

Tuesday, 27th September, 1932

THE

# LEGISLATIVE ASSEMBLY DEBATES

(Official Report)

Volume V, 1932

*(20th September to 30th September, 1932)*

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FOURTH SESSION

OF THE

FOURTH LEGISLATIVE ASSEMBLY, 1932



NEW DELHI  
GOVERNMENT OF INDIA PRESS  
1933

# Legislative Assembly.

## *President :*

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 :*

SIR HARI SINGH GOUR, Kt., M.L.A.

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.

*Tuesday, 27th September, 1932.*

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

## UNSTARRED QUESTIONS AND ANSWERS.

### COST OF CONSTRUCTION, ETC., OF THE RAILWAY LINE BETWEEN MADURA AND DHANUSHKODI.

58. **Mr. R. T. H. Mackenzie** : Will Government be pleased to state the following :

- (a) the capital cost of construction of the line between Madura and Dhanushkodi including all bridges, etc., and the cost of the pier at Dhanushkodi ;
- (b) the capital cost of the original ferry boats, their number, when purchased and when discarded, also amounts, if any, realised by the sale thereof ; capital cost of new ferry boats and their number ;
- (c) amount spent in maintenance and upkeep of the line between Madura and Dhanushkodi for the last six financial years including all amounts expended to prevent, or as a result of, drifting sand, and also including all expenditure as a result of flood damage ; and
- (d) the traffic carried and the amount earned by :
  - (i) the section of line between Madura and Dhanushkodi ; and
  - (ii) the section between Madura and Tuticorin during the past six years ?

**Mr. P. R. Rau** : I have called for whatever information is readily available, and shall lay a statement on the table in due course.

### PURCHASE OF COAL FOR RAILWAYS.

59. **Mr. K. C. Neogy** : (a) Is it a fact that during the last war a large quantity of second class coal, both from the RaneeGUNJ and Jharia coalfields, was used by the different Indian Railways and the Government departments ?

(b) Is it a fact that the use of second class coal during these years did not result in an increased tonnage in consumption ? If the reply be in the negative, will Government state what was the extent of increased tonnage ?

(c) Are Government aware of the favourable rates at which second class coal is now available for purchase, and are Government prepared to issue instructions to all Government purchasing authorities to purchase in future this class of coal in larger quantities than is being done at present ?

(d) Is it a fact that coal from State Railway Giridih Colliery is not only used in mails but also in passenger and goods services ?

(e) Are Government aware that coal suitable for passenger and goods trains is available from the market at a much cheaper rate than the cost of the Giridih coal ?

(f) Are Government prepared to issue instructions to the railways concerned not to use Giridih coal for passenger and goods services and to purchase the requirements for these services from the market ?

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

(b) The coal consumption of locomotives fluctuates with the traffic carried. I place on the table a statement showing the coal consumption per 1,000 gross ton miles for the Eastern Bengal, East Indian, Oudh and Rohilkhand, Great Indian Peninsula and North Western Railways for the individual years 1913-14 to 1921-22 together with coal consumption during 1930-31. It would be seen from these statistics that a rise in coal consumption per thousand ton miles took place on these railways towards the latter part and immediately after the war period. It is not possible to gauge accurately to what extent the increased use of second class coal contributed towards this increase in consumption.

(c) Government are aware that second class coal can be bought cheaper and in determining what amounts of various sorts of coal should be purchased they always pay attention to this factor.

(d), (e) and (f). The production of coal from the Giridih Collieries has been reduced as far as practicable. In order to utilise the total production as economically as possible Giridih coal is used for mail and passenger services but not for goods services. It is understood that for passenger services similar coal at cheaper rate can be obtained in the market.

*Statement of coal consumption for 1,000 gross ton miles for the years 1913-14 to 1921-22 and 1930-31.*

Years.	Railways.					
	Eastern Bengal.		E. I.	O. & R.	G. I. P.	N. W. 5' 6" gauge.
	5' 6" gauge.	3' 3½" gauge.				
1913-14 ..	223.5	267.4	141.0	200.5	222.5	183.2
1914-15 ..	225.2	268.3	137.6	203.5	225.2	187.4
1915-16 ..	208.6	255.2	133.9	197.5	209.4	177.1
1916-17 ..	210.0	252.5	127.6	179.3	212.6	168.7
1917-18 ..	222.4	231.8	136.9	178.2	230.4	168.3
1918-19 ..	221.9	244.3	144.5	170.4	236.0	186.9
1919-20 ..	222.7	*	148.6	197.7	252.2	213.6
1920-21 ..	231.5	237.1	147.2	198.7	248.5	232.3
1921-22 ..	261.2	214.9	163.8	240.5	266.7	218.8
1930-31 } Passenger	180.6	191.0	161.6	Included under E. I. Rail- way.	174.2	160.2
1930-31 } Goods	116.1	144.1	109.8	Do.	164.2	134.2

\* Information not available.

**REPORT OF MR. W. E. SMITH ON THE SCHEME OF ASSISTANCE TOWARDS THE EDUCATION OF THE CHILDREN OF RAILWAY EMPLOYEES.**

**60. Mr. K. C. Neogy :** (a) Has Mr. W. E. Smith, I.E.S., Officer on Special duty with the Railway Board, submitted his report on the scheme of assistance towards the education of Railway employees' children? If so, what are his proposals as regards (1) assistance to employees and (2) schools maintained by the State Railways?

(b) Has the report been published? If so, will Government be pleased to circulate it among the Members of the Assembly?

(c) If it has not been published, do Government propose to consider the desirability of publishing it at an early date?

