a transfer proceeding, why the same privilege should not be extended to them. Is it fair, is it just that the other accused should be denied the same privilege ? There is no justification for resorting to the procedure of the olden times when the magistrates exercised their discretion in any manner they liked. But the present are times when it is essential that the public interests should be safeguarded. After the Act of 1923 we found in practice whenever an adjournment was asked for under section 526 (8) which the magistrate was bound to give, because the Legislature consciously and deliberately decided not to put any restrictions upon the rights of accused persons, the magistrate had only to curse himself or others, and

[Mr. Lalchand Navalrai.]

grant adjournments. Such a salutary provision made by the Legislature they proclaimed as pleader made law. Now, I ask, do not make it wholly a magisterial law, make it a fair one.

I oppose this Bill, but I should like to hear the views of the House, and if the House rejects the Bill, I think it will have served its purpose. Political questions may be left to the Government Benches to be dealt with as they like by Ordinances and other laws. Do not condemn ordinary people for merely tackling political offences. I submit, therefore, that this Bill ought to be rejected by the House, but if it is not rejected, there is no reason why it should be perfunctorily considered. Do not leave the case to be dealt with by the pleaders, do not leave it to the advocates to advocate their own point of view ; consider the whole question in all its bearings, because, it is not only the pleaders who will be affected, but every one who goes before the court.

Now, Sir, there is one word with regard to the complainant. It was pointed out the other day that you are taking away the rights of the complainant. You are not even putting it plainly, whether the complainant shall have a right to apply for a compulsory adjournment. I should be glad to know from the Honourable the Home Member whether he has considered this point that I raised in the House when this Bill was sent to Select Committee. The word complainant which was in the original Bill has been substituted by the word ' party '. Now the complainant in Crown cases is not recognised in a court as a complainant though he started the complaint. Take a case of theft. A man goes and complains to the police. The police take down his statement. He is the complainant, but in a Crown case, because it will be conducted by the public prosecutor, there the poor complainant who comes into court...

The Honourable Sir Brojendra Mitter (Law Member) : May I interrupt my Honourable friend ? If he had read the clause, he would have seen that the phrase used is ' any party interested intimates to the Court '. Certainly a complainant is a party interested. Therefore, I should have thought that any party interested would include a man who lodges a complaint upon which an inquiry is made.

Rao Bahadur B. V. Sri Hari Rao Naydu (Madras : Nominated Official) : Even in a police case, a complainant can be awarded compensation in a frivolous case.

Mr. Lalchand Navalrai : I am thankful to the Honourable the Law Member. My apprehension is about the construction that magistrates will put upon it, and my apprehension is justified by my experience of courts and magistrates. So I say this is a matter which has got to be carefully considered and I appeal to the House to give cool consideration to this measure about one compulsory adjournment and I hope the House will agree with me that no such restrictions or conditions ought to be imposed.

Mr. Muhammad Yamin Khan (Agra Division : Muhammadan Rural) : I was rather surprised to hear the two contradictory statements made by my Honourable friend, Mr. Navalrai. From the first portion of his speech, I understood him to say that he was trying to persuade the House to accept the amendments which he was going to move when the time came and he was only criticising the Bill in the light of his own

amendments ; but when I heard him say that he was going to oppose and throw out the Bill, as it had emerged from the Select Committee, I could not really see how he could reconcile the two statements. We all know that there has been a great abuse of the law, as it exists to-day, and it is this abuse which has forced Government, on the recommendation of the High Courts, to bring a measure in their own way. When that measure came before the House, the House saw that there was great danger for the genuine litigants if that was passed. While it was stopping the abuse, it was not giving protection to genuine litigants and, with this view, the House wanted that measure to go before the Select Committee in order to amend it in such a way as to give protection to genuine litigants. The two things which were objectionable in the original Bill were these. First, it asked the party to present an application for adjournment before the proceedings started and stopped that right at any other stage. That was a very objectionable principle and the Select Committee was very careful to see that this should be removed. Another point which was before the Select Committee was that although it may remove the grievance of genuine litigants, at the same time it should stop the abuse of asking for adjournment simply in order to gain time for preparation. These two guiding principles were before the Committee. Objection has been taken by my friend as to why this bond should be executed. My friend referred to the words in clause 2 (b) "such sum not exceeding two hundred and fifty rupees as it may consider proper in the circumstances of the case" and objected to the complainant executing a bond. That was the very principle why the Government were bringing forward this measure. Some people were presenting an application before the court absolutely frivolously. They had no intention of applying to the High Court. The whole idea was that they would present an application for adjournment with some other motive and they never went to the High Court.

Mr. Lalchand Navalrai : How many applications has the Honourable Member seen in his own practice ?

Mr. Muhammad Yamin Khan : I am sure, the Honourable Member knows of the practice even though he has no personal experience of it. He knows it fully well. The question before the Select Committee was how to prevent these frivolous applications. The Select Committee found, at the last moment, that it was reasonable to allow the person who presents an application for adjournment to execute a personal bond without sureties. If he was asked to furnish the sureties also, that would have been hard. He has only to execute a bond for a sum not exceeding Rs. 250 in order to prove the *bona fides* of his application. If he asks for an adjournment and does not move the High Court, certainly the other party which is losing on account of his action should be given some relief. There should be a check on frivolous applications. My friend is looking at only one side of the question. He ignores absolutely the point of the other side which does not want an adjournment and which will be affected by the action of the party which asks for the adjournment.

Supposing some persons have applied on behalf of the complainant, who says that the magistrate will not decide the case in favour of the complainant. Well, why should an accused person who has paid a lot of money in engaging his lawyers and paid fees in engaging, probably, on certain occasions, a good barrister

[Mr. Muhammad Yamin Khan.]

from outside, well, what about those expenses that he has to bear as a consequence of a frivolous application by the complainant in order to deprive this man and to make him get out of his pocket simply to benefit him,—and, in a way, Sir, this action might be calculated to have this result that after two or three adjournments he will never bring in a good lawyer to help him. Therefore, he ignores that point. That is very clear ; and to stop this thing, if he wants to deprive another party of getting his hearing, he should show that his intention is *bona fide* and not a frivolous application. For this purpose the Select Committee put it down at “not exceeding Rs. 250”. If the magistrate finds only Rs. 10 is sufficient, he can fix Rs. 10 only. But supposing the objection is taken that Mr. Lalchand Navalrai has come up from outside to defend one party, say from Hyderabad-Sind and he is going to Larkana and he has been paid Rs. 250 and the other party is getting an adjournment, certainly he must ask for Rs. 250 from the other side, so that Mr. Navalrai's Rs. 250 should not be repaid again ! But that is a point which has to be carefully taken from both sides. It is not a one-sided question which you have to take, when you are enacting legislation. That is the reply which I can give to my Honourable friend. What is the real object of making this provision ? It is for the protection of innocent people.

Now, as regards the next point, raised by my Honourable friend, about the “interested party”, that has been fully explained by the Honourable the Law Member ; that “interested party” must mean either side. Another point taken by my Honourable friend was that there might be more than one accused in the trial, and one person, whose interest may be in conflict with that of the other accused, frivolously presents an application and that is rejected. Well, the other accused are *ipso facto* deprived of presenting another application for compulsory adjournment. Now that point was considered fully. There are very few cases of applications for adjournment for the purpose of applying to the High Court for transfer from one district to another district. Ordinarily, if any case happens in which the magistrate is found to be partial, certainly that magistrate is under the District Magistrate and the latter is at all times empowered to transfer that case from that magistrate's file to his own file or to any other person's file. That being the case, the District Magistrate simultaneously has this power. Of course the cases are rare in which a party wants to go to the High Court to have the case transferred from one district to another district. Thus, when the District Magistrate does not listen to a reasonable proposition, or where official influence is supposed to be such that it will not be a proper safeguard for the accused or for the complainant to have the case tried in that district where the influence of the official is going against any party, a suitable remedy is available. That will be the only case in which such a question can come up ; and if any application is made under these circumstances, well, certainly not one accused but the other accused also will join together and they will go to the High Court simultaneously and they will apply for the transfer of that case, because each one of them will be interested as much as the other. Therefore, it is a proper safeguard ; but, at the same time, the Select Committee thought that there might be some other provision. The hands of the court are not hampered in any way. Supposing one accused person applies for a compulsory adjournment, then there

are two courses open,—either he makes an application to the High Court, or he does not make an application. If he does not make an application, then he loses up to Rs. 250 worth of bond. Then the other accused persons can certainly come up before the court and say : “ Sir, you had given this person the opportunity but he, instead of availing himself of this opportunity, has been won over by the prosecution or the other side, and there is a case for our being given the same opportunity ”. Then, the court has still got the power under section 344 to adjourn the case. By giving one compulsory adjournment, you do not stop the magistrate from giving another adjournment. His powers are unhampered ; and, for this very purpose, and in view of the fact that there might be some magistrate who may not understand the provision, this explanation has been added in clause (2), sub-clause (8) at the end of (d) that :

“ Nothing contained in sub-section (8) or sub-section (9) restricts the powers of a Court under section 344. ”

This was purposely added with this object that in the case of the magistrate, who is trying the case, even if he does not understand the provision, this will show him clearly that his powers are unrestricted and he can grant an adjournment. Now this should meet my Honourable friend's objection a great deal.

Then, there is the case where a man has already applied and that application has been rejected. That is the second class of case. Then, in that case, the other accused certainly will be deprived, but again there is a power in the hands of the court, and that also can be utilized by the magistrate fully. Then, there is another point ; why should a magistrate, against whom an application is going to be made, be partial ? Why should he give any latitude to the people to make an application to the High Court against himself ? That will not be proper for him, after all he is a human being. Certainly he will not give any adjournment simply for the sake of giving an adjournment. Well, if he does not give an adjournment on a reasonable application, if he does not afford any proper facilities for presenting such an application, that will be a sufficient and proper ground for the High Court to transfer the case from his file. That will be considered an argument in that case. If he says : “ I will not give you an opportunity to go to the High Court, because you are applying against me ”, well, somebody on his behalf can make an application and if this very fact is shown that the magistrate did not like to give such an opportunity, because the application was going to be made against him, then the High Court will take that seriously into consideration,—that that magistrate is not fit to try that case if he cannot show this much latitude to one of the parties. So, that objection is fully met. I hope my Honourable friend will not object to this Bill now, but will wait to deal fully with his amendments afterwards, and that my explanation will satisfy him. Sir, I support the motion.