(d) Have the Railway Board, on consideration of the materials supplied by the report, come to any decision as regards (1) educational assistance to employees and (2) schools maintained by the Railways? If so, what are the decisions?

(e) If the Railway Board have not come to any decision as yet, are they prepared to consider the desirability of consulting the Central Advisory Council for Railways and the All-India Federation of Railway-men's Unions in the matter before formulating their decisions?

(f) Are Government prepared to consider the desirability of placing their decisions before the Central Advisory Council for Railways and the Legislative Assembly before giving effect to them?

**Mr. P. B. Rau :** (a), (b) and (c). Copies of the report have been placed in the Library of the House and I shall be pleased to supply copies to any Member interested.

(d) The report is still under examination by the Railway Board.

(e) and (f). The suggestions will be considered.

**EXPENDITURE ON THE EDUCATION OF THE CHILDREN OF EUROPEAN, ANGLO-INDIAN AND INDIAN EMPLOYEES OF STATE RAILWAYS.**

**61. Mr. K. C. Neogy :** Will Government be pleased to state what sums were spent by the State Railways during the year 1931-32 for the education of the children of (1) European and Anglo-Indian employees, and (2) Indian employees?

**Mr. P. B. Rau :** I have called for information and will lay a reply on the table in due course.

**EXPENDITURE BY THE EAST INDIAN RAILWAY ON CERTAIN RAILWAY SCHOOLS.**

**62. Mr. K. C. Neogy :** Will Government be pleased to state what sums were spent by the East Indian Railway during the year 1931-32 on

(1) the Oakgrove European School, (2) other Railway European Schools on the line and (3) the Indian schools maintained by the Railway ?

**Mr. P. B. Rau :** I have called for information and will lay a reply on the table in due course.

**AMOUNT SPENT BY THE EAST INDIAN RAILWAY ON THE EDUCATIONAL ASSISTANCE OF EUROPEAN, ANGLO-INDIAN AND INDIAN EMPLOYEES.**

**63. Mr. K. C. Neogy :** Will Government be pleased to state what sums were spent by the East Indian Railway during the year 1931-32 on the educational assistance of (1) European and Anglo-Indian employees, and (2) Indian employees ?

**Mr. P. B. Rau :** I have called for information and will lay a reply on the table in due course.

**TREATMENT OF THE EAST INDIAN RAILWAY SCHOOLS AS "OUTSIDERS" IN THE MATTER OF RENTS OF BUILDINGS, ETC.**

**64. Mr. K. C. Neogy :** (a) Is it a fact that in September, 1931, the Railway Board issued orders regarding the scale of rents and maintenance charges, etc., for lands and buildings let to outsiders or private firms and individuals ? If so, will Government be pleased to lay a copy of the circular on the table ?

(b) Is it a fact that the Railway schools maintained by the East Indian Railway have been treated as outsiders in the above respects in terms of the above circular ?

(c) In view of the fact that on the 12th September, 1929, in reply to a question by Pandit H. N. Kunzru, Sir George Rainy, the then Railway Member of the Government of India, declared that the schools maintained by the East Indian Railway are the property of the Railway and that, as the East Indian Railway belongs to Government, there cannot be any manner of doubt that these Railway schools are Government schools in that sense, and also in view of the facts that on the 1st February, 1928, in reply to a question by the same member, the teachers employed in the East Indian Railway schools were declared by the then Financial Commissioner of the Railway Board to be Government servants in the same sense and that in June, 1928, the Railway Board had also again declared the teachers in the East Indian Railway schools to be Railway servants, will Government please state why the schools are treated as outsiders in the matter of rents, maintenance charges, etc. ?

(d) Are Government prepared to look into the matter and issue necessary instructions to the Agent, East Indian Railway, to treat the schools in conformity with the above pronouncements ?

**Mr. P. B. Rau :** (a) Yes. A copy of the letter is placed on the table.

(b), (c) and (d). Certain information is being collected and a reply will be placed on the table in due course.

**GOVERNMENT OF INDIA.**  
**RAILWAY DEPARTMENT.**  
**(RAILWAY BOARD.)**

No. 3586-F.,

*Dated Simla, the 15th September, 1931.*

To

**THE AGENT,  
 EAST INDIAN RAILWAY,**

*Scale of rents for buildings let to outsiders.*

**DEAR SIR,**

With reference to your letter No. A. W.-2491, dated the 20th August, 1931, on the subject noted above, I am directed to say that the Railway Board are of opinion that where buildings are let to private firms and individuals, even though it is to the advantage of the railway staff in particular or in the interest of the Railway in general, rental should ordinarily be recovered at a rate that will not cause any loss to railway revenues, that is to say, it should be such as to cover interest charges on the total capital cost of the buildings inclusive of the cost of land and charges for depreciation and maintenance and repairs. There is of course no occasion for the railways to attempt to charge anything more than this and to make a profit in such cases.

Yours faithfully,

(Sd.) **BARKAT ALI,**

*Deputy Director of Finance, Railway Board.*

**D. A. :—Nil.**

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No. 3586-F., DATED 15TH SEPTEMBER, 1931.

Copy forwarded for information to the

1. Chief Accounts Officer, East Indian Railway.
2. Director of Railway Audit (in duplicate).

(Sd.) **BARKAT ALI,**

*for Financial Commissioner, Railways.*

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**COMMERCIAL DEPARTMENT OF THE GREAT INDIAN PENINSULA RAILWAY.**

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

- (a) whether on the Great Indian Peninsula Railway the Commercial Department is a separate Department ;
- (b) whether the officers and other subordinate staff of the Commercial Department are not interchangeable with those in the Transportation or any other department ;
- (c) whether there is any proposal under consideration for amalgamation of the Commercial and the Transportation Departments ; and
- (d) if so, whether Government have considered that amalgamation will not cause complications in the matter of promotions in service and tend to preferential treatment of officers employed in the Transportation Department ?

**Mr. P. R. Rau :** I have called for certain information and will lay a reply on the table in due course.

**REVISION OF THE CADRES OF THE SUPERIOR SERVICES ON THE STATE-MANAGED RAILWAYS.**

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

- (a) when the revision of the cadres of the superior services on the State-managed Railways was first taken in hand ;
- (b) when the revision was finally sanctioned ;
- (c) from what date the revised cadres came into force ;
- (d) what was the total number of administrative and non-administrative superior posts on the Great Indian Peninsula Railway in each of the following departments according to the sanctioned revised cadre : (i) Transportation (Traffic and Power), (ii) Commercial, (iii) Engineering, and (iv) Mechanical ;
- (e) whether the sanctioned revised cadre has been further modified or reduced since the date of its introduction ;
- (f) if so, what the present sanction is for administrative and non-administrative officers in each of these departments according to this further revised cadre ;
- (g) whether any permanent vacancies exist in this further revised cadre and, if so, how many in each of these departments ;
- (h) how many subordinates have been officiating in these permanent or leave vacancies and for what aggregate periods in each of these departments ; and
- (i) if permanent vacancies exist in the reduced cadre, what the reason is for not filling in permanent vacancies by subordinates officiating in the superior service pursuant to Sir Alan Parson's reply in 1928-1929 that confirmation of subordinates is dependent on permanent vacancies occurring ?

**Mr. P. B. Rau :** (a) The question was taken in hand in 1929.

(b) In March, 1931.

(c) From 1st March, 1931.

(d) The grouping so far followed in fixing the cadres on State-managed Railways is Transportation (Traffic) and Commercial, Transportation (Power) and Mechanical Engineering Departments and Civil Engineering Department and the total number of administrative and non-administrative superior posts on the Great Indian Peninsula Railway sanctioned in each of these in the cadre of March, 1931, was as under :

	Administra- tion.	Non-Adminis- tration.
Transportation (Traffic) and Commer- cial Departments .. ..	5	56
Transportation (Power) and Mechanical Engineering Departments ..	5	30
Civil Engineering Department ..	5	58

In addition to these superior posts, the cadres of these Departments included 7, 12 and 14 posts, respectively, in the Lower Gazetted Service.

(e) Yes, it has been reduced.

(f) The present sanctioned cadre is as under :

	Superior.		
	Adminis- tration.	Non-ad- ministra- tion.	Lower Gazetted Service.
Transportation (Traffic) and Com- mercial Departments ..	5	44	9
Transportation (Power) and Mechanical Engineering Depart- ments .. ..	4	27	9
Civil Engineering Department ..	4	44	17

Of these the number of posts placed temporarily in abeyance is Transportation (Traffic) and Commercial, 2 ; Transportation (Power) and Mechanical Engineering, 2 ; and Civil Engineering, 3.

(g) I would refer the Honourable Member to the reply laid on the table on the 14th September, 1932, to part (e) of his question No. 486, dated 23rd February, 1932.

(h) I have called for certain information and will lay a reply on the table in due course.

(i) The question is under consideration.

#### SUBORDINATES OFFICIATING IN THE SUPERIOR SERVICE OF THE GREAT INDIAN PENINSULA RAILWAY.

67. **Mr. N. M. Joshi** : Will Government be pleased to furnish a statement showing :

(a) the subordinates officiating in the superior service on 31st March, 1931, in each of the following departments of the Great Indian Peninsula Railway : (i) Transportation (Traffic and Power), (ii) Commercial, (iii) Engineering, and (iv) Mechanical ;

(b) their total length of officiating service ; and

(c) if any of them have been confirmed in permanent vacancies the dates on which they have been so confirmed ?

**Mr. P. B. Rau** : I have called for certain information and will lay a reply on the table in due course.

#### CONFIRMATION OF SUBORDINATES IN THE SUPERIOR SERVICES OF THE GREAT INDIAN PENINSULA RAILWAY.

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

(a) whether it is a fact that subordinates who were first selected to officiate in the superior service in 1922 and have continued to officiate to date have not so far been confirmed in permanent vacancies on the Great Indian Peninsula Railway, while those who followed them in 1926 and subsequent years have been so confirmed ;

- (b) if so, whether it is a fact that a subordinate who has passed the selection grade at the time of his promotion to officiate in the superior service and who has put in approved service whilst continuing to officiate, is required to submit to a further selection at the time of his confirmation in a permanent vacancy ;
- (c) whether it is a fact that there is a clear demarcating line between the junior scale and the lower gazetted service ;
- (d) whether confidential reports are annually submitted to the Agent on the working of each officer, be he permanent or officiating, and any adverse comment against any individual is required to be noted by him ;
- (e) whether subordinates whilst continuously officiating in the officers grade earn their annual increments in that grade ;
- (f) whether there have been any instances where the annual increments of subordinates officiating in the officer's grade have been stopped and, if so, whether they continue to officiate in that grade ;
- (g) whether the Railway Board have laid down any discriminating principles for deciding comparative merits and abilities of two individuals for the purpose of confirmation in permanent vacancies ;
- (h) if not, what are the tests applied to determine absolute equality between two individuals recommended for confirmation in one specific grade, i.e., junior scale or the lower gazetted service ; and
- (i) whether confirmation in the order of seniority is based on length of officiating service, especially when the individual concerned has earned annual increases regularly and there is no falling off in the standard of his work ?

**Mr. P. B. Rau :** (a), (b) and (i). Promotions of subordinates to officer's grades are made by selection and are not necessarily in order of length of officiating service.