Mr. T. N. Ramakrishna Reddi (Madras ceded Districts and Chittoor : Non-Muhammadan Rural) : Mr. President, my Honourable and learned friend, Mr. Yamin Khan, being a member of the Select Committee, naturally wants to support the Bill as it emerged from that Committee, but, Sir, I shall presently show that the Bill, as it emerged from that Committee, is much more reactionary than the original Bill. (Laughter.) Sir, I am sorry I cannot congratulate the members of the Select Committee

[Mr. T. N. Ramakrishna Reddi.]

which sat on this Bill. I am rather tempted to congratulate the Honourable the Home Member on the Bill that he introduced originally. That Bill would have been quite acceptable if he had only agreed to one or two points. His original Bill was much less objectionable than the Bill as it has emerged from the Select Committee. Sir, in introducing this legislation, it is pointed out that section 526 has given rise to so many objectionable and frivolous applications and has also impeded the course of criminal justice, and the Bill is aimed at putting an end to these objectionable features. There were four innovations in the Bill as introduced by the Home Member. In the old Bill of 1923, it was permissible to make an application for transfer at any stage of the trial, whereas the Bill, as introduced by the Home Member, requires that the application should be made only at the commencement of the inquiry itself. The Honourable the Home Member himself perceived the futility of this change in the procedure, because the necessity for a transfer arises only during the course of the trial. There is no point in applying for the adjournment at the commencement of the trial. The second point is that only two Chapters of the Criminal Procedure Code, namely, VIII and XVIII, have been retained and other Chapters have been eliminated from the operation of section 526. Sir, I wonder how, by eliminating other Chapters, the frivolous and vexatious applications for transfer can be done away with. As long as these two Chapters exist, there will be applications coming in and, therefore, the difficulty will not be met by excluding two or three other Chapters. Then, Sir, another point which this Bill aims at is that the magistrate could proceed with the recording of the evidence even up to the point the accused is being called upon for his defence, even after the accused has made the application for the transfer of his case. This also does not go to rectify the objections which the Home Member has in view. There is no use in the magistrate recording evidence after the intimation by the accused that he wants to get the case transferred from his file. Naturally, the magistrate being a human being would develop prejudices against the accused even if there had been no prejudice against him beforehand. Thus, Sir, I contend that it is not proper that he should be allowed to record any further evidence afterwards. Another point I wish to bring to the notice of the House is the giving of discretion to the High Court Judges to fix a compensation for any frivolous applications. This is the only change which would aim at preventing the frivolous applications, because the accused might be deterred from making a frivolous application, because the High Court Judges may impose very heavy compensations. These are the only changes which have been proposed in the present Bill which were not in the Code of 1923.

Now, Sir, I come to point out how far the Select Committee have improved the Bill or have modified it and how far they have made it acceptable. The changes are in two directions. The Bill, as it has emerged from the Select Committee, enables the accused to make his application for a transfer at any stage of the trial. Then, another change for the better is that the magistrate should stop recording evidence at once, when the application for an adjournment was made. These are the two points which can be said to have improved the original Bill. But now, Sir, I come to the points which have made the Bill, as amended by the Select Committee, more reactionary than the original one. In the Bill, as introduced by the Home Member, there were no restrictions placed for the

number of applications to be made by the accused for the transfer of his case. What it said was that any party interested may intimate to the court before such inquiry began that he intended to make an application under this section and the court shall not proceed with the inquiry. This clause does not restrict the number of applications to be made by the accused, whereas the Bill, as it has emerged from the Select Committee, says that only one chance should be given to the accused.

The Honourable Mr. H. G. Haig : The accused could not make many applications before the trial commenced.

Mr. T. N. Ramakrishna Reddi : What the amended clause says is :

“ Any party interested intimates to the Court at any stage before the defence closes its case that he intends to make an application under this section, the Court shall, upon his executing, if so required, a bond without sureties, of an amount not exceeding two hundred rupees, that he will make such application within a reasonable time.”

It enables the accused to make an application only once, because the proviso says :

“ Provided that nothing herein contained shall require the Court to adjourn the case upon a second or subsequent intimation from the same party.”

The original Bill, as introduced by the Home Member, made no restrictions as to the number of applications.

Then, with regard to the fixing of Rs. 250 as a limit for compensation to be awarded by the High Court, I submit that this amount has been fixed very high. Even if this provision was left, as it was in the original Bill, the magistrate or the High Court would fix in their discretion any amount far less, or at least, not necessarily such a high amount as is fixed in the Bill, as amended by the Select Committee.

The Honourable Sir Brojendra Mitter : The points which the Honourable Member is making are covered by the amendments of which he has given notice. Would it not be better if he were to develop these points when the amendments are taken into consideration ?

Mr. T. N. Ramakrishna Reddi : At this stage, Sir, I oppose the Bill as amended by the Select Committee. If my opposition is defeated, then only I will move my amendments. Now, I am speaking on the question that the Bill be taken into consideration as amended by the Select Committee. Generally, Sir, if the amount is to be treated as compensation to be awarded by the court, it would have been better if it was left to the discretion of the High Court or of the trying magistrate to fix any amount. In this respect also, I submit, that the Bill, as amended by the Select Committee, is more reactionary than the original Bill. In the original Bill, if there were more accused than one in a case, there were no restrictions for the accused, other than the one who originally applied, for applying for a transfer. Whereas the Select Committee has amended the Bill by stating that the privilege exhausts itself if one of the accused applies to the court for a transfer and the privilege of making an application for transfer is not allowed to the other co-accused. It is a fundamental principle of law that one accused does not represent the interest of the other co-accused. One accused may apply on frivolous grounds, or on no grounds at all, or for the mere fun of it. Are the other accused

[Mr. T. N. Ramakrishna Reddi.]

to be mulcted for the mischief done by one of the accused ? Supposing an accused makes an application to the High Court, then either for not paying fees to the Vakil or any other grounds, he might make default of appearance and his application for transfer might be dismissed and that accused might not get any more chance of applying for transfer. Are the other co-accused to suffer for the laches of one of the accused who has applied for transfer and failed ? Though the Honourable the Home Member himself did not introduce any such restrictions in the original Bill, yet, in the Bill, as amended by the Select Committee, which composed of several legal luminaries, the position is made much worse for the accused.

There is another point which I wish to draw the attention of the House to. In the Act, as it stood before 1923, the Sessions Judges are privileged to use discretion in the matter of giving adjournments. Now, the Honourable the Home Member, finding the incongruity of such a provision, has excluded it from this Bill because, he must have thought that if the granting of adjournment is incumbent upon a magistrate, why should Sessions Judges be not subject to that rule. It is on account of that, that the Honourable the Home Member has purposely excluded that clause from the present Bill, as originally introduced : whereas the Select Committee have become wiser and have gone a step further and have re-introduced that clause enabling the Sessions Judges to use their discretion whether to grant adjournments or not. In these respects, and in so many others, the Bill, as emerged from the Select Committee, is much more reactionary and, therefore, I have no hesitation in opposing the motion that the Bill, as amended by the Select Committee, be taken into consideration.

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : The House will now adjourn till 2-35.

The Assembly then adjourned for Lunch till Thirty-Five Minutes Past Two of the Clock.

The Assembly re-assembled after Lunch at Thirty-Five Minutes Past Two of the Clock, Mr. President (The Honourable Sir Ibrahim Rahimtoola) in the Chair.

Mr. Muhammad Muazzam Sahib Bahadur (North Madras : Muhammadan) : Sir, I have not the least hesitation in supporting the motion for consideration of the Bill, and, in doing so, I have to point out that so far as this section 526 of the Criminal Procedure Code is concerned, it is a provision which has been uniformly and mercilessly abused. From my own experience, as a practitioner, during the last 20 years, in the Madras High Court, I can speak to the fact that I have not come across two cases out of ten in which the provisions of this section have been rightly used. As a matter of fact, what we do is,—of course we act under instructions,—that whenever we find a tendency in the magistrate to go against us, although he may be doing the right thing at the moment, we apply for an adjournment on the ground that we are going to petition the High Court for a transfer, because the matter of paramount importance to us is the winning of our case. And, under the section, as it stands at present, the magistrate is bound to grant that application. We take advantage of this fact

and if we find on the adjourned date that the magistrate is in a better mood than he was in when we apprehended injury to us, we go on with the case knowing full well that, in the meantime, we have not taken the slightest pains to move the High Court for a transfer. That is exactly what happens at least in 90 per cent. of the applications made before magistrates in the districts for transfer, so far as my experience goes. And, I was greatly surprised, when my Honourable friend, Mr. Lalchand Navalrai, expressed the opinion rather bluntly that the Bill, as it has emerged from the Select Committee, has gathered more mud instead of having cleansed itself of its defects. He said that it has come back from the Select Committee in a worse form than what it was in when it was sent to Select Committee. That was his contention, but I really cannot understand it. Either my friend has not handled many criminal cases or he still thinks, although sitting in this House, that he is an advocate and not a legislator. I really think that the moment we are called upon to legislate, we ought to cast away the idea that we are advocating for any particular party. What we are called upon to do here is to legislate and to bring into being a law that might successfully and nobly deal with the administration of justice. That is our duty here. Once we go back to our own places and professions, it might well be that we should put on the garb of advocates again, but, so long as we are here, we have to rid ourselves of the very idea that we are advocating the cause of any party. And, if my Honourable friend, Mr. Lalchand Navalrai, does so, I think he will have no hesitation in coming to the same conclusion as myself. I think the Bill, as presented to the House, after reference to the Select Committee, has emerged in a form in which there is little or no room left for attack. The one point which was taken very serious objection to, when this Bill was introduced by the Honourable the Home Member, was that whether he was the complainant or the accused, a party had to read the mind of the magistrate, as it were, before the inquiry or trial commenced. That was on the face of it an impossibility, and that defect has been wholly cured by a very healthy *via media* proposed by my Honourable friend, Mr. Puri, which is to the effect that one compulsory adjournment shall, in all cases, be granted by the court, and any further adjournment, whether by the same accused or by the same complainant or by one of several accused, if there are more than one, shall not be granted. That is so far as the provisions of section 526 go. But we should not forget that, in the Criminal Procedure Code, there are two other sections which confer upon the magistrates very large powers. I may first refer to section 344 which gives the magistrate the discretion to adjourn a case whenever he thinks it is necessary. This is how it reads :

“ If, from the absence of a witness, or any other reasonable cause,”

I suppose these words are wide enough to be applicable to the case in point :

“ it becomes necessary or advisable to postpone the commencement of, or adjourn any enquiry or trial, the court may, if it thinks fit, by order in writing, stating the reasons therefor, from time to time, postpone or adjourn the same on such terms as it thinks fit, for such time as it considers reasonable, and may by a warrant remand the accused if in custody.”

Then, there is another section, section 528, which confers certain powers on the District Judge and the District Magistrate. The powers conferred

[Mr. Muhammad Muazzam Sahib Bahadur.]

on the District Judge are not very large, but the powers given to the District Magistrate are thus set out :

“ Any Chief Presidency Magistrate, District Magistrate or Sub-Divisional Magistrate may withdraw any case from, or recall any case which he has made over to, any Magistrate subordinate to him, and may inquire into or try such case himself, or refer it for inquiry or trial to any other such Magistrate competent to inquire into or try the same.”

So that the resultant or combined effect of all these three sections is to confer upon magistrates a very wide discretion apart from the restrictions placed under the amending Bill upon the rights of the complainant or the accused. And we ought not to forget that it may be either the complainant or the accused who may apply for a transfer although it generally happens that it is the accused who does so. In many cases the combined effect of these sections is to give very wide powers and a very wide discretion to the magistrate to adjourn or postpone a trial if he thinks that an adjournment is reasonable and necessary in the interests of justice, unless the magistrate who deals with the case is a totally dishonest magistrate who wants to promote himself at the expense of every other consideration. If the case is unfortunately before such a magistrate—and that is a very very rare exception—even in such a case, I contend, that neither the complainant nor the accused lose materially by the provision which is contained in the amending Bill. It provides that if there is one accused, he shall always have a right of one compulsory adjournment. If there are more than one, the position comes to this ; that if one of several accused applies for an adjournment on the ground of his applying for a transfer to the High Court and the adjournment is granted, he will either apply or he will not. If he does apply and succeeds, the benefit is shared equally by all the rest. If he does apply and fails, then the others cannot apply for any further adjournments so far as this section is concerned ; and, in the third case of his not applying at all, even then, I say, the other accused might apply to the court before which the proceedings are going on to give them a chance of applying for a transfer although the accused who did apply for an adjournment has failed to apply for a transfer to the High Court ; and, under section 344, which I have just now read out, I think any sensible magistrate, unless he is of the kind I have described, will feel that he is bound to grant an adjournment to enable the accused to apply for a transfer. Then it was brought to the notice of the House by my Honourable friend, Mr. Lalchand Navalrai, that this section would not have come into being but for the fact that Government found themselves in a very uncomfortable position in some of these State trials, *e.g.*, the Meerut Conspiracy case, in which a number of accused was charged and, one after another, they made it a point to gain time by applying for adjournments in order to move the High Court for a transfer. That is what actually happened, we all know ; and if the Government have been moved to take into their consideration for enactment a Bill of this kind, it is nothing unnatural at all ; although I must say that Government ought to concede that it is blameworthy in this respect that this point, although it was repeatedly brought to their notice on many an occasion by many an eminent authority, they never cared to take action until they actually found themselves in a very very uncomfortable position. But to attack the Government on the ground that a healthy legislation ought not to be brought forward, because the motive power that brings it into being

was not exercised long long ago, but only at a time when it is placed in an uncomfortable position, I say that that cannot be a ground for attacking the principle of the Bill. Then, with regard to the position for which provision is made in this section, I believe it was stated in the Statement of Objects and Reasons that one difficulty which the High Courts keenly felt in apportioning fees was the fact that the Public Prosecutor or the Legal Remembrancer, as he is known in some provinces, was not an officer who could charge any fee for a particular case, but was one who was remunerated by a monthly salary ; if that officer is remunerated by a salary, it is clear that the matter of apportionment of fees in a particular case is a very difficult task indeed and that is why that provision has been introduced ; and another very salient fact which I would bring to the notice of this House is that in the Select Committee, which was appointed to consider this Bill, the names of these distinguished men appear—Sir Hari Singh Gour, Sir C. P. Ramaswami Aiyar ; so far as Sir C. P. Ramaswami Aiyar is concerned, though the Leader of the House, it might be said that as one sitting on the opposite side and probably interested in the passing of the Bill, his opinion on the amendment is subject to a big discount. That might probably be said. But conceding that that is so, and neglecting the Honourable gentleman altogether, we have Sir Hari Singh Gour ; Mr. B. R. Puri is there—he is an eminent criminal lawyer of Lahore ; Mr. DeSouza is there ; he is a veteran District Judge ; and then there are Mr. Azhar Ali and Mr. Yamin Khan and Mr. Shah Nawaz—all of whom are legal practitioners of very long standing and, I suppose, their views and their opinions on this Bill do count and, if there are other members of the legal profession who have not served on this Committee, their number is very small so far as this House is concerned. I heartily support the Honourable Mr. Haig's motion for consideration.

Rao Bahadur B. L. Patil (Bombay Southern Division : Non-Muhamadan Rural) : Sir, my Honourable friend to my right, Mr. Reddi, levelled a very serious charge against the Bill that has emerged from the Select Committee. I am not prepared to plead guilty to that charge to the extent to which my Honourable friend went. I do submit and I do admit that there are still some defects in the Bill ; but my Honourable friend ought to have taken into consideration the abuses which have been so substantially proved to the satisfaction of the House with regard to the provisions of section 526, as it stands today on the Statute-book. The one thing which I seriously complain of in the Bill, as emerged from the Select Committee, is with regard to the other co-accused who lose the right the moment that right is exercised by one of their fellow accused. I have already, as a member of the Select Committee, said that in no sense any accused represents his fellow accused and I base my statement on this fundamental principle of criminal jurisprudence that the law is anxious that no single innocent accused person is punished or suffers though nine out of ten guilty persons escape. That is the fundamental principle of criminal jurisprudence, and we cannot lose sight of that fact.

In the next place, we must also take into consideration the fact that this provision is made, not because every accused should play a game with the court, but because he feels, and he sincerely and genuinely feels, that he will not get justice at the hands of a particular trying magistrate. It is not necessary that his suspicions should have a foundation that would

[Rao Bahadur B. L. Patil.]

appeal to the High Court or to a magistrate. It is enough, in my humble opinion, that the moment he feels that he will not get justice at the hands of a particular magistrate, he is entitled to apply. Therefore, Sir, on these two fundamental principles of criminal jurisprudence, I beg to submit that the Bill, as it has emerged from the Select Committee, is undoubtedly defective and ought to be modified.

Sir, I know that Government are very uncomfortable with regard to criminal cases that are now going on. I have full sympathy with Government in their difficulties. But I should like to point out that we are not legislating for exceptional cases. We are legislating certainly for the generality of cases. If you are to legislate for exceptional cases, there will be no end to that legislation. In the same way, I might point out, Sir, that every provision of law is likely to be abused. I ask and pause for a moment for a reply whether my Honourable friend, the Law Member, on the opposite Bench, would be able to say that there are no provisions that could not be abused in a similar manner? I think, Sir, he will admit that there are many provisions, many important provisions of law, that could be similarly abused. Therefore, Sir, I very strongly submit that it is not our duty to legislate for exceptional cases.

Then, Sir, with regard to the Bill, as amended by the Select Committee, I beg to submit that I for one feel that I am taken by surprise with regard to sub-clause (e) of clause 2 regarding appeals. I was under the impression that the provisions regarding appeals would be similar to the provisions regarding inquiries and trials. Therefore, Sir, I request my Honourable friend in charge of the Bill on the other side to consider this matter also very seriously. At this stage I do not propose to speak on other points, as I have got my own amendments, and as I propose to speak on them.

Mr. N. N. Anklesaria (Bombay Northern Division : Non-Muham-
madan Rural) : Sir, in spite of the elaborate and

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emphatic arguments from the other side, I remain convinced that this motion should receive the fullest support of this House. However, Sir, I would like to point out one matter in connection with clause 10 of the Bill. Clause 10 of the Bill refers to transfer applications in connection with appeals. It restricts the right of parties to appeal to make transfer applications to a time before the hearing of arguments in appeal. Now, Sir, it must be the experience of most of my lawyer colleagues that circumstances which give ground for apprehensions about miscarriage of justice in appeals rarely arise before the hearing of arguments in appeals. On the other hand, it is within my experience, Sir, that such circumstances do sometime arise during the course of the arguments in appeals, and, Sir, clause 10 seeks to exclude precisely such a case and deny the right of getting compulsory adjournment for making a transfer application to the party concerned after the arguments in appeal have begun. I submit, Sir, that little point should be amended, and I would recommend to the House that it should give its fullest support to this motion.

An Honourable Member : Sir, I move that the question be now put.

Rao Bahadur B. V. Sri Hari Rao Naydu : Mr. President, I rise to support the motion of the Honourable the Home Member that the Bill, as amended by the Select Committee, should be taken up for consideration.

My excuse in intervening in this debate, Sir, is that I can speak on behalf of the magistracy on account of my experience as a Sub-Divisional Magistrate in the mofussil, both before the Act was amended in 1923 and after, and, as a Presidency Magistrate in the City of Madras, after the last amendment of the Code.

Now, Sir, nine years have passed since section 526 of the Criminal Procedure Code was last amended, and experience during this period has shown how badly the privilege given to ask for compulsory adjournment at any time during the inquiry or trial of the case has been abused. Several High Court Judges have animadverted very severely on this piece of legislation, the latest available being the judgment of the Honourable Mr. Justice Lort Williams of the Calcutta High Court, reported in 59, Cal. 482, which the Honourable the Home Member referred to before the Bill was referred by this Honourable House to a Select Committee. The Report of the Select Committee is before us. Two Honourable Members of the Select Committee have thought it fit to append minutes of dissent. My Honourable friend, Mr. Amar Nath Dutt, who is unfortunately not here, has added a minute of dissent to the Select Committee's Report wherein he stated that he was against any curtailment of the accused's right to escape from the judgment of dishonest magistrates and dishonest judges. I may say, Sir, that, in the majority of these transfer applications, it is not because that the presiding magistrate is dishonest, that the transfer is sought, but because, he is, on the other hand, honest to a fault. The Honourable the Law Member had pointed out that no amount of legislation can check dishonesty in any official.

Now, Sir, I come to the various objections raised against the Select Committee Report. The Honourable the Home Member had stated, at the time of moving the Bill for reference to the Select Committee, that the Government had obtained the views of the various High Courts and Local Governments on the Bill as put forward by him originally. There was a difference of opinion, both inside this House and outside it, as to how far the Bill, as originally proposed, would help the magistracy in the proper discharge of their duty and the parties in obtaining due justice at the hands of the magistracy. Some thought that, though the proposed amendment was an improvement upon the present position, it did not go far enough. They thought that the amendment in 1884 was the origin of all this trouble and that the position, as it stood prior to the amendment in 1884, should be restored. I would quote the opinion of the late Honourable Mr. Justice Coutts Trotter, an eminent Judge of the Madras High Court, in this connection, which was published at page 92 in Paper IV, circulated to this Honourable House before the amendment of Act 1923 was passed. His Lordship said :

“ I regard the suggested safeguards against frivolous applications for transfer as wholly inadequate. The proper remedy in my opinion would be to abolish the right altogether. It implies a distrust of the magistracy on the part of the legislature, which, however well founded when the Code was drawn up originally, is not warranted now. It undermines the authority of the magistracy by opening the door to reckless and baseless charges of partiality and corruption against its members and it enormously increases the facility for that procrastination and adjournment which are the bane of Indian legal proceedings. In my three years' experience as an Indian Judge (*the opinion was given in 1918*), I have not yet come across an application for transfer which appeared to me to have any substance in it and I should have thought that a plain case of partiality could be set right on appeal or revision.”

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Even today, at least four of the Honourable Judges of the Calcutta High Court share that view.

I would quote the opinion of the Honourable Mr. Justice Lort Williams in this connection. He observes :

“ Various attempts have been made from time to time by Judges to mitigate some of the absurdities of the position created by this section. However praiseworthy these attempts have been made to make the section sensible, in our opinion they were not justified by its terms..... The abuses made possible by the section cannot be cured in these ways. The only remedy is by way of amending legislation which we trust will be undertaken at the earliest possible moment. It should be provided that no application for transfer will be heard, unless it is made sufficiently early to allow time for the orders of the High Court to reach the Subordinate Court before the day fixed for the trial.....”

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : As the Honourable Member is making his maiden speech, the Chair does not wish to interrupt him ; but wishes to point out that the Honourable Member is dealing with the principle of the Bill, which has been accepted by the House. On the present occasion it is the report of the Select Committee which is before us. The Honourable Member is reading from the judgments of learned Judges of High Courts ; that would be perfectly relevant if the principle of the Bill was under discussion. The House is now dealing with the report of the Select Committee.

Rao Bahadur B. V. Sri Hari Rao Naydu : The whole House has agreed that the existing provisions are being abused. The object of the present legislation is to discourage, as far as possible, frivolous applications for transfer. Then, why, Sir, should there be any limit at all for the amount of compensation to be awarded ? It shows want of confidence in the highest Courts of Tribunal in our land. Each case depends upon its merits. It is uncharitable to think that High Court Judges, in whom only this power of awarding compensation is vested and who are invested with wide powers of life and death and who are invested with powers to make or mar big zamindars, have not the sense of proportion to judge in which case of transfer application they should award large and deterrent compensation and in which case they should award a nominal compensation. My Honourable friend, Mr. Lalchand Navalrai, has contrasted the amount of Rs. 250 fixed under section 526 (8) with the amount of compensation awarded under section 250 of the Criminal Procedure Code. My reply is, Sir, that in one case we have to take the experience of the High Court Judges into consideration, whereas, under section 250, we have to rely upon the judgments of the inexperienced lower subordinate magistracy.