(c) Yes.

(d) Yes : adverse comments in confidential reports are as a rule communicated to the officer concerned.

(e) Yes.

(f) Government have no information.

(g) and (h). No definite tests can be laid down : it is a matter for the discretion and judgment of the authority making the selection.

#### RATES AND CLAIMS WORK ON INDIAN RAILWAYS.

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

- (a) whether the Rates and Claims work is recognised on Indian Railways as specialised work ;

- (b) whether in the past the officers and the staff of the Rates and Claims sections were not transferred from these branches but had to seek promotions in those sections only ;
- (c) whether there are any other specialised posts in the Commercial Department ; if so, what ; and
- (d) whether the senior men employed in other than specialised posts are given an opportunity to prove their fitness for the specialised posts before promoting out of turn the junior men working in the specialised posts ?

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

(b) The practice on the different railways varies according to local conditions. Generally it might be said that officers are transferable to other branches but the clerical staff is not ordinarily transferred.

(c) No.

(d) The selection of men to fill posts is ordinarily left to the discretion of Heads of Departments who will probably consider whether special circumstances exist to justify such a course. I am sending a copy of the Honourable Member's question and the answer thereto to State-managed Railways for their information.

#### RECRUITMENT OF A CLAIMS OFFICER OF THE COMMERCIAL DEPARTMENT, GREAT INDIAN PENINSULA RAILWAY.

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

- (a) whether any direct recruitment of a Claims Officer of the Commercial Department was made in England in 1929 ;
- (b) if so, whether applications were invited in India before resorting to recruiting in England ;
- (c) what were the special qualifications required of the applicant for the post to be filled by such direct recruitment in England ; whether the recruited candidate possessed all those qualifications ; and
- (d) if the officer recruited in England was for any particularly specialised post,
  - (i) how and in what branch was he employed on his arrival in India,
  - (ii) how long he continued to work in that specialised post, and
  - (iii) how he has been employed since he was taken away from the specialised post ?

**Mr. P. R. Rau :** (a) There was no direct recruitment for the post of a Claims Officer of the Commercial Department in any of the State-managed Railways in 1929.

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

### PROMOTION OF AN ANGLO-INDIAN SUBORDINATE ON THE GREAT INDIAN PENINSULA RAILWAY.

71. **Mr. N. M. Joshi** : With reference to question No. 490 asked on 23rd February, 1932, in the Legislative Assembly and the reply given thereto, will Government be pleased to state :

- (a) whether Government have been able to obtain information in respect of the Indian officer in the Commercial Department of the Great Indian Peninsula Railway, who was not recommended for confirmation because he was on the verge of retirement whilst this consideration was waived in the case of another Anglo-Indian officer who was serving his extension of service beyond his 55 years age limit ; and
- (b) what the total officiating service of this Indian was in the officer's grade ?

**Mr. P. B. Rau** : I have now called for the information and will lay it on the table of the House in due course.

### GREAT INDIAN PENINSULA RAILWAY CASES DEALT WITH BY THE RATES ADVISORY COMMITTEE.

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

- (a) the number of cases since 1929 referred to the Rates Advisory Committee in which the Great Indian Peninsula Railway appeared as defendant ;
- (b) the total amount paid to (1) the Great Indian Peninsula Railway's solicitors, and (2) the counsel engaged by the Great Indian Peninsula Railway ?
- (c) the total annual cost of establishment employed on Rates work (excluding Traffic Canvassers and Inquiry Clerks and the Commercial Survey and Development Branch) both under officers and clerical staff ;
- (d) whether in the dispute between the Great Indian Peninsula and Bengal Nagpur Railways on the one hand and Chindwara Colliery Association on the other hand by the Rates Advisory Committee in 1932 the Bengal Nagpur Railway had employed any Counsel or whether that administration put its defence through the Rates Officer ;
- (d) whether the Great Indian Peninsula Railway had engaged the counsel ;
- (e) if so, what were the total bills of costs of the solicitors and counsel in that case incurred by the Great Indian Peninsula Railway ; and
- (f) whether the Deputy Traffic Manager, Rates and Claims, does any Claims work, if so, what ; and, if not, whether a portion of his salary is debited to cost of staff employed on Claims work ?

**Mr. P. B. Rau** : (a) Two.

(b) (1) *Nd.*

(2) *Rs. 4,637.*

(c) *Rs. 1,05,341.*

(d) Through the Rates Officer.

(e) Yes.

(f) *Rs. 3,950.*

(g) The Deputy Traffic Manager, Rates and Claims, deals with claims cases in the absence of the Chief Traffic Manager, as for administrative convenience the Claims Superintendent ordinarily works direct with the Chief Traffic Manager. Half the salary of the Deputy Traffic Manager, Rates and Claims, is debited to cost of staff employed in claims work.

**MONTHLY COST OF THE TICKET CHECKING STAFF, ETC., ON THE GREAT INDIAN PENINSULA RAILWAY.**

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

- (a) the total monthly cost including pay and allowances both permanent and travelling of Ticket Collectors, Ticket Inspectors, Chief Ticket Inspectors, Travelling Ticket Inspectors and Train Conductors employed on the Great Indian Peninsula Railway ;
- (b) the cost of the Crew system in force on certain sections of the Great Indian Peninsula Railway with their mileage ;
- (c) the financial gain to the Railway from the introduction of the Crew system ; and
- (d) the names of any other State railways over which this Crew system exists ?

**Mr. P. B. Rau :** I have called for information and will lay a reply on the table in due time.

**TOTAL COST OF THE MURPHY COURT OF INQUIRY.**

**74. Mr. N. M. Joshi :** (a) What is the total cost of the Murphy Court of Inquiry appointed in August, 1931, under the Indian Trade Disputes Act ?

(b) What is the total amount of legal charges paid to solicitors and counsel by all the Railway Administrations ?

(c) What is the share of such charges paid by each individual railway ?

**Mr. A. G. Ulow :** (a) *Rs. 46,572.*

(b) *Rs. 62,881.*

(c) One quarter by each of the four State-managed Railways in India (excluding Burma).

### CONFIRMATION OF CERTAIN ANGLO-INDIAN OFFICERS ON THE GREAT INDIAN PENINSULA RAILWAY.

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

- (a) whether nine Anglo-Indians were confirmed as officers on the Great Indian Peninsula Railway in 1931 in the junior scale and lower gazetted service ;
- (b) if so, how many in the junior scale and how many in the lower gazetted service ;
- (c) how many of the confirmed subordinates have been admitted to the Lee Concessions ;
- (d) how did these subordinates register their nationality at the time they first entered the railway service ;
- (e) whether it is a fact that an officer who having got the benefit of the Lee Concessions by declaring it to be his intention to retire outside India at the end of his service settled down in India ;
- (f) if so, the steps Government propose to take to recover the overseas pay drawn by him ; and
- (g) when the concessions of free passage to subordinates with British domicile were sanctioned ?

**Mr. P. B. Rau** : I have called for certain information and will lay a reply on the table in due course.

### WITHDRAWAL OF LEAVE ON AVERAGE PAY CONCESSION FROM SUBORDINATES OFFICIATING AS OFFICERS ON THE GREAT INDIAN PENINSULA RAILWAY.

76. **Mr. N. M. Joshi** : (a) Is it a fact that the concession of leave on average pay to subordinates officiating in the officers grade continuously for more than three years has been withdrawn on the Great Indian Peninsula Railway ?

(b) If so, are Government prepared to consider its re-introduction ?

**Mr. P. B. Rau** : (a) and (b). The concession was given in 1929 as a temporary measure " subject to the condition that it will give the men concerned no claim to the continuance of this privilege after the new leave rules for State Railways are brought into force ". It was intended that when these rules were framed and issued, it would suffice to give the men concerned the option of electing for those rules. When the new leave rules were issued, therefore, the concession was withdrawn as the staff taken over from the Great Indian Peninsula Railway were given the option to come under them. Incidentally I might mention that neither the (old) Great Indian Peninsula Railway leave rules nor the new leave rules provide for this concession.

### APPOINTMENTS IN THE SUPERIOR GRADES OF THE ASSAM-BENGAL RAILWAY.

77. **Mr. S. C. Mitra** : (a) Will Government please state the number of appointments in the superior grade of all departments of the Assam Bengal Railway made since 1924 up-to-date, stating names, qualifications,

district or province to which the officers belong, department in which engaged ?

(b) Will Government please also state whether these appointments were filled in by a selection board ? If so, who were the other candidates and what are their qualifications, etc. ?

(c) When there is any vacancy is there any system of advertising through the press ? If not, why not ? How are the candidates expected to know about vacancies ?

**Mr. P. B. Rau :** I have called for certain information and will lay a reply on the table in due course.

#### EMPLOYMENT ON THE ASSAM-BENGAL RAILWAY OF QUALIFIED PERSONS OF THE AREA THROUGH WHICH THAT RAILWAY PASSES.

78. **Mr. S. C. Mitra :** (a) Is it a fact that on the Company-managed Railways generally a practice is followed to recruit officers from qualified candidates in those places through which a particular Railway traverses ?

(b) If so, was there any candidate for any post on the Assam-Bengal Railway who belonged to that area through which the Railway passes ?

(c) If so, what are their qualifications and for what post they were candidates and why they were not appointed ?

(d) Is there any officer in any of the Departments who belongs to the area ?

(e) Do Government propose to issue instructions to the Assam-Bengal Railway to give preference to the qualified people of that area when any vacancy is filled up in future ?

(f) Do Government propose to issue instructions to all Company-managed Railways that whenever there is any vacancy it should be advertised through the press in order to enable all qualified candidates to apply for such posts ?

**Mr. P. B. Rau :** I have called for certain information and will lay a reply on the table in due course.

#### EMPLOYMENT ON INDIAN RAILWAYS OF INDIANS TRAINED IN ENGLAND.

79. **Mr. S. C. Mitra :** (a) With reference to the reply to part (2) of starred question No. 535 of 16th September, 1929 (regarding employment on Indian Railways of Indians trained in England), asked by Kumar Ganganand Sinha, will Government please state :

- (i) how many such candidates who were trained in the United Kingdom applied for nomination to the Local Governments for the examinations held in 1926 and 1927 and how many were rejected by the Local Governments ;
- (ii) how many were selected by the Local Governments and what are the names of candidates nominated by the Local Governments for being sent to the Government of India ;
- (iii) how many were allowed by the Public Service Commission to appear at the examination and how many rejected ; in the case of the latter on what grounds ;

(iv) how many were successful at the examinations and taken into the service ; and

(v) the names, qualifications, particulars of training, examinations passed at the London School of Economics and Political Science of each candidate who was allowed to appear at the Public Service Commission examination and those who were rejected ?

(b) Will Government please state the number of candidates who were appointed either in the Superior or Local Service of State Railways or Company-managed Railways since 1920 to date ?

(c) Will Government please state their names, qualifications, particulars of training and the Railways on which they are employed ?