I shall presently show, Sir, how even the maximum amount of Rs. 250 fixed by the Select Committee will not be an effective safeguard. Take, for instance, the cases of rioting before a magistrate. In most cases of this kind, the real matter in dispute is one relating to the possession or the ownership of immovable property. In zamindari areas, we find that disputes often arise about home-farm lands, sometimes involving hundreds of acres in extent, the zamindar contending that the lands are his home-farm and the ryots claiming occupancy rights in them. Each party wants to drive the other to the court first. The fact of possession is an essential

point and each party wants to assert its right to the possession of the land by force and the result is serious breaches of peace. Whether both parties are charged or one party is charged for rioting, the court has to decide who is in actual possession of the land and who is the aggressor. Now, Sir, in such cases the party that is likely to lose wants to prolong the duration of the case. He either wants to win over the witnesses for the other side or escape from the decision of the trying magistrate if he is known to be strong. In such cases, Sir, where the stake is large extents of land costing thousands of rupees, would this Honourable House think that the maximum amount of Rs. 250 fixed by the Select Committee is a sufficient safeguard against frivolous transfer applications? The party does not care for Rs. 250 or even for Rs. 2,500. What he wants is the ultimate decision that possession of the disputed lands is with him. May not the High Court see through such cases, and if it does, what is the effective check that they can impose? I have known rioting cases involving the decision about possession being prolonged for more than three years. By that time, either some of the important witnesses are dead or they are bought over by the other side. I need not dwell at length here, Sir, on the difficulties of the prosecution when both parties are charged for rioting after deliberate preparation, and how the court has to ultimately acquit both parties in most cases on account of the undue prolongation of the trials. For the above reasons, I think that the maximum of Rs. 250 fixed by the Select Committee is a very modest amount and should not be reduced as suggested by my Honourable friend. Rao Bahadur Patil, in his minute of dissent.

Let us consider the other suggestion of my Honourable friend, Mr. Patil, in his minute of dissent, that the right of asking for compulsory adjournment should be extended to Chapters X, XII and XXXVI. Let me deal with Chapter X—public nuisances. What is the nature of proceedings under this Chapter? The courts have held that the proceedings under this chapter are more of a civil nature. The person proceeded against is a competent witness on his behalf. If he asks for a jury, the magistrate shall, under section 188 of the Code, forthwith appoint a jury and fix a time for the return of the verdict. If the jury, after taking the necessary evidence, decides that the order is reasonable or proper, the magistrate may make the order absolute and enforce it under section 140. If the jury modifies the order, the magistrate may or may not accept the modification, but if either the jury proposes a modification which the magistrate does not accept, or the verdict of the jury is adverse, the magistrate must drop all further proceedings. In the above circumstances, where is the necessity for any party to the proceedings under this chapter to apprehend any failure of justice at the hands of the trying magistrate, and why should any party be given a right to ask for an adjournment to apply for a transfer of the case?

Coming next to Chapter XII, this chapter deals with disputes regarding immoveable property. The object of this chapter is to provide for a speedy remedy for prevention of breaches of the peace arising out of disputes concerning immoveable property. The High Courts held that the Legislature could hardly have contemplated an elaborate and protracted inquiry, the result of which might be in many instances to defeat the very object in view. The magistrate's jurisdiction is ancillary in a way to that of the civil courts. It is in fact *quasi-civil*. In such cases, is it

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necessary, Sir, to incorporate in the Code of Criminal Procedure the right of asking for at least one compulsory adjournment in proceedings under this chapter ? These proceedings are intended only to prevent breaches of the peace without affecting the rights of the parties or their honour. The magistrate cannot have jurisdiction unless there is clear evidence regarding apprehension of breach of the peace. All the parties affected can also give evidence on oath. Under the above circumstances, I do not think we should give any occasion to the parties to prolong the proceedings indefinitely.

I now come to Chapter XXXVI, which relates to the maintenance of wives and children. Everybody who has any practical experience of these cases will agree with me when I say that in 99 out of 100 cases, the parties concerned are poor having no ancestral property, especially the party applying for maintenance. Rich parties have generally recourse to civil courts for fixing the rate of maintenance as questions relating to the joint family property also come up for decision. It would be really cruel to allow the proceedings to drag on for an indefinite period in such cases. The amount of maintenance that is generally awarded almost always ranges between Rs. 2 and Rs. 10 per mensem. It is true, Sir, that if the husband or the father of the illegitimate child is unwilling to pay the amount decided by the court, he can be treated as an accused and sent to jail. It is only when the court is satisfied that the man is able to pay and that he has been evading payment, he should be committed to imprisonment not exceeding one month at a time. This has certainly nothing to do with the nature of the proceedings before the decision of the case either as to the obligation to maintain or as to the rate of the maintenance. In all these matters of transfer applications, we all know who it is that advises the party to apply for transfer although lawyers say that they act always under instructions. Very few cases are filed under the maintenance chapter in the course of a year. It is only in Presidency Towns that they are largely filed and, from my experience as a Presidency Magistrate, I may assure this House, that it is nothing but driving to further starvation the poor applicants who come mostly from the poorest and the lowest class of society and who apply for maintenance after much starvation.

I come to another objection raised by my Honourable friend, Mr. Lalchand Navalrai. He was speaking of the trouble to which the party applying for a transfer is put if he cannot apply for transfer for reasons beyond his control or if he thinks there is no use of applying for transfer on account of the transfer of the magistrate. In the latter case, Sir, the party cannot say that the new magistrate will be prejudiced against this party, and, as in all cases, the amount forfeited goes to Government, the court has ample discretion to excuse the party or to order that only a nominal amount of the bond should be forfeited to the Government, if the court is satisfied that the non-application for transfer is not intentional.

As regards the objection that the amendments proposed by the Select Committee do not give an opportunity for a fair trial to all the accused in a case where there are more than one, my Honourable friend, Mr. Muhammad Yamin Khan, has clearly and convincingly explained the situation, and I hope that this Honourable House will agree with him.

With these observations, I beg to support the motion.

Some Honourable Members : Let the question be now put.

Sardar Sant Singh (West Punjab : Sikh) : I listened with great interest, Sir, to the lucid explanation given by the Honourable the Home Member in moving the consideration of the Bill as reported by the Select Committee. There can be no doubt that many objectionable features of the Bill, as it was introduced originally, have been removed by the Select Committee, but there are certain points which I will suggest for the consideration of Honourable Members opposite. One of them is this. The clause says :

“ If in any inquiry under Chapter VIII or Chapter XVIII or in any trial, any party interested intimates to the Court at any stage before the defence closes its case that he intends to make an application under this section, the Court shall, upon his executing, if so required, a bond without sureties, of an amount not exceeding two hundred rupees, that he will make such application within a reasonable time to be fixed by the Court, adjourn the case for such a period as will afford sufficient time for the application to be made and an order to be obtained thereon.”

Here it is required that a person who wants a transfer will execute a bond, but it is not stated in whose favour. Now, the interpretation that has been put upon this is that the bond shall be executed in favour of the Crown. Naturally section 514 will apply when the application is not made subsequent to the execution of the bond. The bond shall stand forfeited. If that is so, I have not been able to comprehend why the bond should be forfeited in favour of the Crown in cases which are being contested by private individuals. If a complainant decides to prosecute an accused person on a charge which is not cognisable, in that case if the accused wants to apply for a transfer of the case, there does not seem to be any reason why the bond should be executed in favour of the Crown, while the actual person who suffers by the adjournment or the delay of the proceedings in the criminal court is the complainant. I do not agree with the Honourable gentlemen who state that the executing of the bond will act very harshly against any individual. My submission is that there is no doubt that in order to put an end to frivolous and vexatious applications, some power should be vested in order to compensate the party injured, but not the Crown. Here the power has been specially taken by this amendment for the High Court to grant compensation in the case of a vexatious application, but what about the first court ? Suppose a man does not go to the High Court. He has caused injury to the complainant who is prosecuting the case at his own expense and probably engages counsel from outside to prosecute the case and finds the whole thing turned topsy turvy because of the application of the accused. My submission is that in that case the compensation should be given not to the Crown, but to the complainant who is actually the party injured. I put forward this suggestion for the consideration of my Honourable friends on the Treasury Benches.

Then, there is the next proviso which restricts the application to only one application and then the court will be bound to grant the adjournment. Now, the objection takes an acute form in the riot cases. In riot cases, it often happens that out of the accused sent up for trial, there are several sets of accused defended by different counsel with different defences. If the application is restricted to one accused only, it may happen that one set of accused exercises that power without the knowledge of or in opposition to the wishes of, the other set of accused. In these circumstances my submission would be that the provision will act harshly upon the party

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who have not taken advantage of this provision. Now, in riot cases, it has been my personal experience that sometimes the real persons who have fought and committed riot have compromised the case between themselves and have agreed to depose against their common enemies. In this case, what happens is that they would not lead evidence against the person who has really taken part in the commission of the offence, but they will lead the evidence against the other person. That person, in collusion with the other party, may exercise this right with a deliberate object of depriving the other set of accused of their right to ask for an adjournment for making an application when the latter finds himself in an unhappy position of losing faith in the magistrate. These are the cases for which I suggest that provision should be made in drafting section 526.

Then, again, in clause (d), you will notice that the Explanation says :

“ Nothing contained in sub-section (8) or sub-section (9) restricts the powers of a Court under section 344.”

Here clause (10) is omitted. There is no reason why clause (10) should be omitted from this explanation. Lastly, I will bring to the notice of the Honourable the Home Member one more additional fact which does not find place in section 526, as at present drafted. There are certain instructions of the High Courts in the working of the provisions of section 526. If the case is required to be transferred from one magistrate to another magistrate in the same district, it is incumbent upon the applicant to move the District Magistrate in the first instance. He cannot go direct to the High Court. If he proceeds to the High Court direct, then the High Court would not entertain his application and will send it back to move the District Magistrate. Now the provision is that a reasonable time should be granted to him to move the High Court. I would ask the Honourable the Law Member to make it clear whether it includes the first application as well as the second application to the High Court or, if the first application is dismissed by the District Magistrate, will further time be granted to the applicant to move the High Court ? That is a point which should be taken up. With these exceptions, I find the Bill quite satisfactory and if provision is made against the hardships which I have pointed out, my submission would be that there will be little ground for complaint to anybody.

The Honourable Sir Brojendra Mitter (Law Member) : I shall deal with my Honourable friend Mr. Sant Singh's points first. His first criticism of the Bill, as it has emerged from the Select Committee, is that the bond will be in favour of the Crown. In the case of private prosecutions, the really aggrieved party would be the complainant and the bond should be in his favour. The answer is simple. There is no such thing in law as a private prosecution. That is a popular expression. All prosecutions are by the Crown, because crimes are wrongs against the State. If there be a wrong against any individual, he has got his remedy in civil damages. In prosecutions, the really aggrieved party is the State or the Crown and, therefore, the bond should be in favour of the Crown.

Sardar Sant Singh : Suppose the complainant decides to move the High Court for the transfer, then the accused suffers.