**Mr. P. B. Rau :** (a) I am obtaining certain information and will lay a reply on the table in due course.

(b) and (c). The available information up to 1930 is given in the Railway Board's Classified List and Distribution Return corrected upto December, 1930, copies of which are in the Library of the House. A statement showing the names of officers appointed to the Superior Service on the State-managed Railways since 1st January, 1931, is attached. Similar information for Company-managed Railways is not available, but will be obtained and the information laid on the table in due course. The Local Service was abolished in March, 1931, and no appointments have been made to it since January, 1931.

*Statement showing the names of the officers recruited to the Transportation (Traffic) and Commercial Departments of State-managed Railways during 1931 and 1932.*

Names.	Railways.	Qualifications and particulars of training.
<i>Europeans (Direct).</i>		
T. M. G. Wheeler	N. W. Railway ..	B.Sc. (Eng.) (Leeds).
S. Marchant ..	G. I. P. Railway ..	B.Sc. (Eng.) (London).
N. B. Scott ..	Burma Railways ..	2 years training as a student probationer in Traffic Department of Southern Railway.
Lt. H. A. Davies, R.E.	E. I. Railway ..	R. E. Officer.
A. F. M. Smith ..	E. I. Railway ..	B. A. Mathematical Tripos. Part I and Science Tripos. Class III Cambridge.

Name.	Railways.	Qualifications and particulars of training.	
<i>Indians (Through P.S.C.)</i>			
N. Y. Manohar ..	G. I. P. Railway .. ..	B. E. (Bombay).	
M. K. Mohiuddin	Do. .. ..	B. A. (Hons.) (Madras).	
Anand Mohan ..	E. I. Railway .. ..	B.Sc. (Allahabad).	
Harbans Singh ..	N. W. Railway .. ..	Civil Engineering certificate of Thomason Civil Engineering College, Roorkee.	
Ratan Lal ..	E. I. Railway .. ..	Do.	
M. D. Balaraman	N. W. Railway .. ..	B. A. (Hons.) (Madras).	
P. H. Sarma ..	E. B. Railway .. ..	Do.	
S. P. Lal ..	N. W. Railway .. ..	M. Sc. (Punjab).	
M. A. Qadeer ..	G. I. P. Railway .. ..	B. A. (Hons.) (Madras).	
S. V. M. Sunderam	E. I. Railway .. ..	M. A. (Madras).	
<i>Promoted to Superior Service.</i>			
<i>Europeans.</i>			
H. A. Cox ..	Subordinate G. I. P. Railway ..	Promoted from the Lower Ga- zетted Service or subordinate establishment.	
G. M. A. Shortt ..	Do. .. ..		
G. W. Tuffield ..	Do. .. ..		
<i>Indians.</i>			
B. N. Bery ..	Local Service N. W. Railway ..		
M. L. Kaul ..	Do. .. ..		
A. A. Shah ..	Do. .. ..		
I. N. Puri ..	Do. .. ..		
S. P. Chowdhury	Local Service E. I. Railway ..		
J. N. Das ..	Do. .. ..		
G. P. Dullard ..	Subordinate E. I. Railway ..		
D. Vinayak ..	Subordinate G. I. P. Railway ..		
T. B. Chandwani	Subordinate N. W. Railway ..		
C. E. Wills ..	Do. .. ..		

### EMPLOYMENT ON INDIAN RAILWAYS OF INDIANS TRAINED IN ENGLAND.

80. **Mr. S. C. Mitra :** (a) With reference to the reply to part (4) of starred question No. 535, dated 16th September, 1929, regarding appointments on Indian State Railways of Indians trained in England, will Government please state under what circumstances this candidate was nominated by a Local Government while he was not eligible under the rules ?

(b) Who was responsible for this nomination ?

(c) Will Government please state the particulars of his qualifications, training, etc. ?

(d) Is there any one in the local or superior service of State Railways or Company lines with similar qualifications ?

(e) Did Government pay any compensation for putting him to so much trouble, anxiety and worries ?

**Mr. P. B. Rau :** (a) Government of India have no information.

(b) The Selection Committee appointed by the Government of Bengal.

(c) His qualifications as given by the candidate himself were Matriculate of the London University and Diploma holder on Transport from London School of Economics. He had undergone traffic training in the United Kingdom for 20 months instead of 2 years as required by the rules.

(d) I would refer the Honourable Member to the reply given to part (a) of his question No. 365 on the 21st March, 1931.

(e) No. The case did not call for compensation.

### EMPLOYMENT ON INDIAN RAILWAYS OF INDIANS TRAINED IN ENGLAND.

81. **Mr. S. C. Mitra :** With reference to the reply to part (5) of starred question No. 535, dated 16th September, 1929, regarding employment on Indian Railways of Indians trained in England, will Government please state whether any enquiry has since been made in this direction ? If so, will Government please state the result of the same ?

**Mr. P. B. Rau :** I would refer the Honourable Member to the reply given to part (a) of his question No. 365, on the 21st March, 1931.

### EMPLOYMENT ON INDIAN RAILWAYS OF INDIANS TRAINED IN ENGLAND.

82. **Mr. S. C. Mitra :** (a) With reference to the reply to parts (7) and (10) of starred question No. 535 of 16th September, 1929 (regarding employment on Indian Railways of Indians trained in England) asked by Kumar Ganganand Sinha, do Government propose to recruit those who were trained in the United Kingdom ? If not, why not ?

(b) With reference to part (9) of the above-quoted question, do Government propose to recruit them in the local service if not in the Superior Service ? If not, why not ?

**Mr. P. B. Rau :** (a) I have nothing to add to my reply to parts 7, 9 and 10 of question No. 535, dated the 16th September, 1929.

(b) The question cannot arise as the Local Service has been abolished.

**TRAINING OF INDIAN STUDENTS ON BRITISH RAILWAYS.**

**83. Mr. S. C. Mitra :** (a) With reference to the reply to unstarred question No. 362 (b), dated 21st March, 1931, regarding training of Indian students on British Railways, will Government please place on the table of the House the information communicated to Kumar Ganganand Sinha ?

**Mr. P. R. Rau :** A copy of the communication is in the Library of the House.

**TRAINING OF INDIAN STUDENTS ON BRITISH RAILWAYS.**

**84. Mr. S. C. Mitra :** With reference to the reply to my unstarred question No. 367 (b) and (c), dated 21st March, 1931, regarding training of Indian students on British Railways, will Government please state whether the matter has since been examined ? If so, will Government please state the result ?

**Mr. P. R. Rau :** I would refer the Honourable Member to the Railway Board's letter No. 719-E.G., dated the 17th June, 1931, to his address, a copy of which is in the Library.

**TRAINING OF INDIAN STUDENTS ON BRITISH RAILWAYS.**

**85. Mr. S. C. Mitra :** (a) With reference to parts (c) and (d) of my unstarred question No. 362, dated 21st March, 1931, regarding Indian students trained on British Railways, will Government please state whether in some cases certain students were not allowed by the High Commissioner for India to complete full two years' training on the plea that these candidates had already had some training while there was a long waiting list of candidates who had no training at all though the former candidates represented repeatedly to the High Commissioner that their candidature for service on Indian Railways would not be considered on their return under the rules, to which the High Commissioner did not pay any heed ?

(b) Will Government please state the number of such candidates and whether any of them were taken into the service of the State Railways ?

(c) With reference to part (f) (i) of question quoted in part (a), will Government please state whether the difference in rules was brought to the notice of such candidates who were undergoing training during 1924-26 ? If not, why not ?

(d) Is it a fact that some allowances and concessions were shown under similar circumstances in the case of the Indian Forest Service candidates who were trained and educated in the United Kingdom on Forestry, when new rules came into force in 1928 ?

(e) Why has this not been done in the case of Railways ?

(f) With reference to part (f) (ii) of question quoted above, will Government please state how many European candidates have been recruited since 1923 till now and what are their qualifications ?

(g) How long were they required to be on probation in India and how was it determined ?

**Mr. P. R. Rau :** (a) Government have no information beyond that conveyed in the Railway Board's letter No. 8613-E., dated the 21st December, 1929, in reply to part (7) of starred question No. 534 asked by Kumar Ganganand Sinha on the 16th September, 1929. A copy of this letter is in the Library.

(b) The available information is given in the reply to part (a) of the Honourable Member's question No. 365 on the 21st March, 1931.

(c) A copy of the revised rules was forwarded to the High Commissioner for India who must have taken such steps as were necessary to bring the change in the rules to the notice of Indian students undergoing training in England.

(d) and (e). The Honourable Member's attention is invited to the reply given to parts (e) and (f) of his question No. 367 on the 21st March, 1931.

(f) The number of European candidates recruited since 1923 to date is 12 (excluding R. E. Officers appointed in India). They possess one or other of the qualifications mentioned in reply to part (g) of the Honourable Member's question No. 362, dated the 21st March, 1931.

(g) Their probationary period was three years. The details are laid down in the rules for recruitment to the Transportation (Traffic) and Commercial Departments of the Superior Revenue Establishment of State Railways, copies of which are in the Library.

#### TRAINING OF INDIAN STUDENTS ON BRITISH RAILWAYS.

86. **Mr. S. O. Mitra :** (a) With reference to the reply to parts (a) and (b) of my unstarred question No. 363, dated 21st March, 1931, regarding the training of Indian students on British Railways, will Government please state whether the revised rules were brought to the notice of the candidates undergoing training in the United Kingdom during 1924 and 1926 ?

(b) Is it a fact that the High Commissioner for India was fully aware of the fact that candidates with two years' training, as required by the revised rules, were not forthcoming ?

(c) If so, under what circumstances did he agree to the publication of the revised rules ?

(d) With reference to part (c) of the same question, will Government please state what happened to those limited number of candidates ?

**Mr. P. R. Rau :** (a) I would refer the Honourable Member to the reply given to part (c) of his question No. 85.

(b) and (c). I would refer the Honourable Member to the reply given to part (c) of his question No. 363 on the 21st March, 1931.

(d) Government have no information.

#### TRAINING OF INDIAN STUDENTS ON BRITISH RAILWAYS.

87. **Mr. S. O. Mitra :** (a) With reference to the reply to parts (a) and (b) of my unstarred question No. 364, dated 21st March, 1932,

regarding the training of Indian students on British Railways, will Government please state what were the qualifications required under the revised rules of 1926 ?

(b) With reference to part (c) under the same question, will Government please state what was the necessity of enforcing this clause ? Were Government aware that such candidates were not forthcoming owing to the refusal of the High Commissioner to allow the candidates to apply ?

(c) Is it a fact that Indianisation of Railway services would have been rapid, if they had been taken into service instead of being kept under training for three years, had they all their training in the United Kingdom ?

**Mr. P. B. Rau :** (a) The Honourable Member is referred to the Regulations issued in 1926 for recruitment in India for the Transportation (Traffic) and Commercial Departments of the Superior Revenue Establishment of State Railways, copies of which are in the Library.

(b) I would invite the Honourable Member's attention to the reply given to parts (a), (b) and (c) of his question No. 363 on the 21st March, 1931.

(c) No.