The Honourable Sir Brojendra Mitter : Sir, the case which my learned friend had in view was one in which an accused person makes an application under section 526 and does not move the High Court. It

is only in that case that the bond is forfeited. In such a case, the complainant does not suffer very much, except for a little delay. If application is made to the High Court and is unsuccessful, then compensation is payable to him ; that is to say, in cases where he actually has to employ a lawyer and has been successful in the High Court, in such a case the High Court has been given the power to pay compensation to him. But in the other case where no application is made, he does not engage lawyers till notice is served on him. If no application is made, no notice is served upon him and therefore he does not incur any expense. That being so, why should the bond be in his favour when he has not suffered any loss in money ? The bond in favour of the Crown is not for the sake of money but as a deterrent against frivolous or *mala fide* applications under section 526. Therefore the *mala fides* being against the State, the bond should be in favour of the Crown. That is his first point. His second point is that if there be several sets of accused, as in riot cases there are frequently several sets of accused, then one set of accused may collusively, or fraudulently, make an application under section 526 in order to deprive the other sets of accused of availing themselves of the provision for a compulsory adjournment. The answer is this. In such a case the different sets of accused are quarrelling amongst themselves. That is no ground for a transfer. Section 526 comes in when there is good ground for transfer, that is to say, when there is a legitimate grievance against the trying magistrate. If the case be that the magistrate is colluding with one set of accused and at the instance of the magistrate that set of accused makes an application under section 526 for a compulsory adjournment, to deprive the other sets of accused of the right. Well, that may be a possibility, but in legislation we cannot legislate against possibilities, we can legislate only against probabilities. It would be highly improbable that the magistrate should enter into a conspiracy with one set of accused for the purpose of prejudicing another set. The case which my friend cited was when each set of accused is trying to fasten the blame on the other set of accused. In a riot case, one set may say, "those are the rioters, not we", and that charge is repeated by the other side. There the different accused are quarrelling amongst themselves. That is hardly a case which comes under section 526 unless the magistrate is involved in that dispute. If the magistrate was so dishonest as to enter into a conspiracy with one set of accused, and section 526 is exhausted then the ordinary provisions of the law, that is the Charter Act, the Letters Patent, the Government of India Act, will still apply. It is not the case therefore that the aggrieved set of persons will be without a remedy. They cannot get a compulsory adjournment, but nevertheless they can go up to the High Court, expose the mendacity of the magistrate, expose the fact that the magistrate entered into a conspiracy with one set of accused to the prejudice of another set of accused, and that will be a good ground for transfer, and possibly in such a case the High Court will immediately order a stay of proceedings and possibly also order a trial or inquiry *de novo*. Therefore, there is no practical difficulty which one can anticipate arising out of these riot cases. If you once admit the principle of each accused having a right of compulsory adjournment, well, then this Bill is unnecessary. That is precisely the evil against which this Bill is directed. We conceded the point that one compulsory adjournment might be granted because, as it was pointed out convincingly, that it was only during the course of a trial that the bias of a magistrate might become manifest and a stay was necessary in the interest of the aggrieved party. Well, we can go that far and

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no further, because if you once concede a further right of compulsory stay, then there is no limit to it, and we shall be exactly in the same position as we are in today, namely you have to grant adjournments on the application of one accused after the other. Sir, it is hardly likely that the magistrate should take it into his head to entertain a bias against the different accused by turns. That is hardly likely. What is likely and against which ample provision is made is this,—the magistrate showing a bias against the accused in favour of the prosecution. In such a case, whether there be one accused or more than one accused, this Bill as it has come out of the Select Committee gives the right to the accused to secure a compulsory adjournment. Then, Sir, my Honourable friend's third point was with regard to section 344 and sub-clause (e) of clause 2 of the Bill. Probably my Honourable friend has overlooked the fact that section 344 applies only to inquiries and trials, it does not apply to appeals, and sub-clause (e) deals with appeals. Sir, his last point was with reference to time for the application to be made and for order to be obtained thereon. Now this order is an order from the High Court. His point is that under the ordinary practice the first application is made to the District Magistrate. Failing that, the party goes to the High Court; and, therefore, it may be that the time which would ordinarily be granted would not be sufficient to cover the period required for moving the District Magistrate and then moving the High Court and obtaining an order from the High Court. The answer is that in such cases the magistrate will be asked to give a reasonable time, sufficient time for both the applications to be made. That is precisely the reason why we did not accede to the suggestion that a statutory limit of time should be provided. There was a suggestion that a fortnight's time should be mentioned. (*Mr. S. G. Jog* : "Not less than.") A fortnight may not be enough to move the two courts; but if in any particular case under the ordinary practice or under the circular orders of the High Court, a magistrate has to be moved first, then certainly that fact should be made known to the trying magistrate and the trying magistrate will give sufficient time for it. If he does not give sufficient time, surely, when you go to the High Court, and the High Court has seisin of the case, it can pass any orders. It can extend the time and so on. I take a concrete case. Supposing the magistrate gives three weeks to move the High Court. Well ten days expire in moving the District Magistrate unsuccessfully. Eleven days remain to go up to the High Court and obtain an order, which may not be sufficient; but within the eleven days, if you move the High Court, the High Court in a proper case is likely to say : "Well, for this application to be heard and for the order to be made, eleven days is not enough. Therefore, we extend the time". There will be no other difficulty, because if you can persuade the High Court to entertain your application, the High Court will send for the records of the case. Once the records of the case come up to the High Court, the magistrate cannot do anything. There is a compulsory adjournment. So there is no practical difficulty, though there may be a theoretical one.

Sardar Sant Singh : I hope my Honourable friend will excuse my interrupting him. What happens is this. Time is granted, say three weeks; the application is then made and the District Magistrate decides the issue. If the application is rejected by the District Magistrate, then no time will be left to go to the High Court.

The Honourable Sir Brojendra Mitter : In that case, the party goes back to the trial court and says, all this time was taken up in the magistrate's court without any fault of his, and the magistrate will be likely to exercise his discretion under section 344. If he cursedly refused to exercise his discretion under section 344, then the party will always be free to go up to the High Court and by stating these facts is likely to get a stay of the proceedings.

Mr. Lalchand Navalrai : If the magistrate decides that case in two days, how can one go to the High Court ?

The Honourable Sir Brojendra Mitter : Even in that extreme case, an application is made to the District Magistrate ; the application is unsuccessful ; so you go back to the trying magistrate, and the trying magistrate, out of malice, takes up the case and finishes it that very day. In that case, there will be a good ground for having the whole proceeding quashed by the High Court. So, there is no practical difficulty ; all these are imaginary difficulties, which, in practice, are not likely to happen.

Now, Sir, I deal with the points raised by my learned friend Mr. Navalrai. His first point was this. Government has brought in this Bill in order to deal with political cases. In the first place, I should like to know what is my friend's definition of a political case ? What is a political case ? Either it is a crime or it is not a crime ; motive is not an element in crime. (*A Voice* : " Meerut case.") If my friend says that the Meerut case is a political case, that is not a definition ; it is an illustration. Now, what is a political case ?

Rao Bahadur B. L. Patil : A political case is a case in which the Government are very much embarrassed. (Laughter.)

The Honourable Sir Brojendra Mitter : Sir, what is a political case ? A political dacoity is committed of which we hear so much ; is it a political case ? Because for a political purpose the dacoity is committed, is it not a case of dacoity simpliciter under the Penal Code ? When a political train-wrecking takes place, is that a political case or a mere train-wrecking case ? Where a political assassination is committed of high Government officials, does my Honourable friend say that it is a political case or is that not a case of simple murder or an attempt to murder ? It is said political cases have prompted this Bill. If that were so, then how is it that every High Court, which has been consulted, has asked for a change of this section ? The High Courts certainly would not be charged even by my learned friend Mr. Lalchand Navalrai with bias towards the executive. How is it that every High Court has asked for a change of this section ? Was it for the sake of facilitating the trial of political cases or was it not in the interests of justice that they have been demanding a change ? There is a further point. What are ordinarily known as political cases are sedition cases. They may be called political cases. A man for his political opinion is brought to trial. Now, what happens in these sedition cases ? These cases are not decided on oral evidence as much as on documentary evidence. It is on the construction of oral statements or writing that these cases are decided. The mischief which compulsory adjournment causes is tampering with the witnesses. Now, this tampering with witnesses is the least likely in a political case, because a political case, as I submit,

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is frequently decided upon documents. Therefore, the charge that the Bill has been brought for facilitating trials of political cases, I submit, is grossly unfair.

Then, Sir, my learned friend, Mr. Lalchand Navalrai, said that the conditions for making an application under section 526, which the Bill provides for, are hard conditions, and he gave several instances. His first illustration is that an accused may make an application under 526 and get a compulsory adjournment and then he is advised by better lawyers not to move. In that case he loses the chance of making a similar application on a subsequent occasion. Now, Sir, it is precisely that sort of thoughtless and reckless applications.....

Mr. Lalchand Navalrai : He also loses his bond.

The Honourable Sir Brojendra Mitter : He ought to lose his application, his bond and everything. My point is this that if he makes an application recklessly, which, on better advice, he abandons, then he ought not have made his application under section 526. It is in order to ensure some amount of responsibility on the accused that this Bill has been brought forward, so that when he makes his application under section 526, he may do so on proper advice and not merely on his whim and caprice.

The next point he makes is this. An application is made under section 526 on the ground that the magistrate is biased. That magistrate is transferred and a second magistrate comes in to try the case, and the accused loses an opportunity of making a similar application before the second magistrate. Sir, that presupposes that every magistrate who comes to try that case comes with a bias against that particular accused.

Mr. Lalchand Navalrai : Will the Honourable Member excuse me for interrupting him ? May I explain myself ? If an application is made and by the time he makes the application the magistrate is transferred, why should he lose his bond ? Why should you make him to lose his bond and thereby incur a loss of Rs. 200 ?

The Honourable Sir Brojendra Mitter : In that case, does my learned friend imagine that the second magistrate will enforce the bond ?

Mr. Lalchand Navalrai : Why not ?

The Honourable Sir Brojendra Mitter : Here an application was made on the assumption of a certain state of things and a bond was given that the accused should make an application before the High Court for the transfer of the case from magistrate 'A'. Meanwhile magistrate 'A' is transferred and therefore there is no occasion to make the application. I cannot imagine that the Government would apply to the court to enforce the bond and get Rs. 100 or Rs. 200, whatever that may be. That is quite inconceivable.

Mr. Lalchand Navalrai : The Honourable Member has never been a magistrate, he has always been an advocate and therefore he does not know how the magistrates decide cases.

The Honourable Sir Brojendra Mitter : All I can say is that such a contingency has never occurred in my experience and I go further and say such a contingency is not likely to occur in any circumstances.

Mr. Lalchand Navalrai : There was no such provision before.

The Honourable Sir Brojendra Mitter : If there was no such provision before, then my Honourable friend is not speaking from experience, he can only speak from what he anticipates. If he anticipates any difficulty, in a couple of years time, we shall have provincial autonomy and we shall have control over all these courts and we shall certainly see that no such thing happens.

Mr. Lalchand Navalrai : I look at it from another standpoint.

The Honourable Sir Brojendra Mitter : Then, the third point of my Honourable friend was what the magistrate considers a reasonable time may not in fact prove sufficient. I have already answered that. If that can be made out, then surely the High Court has got power to extend the time. The other points which have been made out in the course of the debate are mostly covered by the amendments which are tabled. I reserve my observations on those points till the amendments are moved. I contend that in the Bill, as it has emerged from the Select Committee, and as my Honourable colleague the Home Member pointed out in his opening speech, we have met our friends on the opposite benches on the points which they raised in the course of the debate. We have provided for application being made at any stage of the proceedings. We have provided for a compulsory adjournment and at the same time, we have tried to make provision against *mala fide* applications and we have provided for penalties in cases of unsuccessful and frivolous applications. We have attempted to reconcile the interests of the accused with the ends of justice. That being so, Sir, the Bill as it has emerged from the Select Committee meets the needs and requirements of the situation. It meets the criticisms which have been made and with regard to the minor points which are covered by the amendments, when these points are raised, I hope you will give me an opportunity to deal with them.

Several Honourable Members : The question may now be put.

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : The Honourable Mr. Haig to reply.

The Honourable Mr. H. G. Haig : I have nothing to say.

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : The question is :

“ That the Bill further to amend the Code of Criminal Procedure, 1898, for a certain purpose, as reported by the Select Committee, be taken into consideration.”

The motion was adopted.

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : Clause 2. Mr. Jog.

Mr. S. G. Jog (Berar Representative) : I do not move my amendment No. 1* on the agenda.

Mr. President : Amendment No. 2† stands in the name of Mr. Muhammad Anwar-ul-Azim. He is absent. Mr. Jog.

Mr. S. G. Jog : I do not move amendment No. 3‡.

*“ That part (b) of clause 2 of the Bill be omitted.”

†“ That in part (b) of clause 2 of the Bill, for the words ‘ such sum not exceeding two hundred and fifty rupees ’ the words ‘ such sum as is ordinarily charged by the Advocate who opposes the motion ’ be substituted.”

‡“ That in part (b) of clause 2 of the Bill, for the words ‘ two hundred and fifty ’, the word ‘ fifty ’ be substituted.”

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : Mr. Lalchand Navalrai.

Mr. Lalchand Navalrai : Sir, I move.....

Several Honourable Members : Withdraw.

Mr. Lalchand Navalrai : No, I am quite in earnest about this amendment. I move :

“ That in part (b) of clause 2 of the Bill, the words ‘ two hundred and ’ be omitted.”

Sir, in the section as it now stands in the Code of Criminal Procedure, there is the word ‘ costs ’ which is now changed into the word ‘ compensation ’. My submission is that the compensation should be reasonable. I have brought to the notice of the House already that a sum of Rs. 250 is too much compensation and I have given ample reasons for my view. It is no use repeating those reasons again. Therefore, for the reasons already submitted by me, the compensation of Rs. 250 is too much and my amendment meets the ends of justice by fixing Rs. 50 compensation instead of Rs. 250.

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : The question is :

“ That in part (b) of clause 2 of the Bill, the words ‘ two hundred and ’ be omitted.”

The Honourable Mr. H. G. Haig : Sir, I, too, like my Honourable friend opposite, have given my reasons regarding this amendment. I have already explained that I personally should have preferred the matter to be left to the discretion of the High Court without any sum at all being specified, but if any sum is to be specified, and I was perfectly prepared to meet my Honourable friends opposite, I think Rs. 250 is a very reasonable sum, and I submit we should not further limit the discretion of the High Court.

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : The question is :

“ That in part (b) of clause 2 of the Bill, the words ‘ two hundred and ’ be omitted.”

The motion was negatived.

Mr. T. N. Ramakrishna Reddi : Sir, I move :

“ That in part (b) of clause 2 of the Bill, for the words ‘ two hundred and fifty ’, the words ‘ one hundred ’ be substituted.”

Sir, we have accepted the principle that an accused should be entitled to apply for a transfer and that he should be given one compulsory adjournment. You have also accepted the principle that you must enable him to do it. My submission is, you should not scare him away from making the application for transfer by fixing a very high compensation in case he does not put in an application. As has already been pointed out, it is from this point of view that he apprehends danger. Supposing he goes to the High Court and consults eminent lawyers. They might tell him that the allegations made by the accused are not enough for a transfer and they might advise him to go back.

The Honourable Mr. H. G. Haig : On a point of order, Sir. I think my Honourable friend is arguing an amendment other than the one which he has moved. His amendment refers exactly to the same point as that which has been disposed of in connection with Mr. Lalchand Navalrai's amendment.

Mr. T. N. Ramakrishna Reddi : My point is that though the compensation must be sufficient as to prevent all frivolous applications, yet it must not be too high as to scare away parties. That is why I submit a sum of Rs. 100 is the proper compensation. The previous amendment of my Honourable friend, Mr. Lalchand Navalrai, was for fixing the compensation at Rs. 50. My amendment would meet the ends of justice by fixing it at Rs. 100. Now that the word 'costs' has been changed into 'compensation', if it is only cost, the High Court will award him the costs which may not come up to much, but if it is compensation, it might go to any amount, even to Rs. 250. Specially in ordinary cases, it is only poor people who are accused, and, I submit, the amount should not be so high as to scare away even *bona fide* applicants from submitting their application for transfer. I submit Rs. 100 is quite enough.

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : Amendment moved :

"That in part (b) of clause 2 of the Bill, for the words 'two hundred and fifty', the words 'one hundred' be substituted."

Rao Bahadur B. L. Patil : Sir, there is a similar amendment standing in my name and, instead of moving that over again, I rise to offer a few comments on the amendment moved by my Honourable friend, Mr. Reddi. My chief reason for seeking to fix a maximum of Rs. 100 is that when we fix a maximum, we indicate the general standard to be adopted. Let me for example draw the attention of Honourable Members to the provisions of the Penal Code where maximum punishments are provided. And, in every case, the magistrate or the court can inflict the least possible punishment under that maximum. So also, in this case, if we once fix the maximum, the magistrate or the court and specially the High Court can adopt its own standard. Sir, in a case where seven years' rigorous imprisonment is provided, no court will ever give a punishment of seven days. Therefore, we should fix a maximum simply to provide a standard. Also, as Mr. Reddi said, we must consider this question from the point of view of the generality of cases that arise. Perhaps Government have in their mind the important political cases that have cropped up, cases in which they feel very much embarrassed and have to spend lot of money. But I am supporting this amendment from the point of view of common-place cases and of the common people whose ability to pay must be considered. Therefore, I beg to submit that it would not be just or proper on the part of this Legislature to fix the amount at Rs. 250. Government say that the High Court will judge each case on its merits, but if we once fix the maximum the High Court will exercise its power and its decision or order will be very hard upon the poor litigants. Then, Sir, what is the tendency of the High Courts ? Their tendency is to reject such applications. I have already submitted, at the consideration stage of the Bill, that we must take into consideration what the accused sincerely thinks about his case. A litigant is not expected to know the grounds on which these applications are moved and we do not expect him to know the law on the

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subject and the tendency and practice of the High Courts. We must judge this point solely from the point of view of an accused person who thinks that he would not get justice at the hands of a particular trying magistrate. It is enough for us that there is a genuine and *bona fide* feeling in his mind. From various decisions that we read in the commentaries of the Criminal Procedure Code we find that on similar facts different Judges have come to conclusions altogether contradictory. From that we can see that all Judges may not think in the same way. Therefore, when we are fixing a maximum, we must always take it that we are fixing a standard. In the interest of the general public, the maximum should not be more than Rs. 100 ; so I support the amendment.

Sardar Sant Singh : Sir, I support this amendment and my reasons for doing so are these. In cases of transfer, it is

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sometimes, more often than not, very difficult for the person who feels himself aggrieved by the conduct of the magistrate to judicially prove the allegations that he chooses to bring against the magistrate's conduct of the case. And it often happens that the accused, knowing full well that the magistrate has certain reasons to be biased against him, is forced to make certain allegations against the magistrate. I have experience of about a quarter of a century in the trial courts and I know it that in the Punjab,—and I say it with great pain,—the majority of magistrates are neither judicially minded nor honest. Now that the Government are interfering with a valuable right of the accused, they certainly have another duty to perform as well. I mean, to do something to maintain the integrity of the magistrates and to keep pure the fountain of justice. So far the Government have not decided to separate judicial from executive functions. The combination of these two functions in one magistrate has produced a curious result. Those magistrates who are honest will not accept any gratification in the shape of money or presents, but still it is a fact to be noted with great pain that even the most honest and conscientious magistrates find themselves unable to resist the influence and interference of the police and the executive in their judicial work. Thus a sort of comradeship has come to be established between the police and the judiciary. The District Magistrate in 99 per cent. of the cases tries to maintain the dignity of the magistrate and the police. He is always alert to find some excuse to reject the applications. These are facts which are unfortunately too true and nobody can get away from them. In these circumstances, to grant power to the authority to inflict compensation to the amount of Rs. 250 will be a hardship. Then there is one thing more. This power to grant compensation has not been given to the District Magistrate in case an application is made to him alone. If that is so, then I think this rule of granting compensation of Rs. 250 in cases of vexatious and frivolous complaints will not apply when the application is made to the District Magistrate.

The Honourable Sir Brojendra Mitter : That is so.

Sardar Sant Singh : In that case, there is some security and the rule applies only when applications are made to the High Court. But there is another objection. Throughout the Criminal Procedure Code, you will find that there is no provision to grant compensation beyond a limit of Rs. 100. The relevant section is section 250 in the case of bringing a false charge against any person. In those cases, the magistrates have power to grant

compensation, but the power is limited to Rs. 100 only. Then, again, in cases under section 488, the limit is fixed at Rs. 100. There does not seem to be any reason why the limit should be Rs. 250 in the case of making frivolous application. If you charge a man falsely and thus probably ruin his career and his business and practically inflict social death on him, you are only to pay compensation to the extent of Rs. 100. But if you make a frivolous application for a transfer of your case, you are to pay a fine of Rs. 250. There does not seem to be any logic in this arbitrary limit. Then, again, Sir, the object of the law should be that it should not be vindictive. It should appear to be fair and just to everyone. Therefore, I support this amendment with all my heart and I will urge upon the House to accept it.

Khan Bahadur Malik Allah Baksh Khan Tiwana (Punjab : Nominated Official) : Sir, I had no idea of speaking on this amendment, but when I heard the most sweeping remarks of my Honourable friend against the magistracy of the Punjab, to which body I am proud to belong, I could not remain quiet.....

Sardar Sant Singh : There may be exceptions.

Khan Bahadur Malik Allah Baksh Khan Tiwana :and I repudiate most strongly the statement of my Honourable friend. The magistracy of the Punjab is working under the present British Law for nearly over seventy years. My friend should have produced, when he was passing such remarks against the majority of the magistrates, enough examples and instances to justify his statement. But not a single instance has been quoted.

Sardar Sant Singh : With your permission, may I remind him to read the evidence of Mr. Emerson before the Simon Commission ?

Dr. Ziauddin Ahmad : He is making his maiden speech and should not be interrupted.

Sardar Sant Singh : I am only pointing it out to him.

Khan Bahadur Malik Allah Baksh Khan Tiwana : The other point is this that so far as I know, neither the High Court nor the public have ever made such sweeping remarks against the Punjab magistracy. I have never read any document of Government saying that the majority of the magistracy of the Punjab was dishonest, nor would the statement made by my Honourable friend be justified by perusing the Punjab record. But I do not think that was the point at issue in this amendment. If my Honourable friend thinks that the majority of the magistracy of the Punjab is dishonest, then what would be the good for him in taking a case from one court to another ? (Laughter.)

Sardar Sant Singh : There I agree.

Khan Bahadur Malik Allah Baksh Khan Tiwana : I do not attach much importance to the opinion of the Honourable Member, whom I do not take as a judge of the magistrates. We are to be judged by our own acts and by our own superiors. As far as this amendment is concerned, I do not think the honesty or dishonesty of the magistracy makes much difference according to the statement of my Honourable friend. I oppose the amendment.

The Honourable Mr. H. G. Haig : Sir, I am glad that my Honourable friend, Malik Allah Baksh Khan Tiwana, has saved me from the trouble of dealing at any length with the sweeping and, in my opinion, entirely unreasonable charge that Sardar Sant Singh has brought against a very fine body of Government servants. I would only say that this condemnation of a class carries with it its own refutation.

Coming to the merits of the amendment, I was a little disappointed, I confess, when the Honourable Member, Rao Bahadur Patil, made some complaint that by inserting these words "two hundred and fifty rupees" we were setting a certain standard which was an undesirable thing to do. I have already explained to the House that, so far as I am concerned, I would far rather have had no maximum limit at all and left the matter entirely to the discretion of the High Court. But, in order to meet, as I thought, the views of my Honourable friend opposite, I agreed to having a limit placed on the powers of the High Court in this matter ; and I would suggest that the limit which we fixed upon was a very reasonable one. Mention has been made of the fact that, under section 250 of the Criminal Procedure Code, a lower limit is fixed for frivolous and vexatious cases which are brought in magistrates' courts. To that, my answer would be two-fold. In the first place, we are here dealing, not with the discretion of magistrates, but with the discretion of High Courts, and I should have supposed that the discretion of High Courts might have been rated at least at 150 rupees above the discretion of magistrates. In the second place, we have to consider what happens if there is a really frivolous and vexatious application for transfer. The whole proceedings are held up for perhaps three or four weeks ; the other side is put to great inconvenience and expense ; they have engaged counsel, they have to pay for them without obtaining their services ; their witnesses are present ; they have to be sent back and resummoned. It is a very serious interference with the proper course of justice and is likely to cause very considerable loss to the other party.

Rao Bahadur B. L. Patil : To meet this, there is section 344 ; the magistrate can lay down any conditions before granting an application under section 344.

The Honourable Mr. H. G. Haig : I did not quite follow the reference to section 344. Under that, the magistrate always has discretion if he thinks it is a proper case to adjourn. Finally, it seemed to me that, in arguing on this amendment, there was a tendency to suppose that any application which was rejected by the High Court would be held by the High Court to be frivolous and vexatious and that compensation would be awarded. I do not think there is any justification for such a view. If an applicant has really reasonable grounds for going to the High Court, he can go to the High Court with perfect confidence that these powers will not be used against him, though he fails. It is only if there are no reasonable grounds, when the application is manifestly frivolous, that the High Court will use these powers and I maintain that it is most important that the High Court should have them.

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : The question is :

"That in part (b) of clause 2 of the Bill, for the words 'two hundred and fifty', the words 'one hundred' be substituted."

The motion was negatived.

Mr. T. N. Ramakrishna Reddi : Sir, I move the amendment which stands in my name :

“ That in part (c) of clause 2 of the Bill, in the proposed sub-section (s), for the words ‘ If in any inquiry under Chapter VIII or Chapter XVIII or in any trial,’ the words ‘ If in any inquiry or trial,’ be substituted.”

Under the existing law, the operation of this section is not restricted to these two Chapters alone. It says : “ If in any inquiry or trial ”. Under the old law, as it stood before 1923, there was a difference of opinion on account of the use of the word ‘ criminal ’ before the word ‘ trial ’, whether cases under Chapter XII could come under the operation of this section, namely, security proceedings and possession cases. That has been set at rest by removing the word ‘ criminal ’ in the Code of 1923, thus bringing all the cases arising under the Code under the operation of this section. There is absolutely no justification for restricting the scope now by conferring the operation only to Chapters VIII and XVIII. For instance, Chapter X of the Code deals with public nuisances, Chapter XII deals with disputes with regard to immoveable properties, and Chapter XXXVIII deals with maintenance cases. Magistrates, who try cases under Chapter VIII or XVIII, are the same magistrates and the clients are also the same. Such being the case, I do not think there is any justification for excluding these Chapters from the purview.....

The Honourable Sir C. P. Ramaswami Aiyar (Member for Commerce and Railways) : Will my Honourable friend realise that he is really protesting against what is really a very wide scope for action ?

Mr. T. N. Ramakrishna Reddi : I do not know how my amendment would curtail the rights now given. What I want is that all the Chapters should come under the operation of this section.

With regard to disputes relating to immoveable property, that is a very important Chapter, because, as my Honourable friend, Rao Bahadur Sri Hari Rao Naydu, pointed out, it involves questions of immoveable properties of very great value. Zemindaris might come under inquiry, and it may be that one party may be very poor, while the other party might be very rich. Under that Chapter, the court will inquire as to who was in possession of the property in regard to these disputes relating to these immoveable properties at the time of inquiry. It is very likely, and it very often happens, Sir, that rich people will very easily oust the poor from their possession by force and then the poor people have to resort to criminal courts. It is a section which is intended for the poor people who are to establish their claim as against the rich people, because if the poor people are driven to civil courts, they have to spend a lot of money by way of stamp duties and other things, which they are not able to pay. Thus, by excluding this section, the poor man has to suffer.

Then, Sir, with regard to maintenance cases which Chapter XXXVIII deals with, I know of instances where the magistrates have taken a perverse view and granted maintenance to wives and illegitimate children. The other party has absolutely no choice, as they have to submit to the decision of the court. Sir, there are not very good grounds urged by the Government for the exclusion of this Chapter. Further, Sir, it has been held by the various High Courts that cases under the Legal Practitioners’ Act and

[Mr. T. N. Ramakrishna Reddi.]

Workmen's Breach of Contract Act have also been brought under the purview of this section. By restricting the operation of section 526 only to these chapters, all these rights will be taken away. Therefore, I submit that this amendment of mine ought to be accepted, because it enables any inquiry and trial to be brought under the operation of this section.

The Honourable Sir Brojendra Mitter : Sir, I am afraid I must oppose this amendment. My Honourable friend's objection is that the scope of this section is too limited and he wants to expand the scope of the section by bringing within its pale all inquiries and all trials. So far as trials are concerned, all trials are already included in this section. Therefore, his grievance is limited to inquiries. He says that an inquiry under section 145 ought to be within the scope of this section. I shall submit to the House the reasons why 145 ought not to be included in this section. Section 145 applies where there is a likelihood of a breach of the peace on account of disputes over land. A magistrate makes an order keeping the party in possession who was lately in possession of the property, but it is always subject to the rights of the parties being determined by a civil court. It is a temporary order for the purpose of maintaining peace by maintaining the *status quo*. That is the purport of section 145, and the House will readily realise how necessary it is that an inquiry under section 145 should not be interrupted in any way, because the whole object of that section is to prevent a breach of the peace. In order to prevent a breach of the peace the magistrate holds rough and ready inquiry, he does not go into the titles of the people, but he merely makes a rough and ready inquiry as to possession, and he has to come to a decision as to who was recently in possession of the land and who was disturbing it. In any proceeding like that, speed is of the utmost importance in the interests of the public peace, and therefore, that is particularly a section which ought to be excluded from the scope of a provision which enables a party to secure a compulsory adjournment. Sir, one of the objects of legislation is to set at rest conflicts of judicial decisions, and my learned friend Mr. Reddi knows very well that several High Courts hold under the existing law that 145 does come within the scope of 526, while other High Courts hold the contrary view. Now, it is in order to set that conflict at rest that we want to make it perfectly clear that a proceeding under section 145 ought not to be interrupted at the sweet will and pleasure of a party to the proceeding.

The next illustration he gave was an inquiry under the maintenance chapter. Now, Sir, here again, we know that it is poor women who have been ill-treated by their husbands who go to a magistrate for maintenance. Why? Because the poor woman or the poor child is starving. Would you give the offending husband a right to hold up the proceedings for an indefinite period so that these poor women and poor children may go on starving? That is one of the things in which a speedy trial is necessary and one of the things in which the ultimate remedy is to be found in the civil courts. We have excluded from the scope of section 526 all such temporary and speedy measures which are necessary for immediate relief, but in which the ultimate relief can be given only by the civil courts. The maintenance chapter comes within that category as section 145. Then my Honourable and learned friend referred to two Acts,—the Legal Practitioners' Act and the Workmen's Breach of Contract Act. Now, Sir,

probably my Honourable and learned friend has forgotten that the Workmen's Breach of Contract Act was repealed 7 years ago. It is no longer on the Statute-book. In 1925 that Act was repealed. There is no penal law now except a few sections here and there in the Penal Code punishing breaches of contract. Therefore, that illustration is inapt. The last is the Legal Practitioners' Act. Here again, I will remind the House that the High Courts are divided in their opinion as to whether a proceeding under the Legal Practitioners' Act comes within the scope of section 526 as it stands. Some of the High Courts say yes, while others say no, and in order to set that conflict at rest we have provided that it is not to come within section 526. After all, as my Honourable and learned friend is well aware, under the Legal Practitioners' Act the final order is always made by the High Court upon a report made by the subordinate court. The subordinate courts have got nothing to do except to make a report and in most cases under the Legal Practitioners' Act it is all affidavits. Therefore, no hardship can ever occur by reason of a proceeding under the Legal Practitioners' Act being held by a subordinate court when that subordinate court acts more or less as a post office in forwarding to the High Court the materials which it collects. It is unnecessary that under the Legal Practitioners' Act the proceedings should at all be stayed at the instance of a party to the proceedings. These are all the illustrations he gave. I hope I have convinced the House that those illustrations are singularly unhappy illustrations. One of the object of legislation is to make the law clear, definite and unequivocal and to set at rest conflicts of judicial decisions. There is another objection to bringing in either the Legal Practitioners' Act or any other special Act within the scope of section 526. It is this. All these special Acts provide a special procedure for their proceedings. Now, it is very difficult, and it is extremely confusing to dovetail the special procedures of these special Acts into the procedure of the Criminal Procedure Code. Therefore it is desirable in the interest of definiteness, in the interest of certainty, that such special procedures should be left separate from the procedure of the Criminal Procedure Code. We have thought that the only cases in which possible hardship may occur are cases which come under Chapter VIII and Chapter XVIII. We have provided for those. It removes all ambiguity, and it sets at rest the conflicts of judicial decisions. I hope the House will unanimously approve of the provisions in the Bill.

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : The question that I have to put is :

"That in part (c) of clause 2 of the Bill, in the proposed sub-section (g), for the words 'If in any inquiry under Chapter VIII or Chapter XVIII or in any trial,' the words 'If in any inquiry or trial,' be substituted."

The motion was negatived.

Rao Bahadur B. L. Patil : I beg to move :

"That in part (c) of clause 2 of the Bill, in the proposed sub-section (g), the words 'under Chapter VIII or Chapter XVIII,' be omitted."

I think it is my unfortunate lot to move this amendment which has already been rejected by the House when moved by my Honourable friend, Mr. Reddi. Instead of repeating what my Honourable friend has said, I should like to reply to the arguments advanced by the Honourable the Law Member. It appears that the first objection to this amendment is that these proceedings are in the nature of civil proceedings and they

[Rao Bahadur B. L. Patil.]

have a separate place in the Criminal Procedure Code as distinct from trials and inquiries. We know that there are provisions under the Civil Procedure Code for transfer and, I ask the Honourable the Law Member, why there should not be similar provisions when there are proceedings or inquiries under the Criminal Procedure Code. In the next place, the Honourable the Law Member submitted that this clause restricts itself to two Chapters of the Code in order to set at rest the conflicting decisions of the several High Courts. I submit that the opinion of the various High Courts is not unanimous, and I make myself bold to say that the opinions are rather in favour of my amendment. The trend of decisions is in my favour. Then, Sir, I take my stand on this. Whenever there is a possibility of an order being passed under the Criminal Procedure Code and the disobedience of which is likely to entail some punishment upon the person who breaks it, I submit that he should be given as much right as an accused person, because, as my Honourable friend has submitted, in the generality of cases they are poor people, and the interests of those people require that justice should be done. I submit that my amendment is a very modest one, and I do not know why Government is so adamant in this respect. I hope that the House and the Government will accept my amendment.

The Honourable Sir Brojendra Mitter : I oppose this amendment. It is substantially the same as the previous amendment, although in strict letter it may not be so. In addition to what I have submitted already, I ought to remind the House that those proceedings which we have excluded are proceedings in which a speedy decision by court in the interest of public peace is necessary. But if any party to those proceedings be really prejudiced, the High Court is always open, as I have already submitted, under the Charter Act, under the Letters Patent, under the Government of India Act, to apply for a transfer. The doors of the High Court are very wide and they are always open.

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : The question is :

“ That in part (c) of clause 2 of the Bill, in the proposed sub-section (g), the words ‘ under Chapter VIII or Chapter XVIII, ’ be omitted.”

The motion was negatived.

***Mr. S. G. Jog :** We have reached the ninth amendment and we are practically at the fag end of the day. The discussion has ranged over the question about the merits and demerits of the magistracy in India and the broad question about the separation of judicial and executive. I for one must resist the temptation on this point to pass any remarks upon the merits and demerits of the general magistracy in India or the broad question about the judicial and the executive. I will leave that point for some future occasion to discuss at great length but, at the same time, we must know that in India there are different classes of magistrates. We have the Presidency Magistrates, magistrates of the first class, second class and third class, and I doubt whether a fourth class is to be brought about. We have to deal with all these classes of magistrates. You are already aware of the education of some of these magistrates and what their vagaries are. We have to frame our laws to suit the nature of their

*Speech not revised by the Honourable Member.

education, their temperament, their whims and, sometimes, their vagaries also. If you look at this measure from this point of view, I think you will accept my amendment.

Another thing I would like the House to bear in mind is this. Some time in your life, some of you will have to be complainants. Some time some of us will have to be accused. I make no exception of the Treasury Benches also. I should like you to put yourselves in that predicament. If any magistrate shows any bias or does not give you proper facilities and, if, in your mind, you think that you will not have a fair trial and have justice done to you, you can imagine what your predicament will be. If you look at this measure from that point of view and that point of view alone, you should try to give all sorts of facilities to an accused person or the party interested as soon as he gets the idea that he will not have a fair trial. In the Select Committee, you have agreed to the demand of my esteemed friend, Mr. Puri, to grant one compulsory adjournment to the accused, but all the grace of granting that concession has been taken away by the safeguards or restrictions or, I should go further and say, the impediments you are putting or the fetters that you are putting on that power or right given to the accused. We have already conceded that the party interested is given, as a matter of right, one adjournment, but, at the same time, you say that he should be called upon to give security and that he should do this and that and the object seems to be, as was pointed out by my Honourable friend, Mr. Lalchand Navalrai, to give with one hand and take away with the other. The accused, as soon as he finds that he is called upon to execute a bond, will treat it as a sort of pressure and this measure will act as a deterrent for him and, in order to avoid this trouble, he will have to submit himself to the vagaries of the magistrate. I am open to correction, but it seems to me that, from the wording of the section, it gives discretion to the magistrate even in the matter of security, whether he should take it or not. If the Honourable the Law Member agrees with my view, much of my doubts will be cleared. The wording, as it is, is like this :

“ That he intends to make an application under this section, the Court shall, upon his executing, if so required.”

Now, the words “ if so required ” give discretion to the magistrate to dispense with security. In some cases he may find that the security is not essential. If the wording, as I interpret it, gives the magistrate discretion, whether to take the security or not, I for one will be satisfied and will not propose my amendment, but if the wording means that the magistrate must insist upon the security, but the only discretion is in the matter of taking surety or not.....

The Honourable Mr. H. G. Haig : May I clear this point at once ? The section gives complete discretion to the magistrate either to take the bond or not to take the bond and, therefore, I hope my Honourable friend will withdraw his amendment.

Mr. S. G. Jog : I feel quite satisfied. The wording left some doubt in my mind, but, with the assurance that the Honourable the Home Member has given, I do not wish to press my amendment.

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : The Honourable Member has made his speech and now says that he does not wish to move his amendment. The difficulty in the matter arises from the fact that Mr. Lalchand Navalrai has an identical amendment on the Order Paper and I understand that he wishes to move it. In the circumstances the Honourable Member will please formally move his amendment so that

[Mr. President.]

the Honourable Member Mr. Navalrai may have an opportunity of addressing the House.

Mr. S. G. Jog : Sir, I formally move my amendment which runs thus :

“ That in part (c) of clause 2 of the Bill, in the proposed sub-section (g) the words and commas ‘ upon his executing, if so required, a bond without sureties, of an amount not exceeding two hundred rupees, that he will make such application within a reasonable time to be fixed by the Court ’ be omitted.”

Mr. Lalchand Navalrai : It is not easy, Mr. President, for me to be led away (Laughter) by the assurance that has been given, which had in fact been already clear to me. The words “ if required ” are clear enough that there was a discretion to the magistrate to take the surety or not. Sir, I unlike my Honourable friend who said that he had unfortunately to move his amendment, I feel, on the contrary, fortunate to have the privilege of expressing my own views in support of my amendment. Sir, in expressing my views in support of my amendment, my humble submission is that though I shall not repeat the reasons which I have already given, I must remind the House that I want to place some concrete illustrations where hardship will ensue if this clause remains. I ask the House to judge for themselves if the reply that they got from the Honourable the Law Member was at all convincing. Sir, with all the respect I have for him, I must say, I got disappointed with the replies. (Ironical Cheers.) Sir, take the case of those applicants who having got time honestly, for good grounds, think not unnecessary to make an application for transfer ; now, if they come back to the magistrate, they will lose Rs. 200. I do not at all think, Sir, that the reply of the Honourable the Law Member was convincing, and, therefore, this argument remains unanswered. Sir, supposing that after the adjournment is granted, the case is transferred from that magistrate by the authorities, or it is withdrawn and no application is made by the accused, then, too, the accused loses Rs. 200. Therefore, Sir, I submit that to put in a clause like this is like giving something with one hand and taking that away with another. I think those who agreed amongst themselves in Select Committee with regard to the incorporation of this clause were, I would say with great respect to them, under a great misapprehension. Sir, I would, therefore, submit that this amendment which has been placed is substantial.

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : Are you supporting or opposing the amendment ?

Mr. Lalchand Navalrai : I am supporting the amendment, Sir. And, Sir, having regard to the spirit of this amendment, I must say that it would be really good grace on the part of the Government if they once at least abandoned their persistence. Sir, look at the amendments on the List and not even one has been accepted (Laughter) ! I would therefore submit that once at least the Government should yield and accept this motion.

The Honourable Mr. H. G. Haig : Sir, I feel very reluctant not to be able to meet the appeal *ad misericordiam* which has just come from my Honourable friend, Mr. Lalchand Navalrai. But this is really a matter of important principle. (Mr. N. M. Joshi : “ Of religion ! ”) Sir, we have given to every accused person the right, by merely notifying his intention of making an application to the High Court, to hold up the proceedings at any time ; and, in giving that right, we must take certain elementary precautions that it is not abused. Now, this provision for a bond is such an elementary precaution ; and I would urge, Sir, that it is perfectly fair

to the accused. The accused loses nothing ; he stands to lose nothing, if, in fact, he intends to do what he has declared his intention of doing, and if he takes the action on the basis of which he has suspended the proceedings of the case. My Honourable friend, Mr. Lalchand Navalrai, gave certain hard cases in which he thought that the accused might be unfairly prejudiced. They have all been dealt with by my Honourable colleague, the Law Member, and I do not think it is necessary for me to repeat his answers. But I would just refer to one case mentioned by Mr. Lalchand Navalrai. He said that the accused might have had a genuine intention of moving the Court when he made the application and, later on, he might change his mind. Well, Sir, I submit that this procedure of moving the High Court, of declaring an intention of moving the High Court, is a serious matter. It is not a thing to be undertaken lightheartedly ; it is not a thing on which one would have one opinion one day, and a different opinion the next day. There must be really serious grounds of apprehension that he will not get a fair trial. Why, I ask, should those grounds of apprehension disappear the next day ? I submit that is not really a probable case. I would, therefore, urge the House to oppose this amendment.

The motion was negatived.

Mr. T. N. Ramakrishna Reddi : Sir, I move the amendment (*Cries of "Withdraw, Withdraw."*) which stands in my name, namely :

"That in part (c) of clause 2 of the Bill, in the proposed sub-section (g), for the words 'two hundred' the words 'one hundred' be substituted."

Sir, I am very much beholden to the Honourable the Home Member for having in advance drawn a distinction between the previous amendment referring to the discretionary powers of the High Court and the present amendment referring to the discretionary powers of the magistrate. Further on, he said in connection with the previous amendment, that the opposite party had to be put to great expense in going up to the High Court and in engaging counsel and such like serious hardships. In this amendment, Sir, there is absolutely no such trouble involved. A person who wants a transfer has to execute a bond. The other party does not suffer anything. As the Honourable the Law Member pointed out, he has simply to wait for some time ; he does not suffer any pecuniary loss. So the distinction has already been drawn by the Honourable the Home Member and, I am sure, the House can accept this amendment. Now, Sir, you have fixed the amount at Rs. 200. My submission is that it is a very high amount, judging from the nature of the parties who usually take resort to these proceedings. Further, Sir, in order to avoid any frivolous applications, you have already restricted by giving only one chance to the party to make an application. And the party is not likely to lose the one chance that is given to him and so will not rush to the Court to apply for the transfer on any trivial grounds. Sir, we have thus already got a check on frivolous applications. Now, after accepting the principle and after allowing the accused to make one application which would fetch him one compulsory adjournment, it is hard that you should fix this amount at such a high figure. So, it is in the interests of justice that this figure should be put at a lower figure of Rs. 100. Then, Sir, in the amended Bill the provision which enables magistrates to award costs for any adjournment has been retained, which was not in the original Bill. The Explanation runs thus :

"Nothing contained in sub-section (g) or sub-section (9) restricts the powers of a Court under section 344."

[Mr. T. N. Ramakrishna Reddi.]

So there is always the power, and that power has been retained to the magistrate, who can award costs of re-adournment for any reasonable cause. If the accused makes a frivolous application for transfer, then the magistrate is entitled, under section 344, to award costs. This is an additional burden and, having imposed that burden, you should not fix the amount for the bond at too high a figure. Further, Sir, you have seen that this section 526 has enabled the parties to go to the High Court and ventilate their grievances against the magistrates. As my friend has pointed out, we have to deal with all grades of magistrates and in the lower grades you cannot expect that amount of honesty which you do find in the higher grades of magistrates. But you legislate for all the magistrates. Hitherto this section has enabled many persons to apply for transfers and to ventilate their grievances before the highest courts and we have seen really many instances in which the High Courts have passed strictures against the conduct of the magistrates of lower courts. By putting this sum at a high figure you are really taking away the salutary check that we had on the conduct of magistrates. So, I again submit that, although you must fix a sum which would prevent a frivolous application, you must also see that the same is not such as to scare away a *bona fide* applicant. I am sure, if the Honourable the Home Member adopts the same attitude as he did on another amendment, he will certainly accept this amendment. With these words, I move my amendment.

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : Amendment moved :

“ That in part (c) of clause 2 of the Bill, in the proposed sub-section (2), for the words ‘ two hundred ’ the words ‘ one hundred ’ be substituted.”

The Honourable Mr. H. G. Haig : Sir, the Honourable Member has

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already drawn the distinction between the bond, which is the subject of this amendment, and the compensation that may be awarded by the High Court. In the one case, the party actually has to pay a certain sum in compensation, and, in the other case, it is merely a precaution that he is a *bona fide* applicant who will be required to execute a bond which, if he does what he intends to do, will not be forfeited. The whole point in this amendment is whether in fixing a maximum of Rs. 200 we are fixing an excessive sum. I submit, that is clearly not the case. There might very well be many cases in which an accused person wishing to obtain an adjournment for three weeks or a month would be very glad indeed to pay Rs. 100, to enter into a bond without having the slightest intention of carrying it out. So the sum of Rs. 200, that we have put down, is absolutely the smallest sum that we can fix as a maximum.

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : The question is :

“ That in part (c) of clause 2 of the Bill, in the proposed sub-section (2), for the words ‘ two hundred ’ the words ‘ one hundred ’ be substituted.”

The motion was negatived.

The Assembly then adjourned till Eleven of the Clock on Tuesday, the 20th September, 1932.