#### EMPLOYMENT ON INDIAN RAILWAYS OF INDIANS TRAINED IN ENGLAND.

88. **Mr. S. C. Mitra :** (a) With reference to the reply to part (b) of my unstarred question No. 366 of 21st March, 1931, regarding Indians trained on British Railways, will Government please state whether it is a fact that officers in the Traffic Department of State Railways, who passed Examinations on Transport at the London School of Economics and Political Science, University of London, get some preference over others regarding promotion ?

(b) If so, will Government please state whether in the case of those Indian students who passed such examinations, they are given the same privileges ? If not, why not ?

(c) With reference to part (d) under the same question, is it a fact that such information can be had from the applications of such candidates or from the High Commissioner for India ?

(d) With reference to part (f) of the same question, is it a fact that the Railway Board registered the names of such students as prospective candidates ?

(e) Is it a fact that some of the candidates were asked by the Railway Board to renew their applications later on, furnishing particulars about age, family, qualifications, etc. ?

(f) Is it a fact that some of the candidates were asked to apply on completion of their training and return to India ?

(g) Is it a fact that some of the candidates were told in 1924 and 1925 that rules governing future recruitment were under revision ? If so, did Government inform them the lines on which such rules are being revised ? If not, why not ? Are Government aware that candidates being ignorant of the revision of rules could not fully qualify themselves as required under the revised rules ?

(h) With reference to parts (g) and (h) under the same question, is it a fact that in the circular letter issued to the principal Company-managed Railways it was stated that these candidates received training in the United Kingdom ?

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

(b) Does not arise.

(c) Possibly : but Government do not think that any public purpose will be served by obtaining such information.

(d) A register of candidates was maintained but it was discontinued in 1926 when recruitment through the Public Service Commission commenced.

With regard to parts (e) and (f) and the first part of (g), Government are unable to trace any such communications.

As regards the rest of part (g) I would refer the Honourable Member to the reply given to part (c) of question No. 87.

(h) Yes.

#### TRAINING OF INDIAN STUDENTS ON BRITISH RAILWAYS.

89. **Mr. S. C. Mitra :** (a) With reference to part (a) of my unstarred question No. 367 of 21st March, 1931, regarding training of Indian students on British Railways, will Government please state the result of their examination ?

(b) With reference to parts (b) and (c) of the same question, will Government please state whether the question has since been examined ? If so, will Government please place the result before the House ?

(c) With reference to part (f) of the same question, are Government aware that the supply to which Government have taken recourse and think adequate proves to be expensive due to each probationer so recruited having to be given training for three years before they are declared fit to take charge ?

(d) Will Government please state the average total cost required for the training of each probationer during this period of three years ?

(e) What is the total cost up to date since the revised rules were introduced ?

(f) Is it a fact that the Railway Staff College at Dehra Dun has been closed down ?

(g) What was the total cost of this Institute to train up probationers and officers ?

(h) How will the probationers be trained now and what will be the cost ?

(i) Do Government propose to cut down this heavy expenditure at this time of financial stringency by recruiting from amongst those candidates who were trained in England ? If not, why not ?

(j) With reference to part (g) of the same question, what is the objection to take them in the superior service ? Are Government prepared to take them in the local service ?

**Mr. P. B. Rau :** (a) and (b). I would refer the Honourable Member to the Railway Board's letter No. 719-E.G., dated the 17th June, 1931, to his address, a copy of which is in the Library.

(c) In the opinion of Government, the arrangements actually made for recruitment were satisfactory.

(d) and (e). The pay drawn by a probationer during his three years' training amounts to Rs. 12,600, no separate account has been kept of other cost incurred on the training of each probationer. Out of 35 probationers appointed in this department since 1926, 19 have completed their training and 16 are still under training.

(f) Yes.

(g) No separate account was kept of the cost incurred on the training of probationers and officers.

(h) The question of the arrangements to be now introduced for the training of probationers is under consideration.

(i) No. Government consider that the present method of recruitment is, taking all circumstances into consideration, the most suitable.

(j) The first part is answered by the reply to item (i) above. With regard to the second part, the local service has been abolished and the new Lower Gazetted Service created is essentially meant to be filled by the promotion of deserving subordinates.

#### SURPLUS STORES LOCKED UP ON STATE RAILWAYS, ETC.

90. **Mr. Gaya Prasad Singh :** (a) Will Government be pleased to lay on the table statements of amounts locked up in surplus stores on (i) State Railways, and (ii) other State-owned Railways but managed by companies ?

(b) Will Government kindly state the amount written off due to the scrapping of surplus material during the last three years on the State Railways ; and was it ascertained before scrapping that the material was not required by other Railways ?

(c) Are Government aware that in view of the slump in traffic and closing down of constructions, etc., the surpluses have increased ?

(d) Will Government please state what action is being taken by them to reduce the amount of surplus stores ?

**Mr. P. B. Rau :** The information asked for by the Honourable Member is being obtained and will, when received, be laid on the table.

#### PROPOSAL FOR A RAILWAY LINE BETWEEN MANJHI AND ANY OTHER POINT IN THE SARAN DISTRICT.

91. **Mr. Gaya Prasad Singh :** Is there any proposal to open a new Railway line by the Bengal and North Western Railway between Manjhi,

and any other point in the District of Saran, Bihar, to facilitate the opening of new sugar factories in that area ?

**Mr. P. B. Rau :** The Government of India are not aware of any such proposal.

#### PAUCITY OF MUSLIM CLERKS IN THE CURRENCY OFFICE, CALCUTTA.

**92. Kunwar Hajee Ismail Ali Khan :** (a) Will Government please state whether it is a fact that there is no Muslim in the cadre of clerks in the Currency Office at Calcutta ? If so, why ?

(b) How many vacancies have there been during the last five years, and by whom have they been filled up ?

**The Honourable Sir Alan Parsons :** (a) There are four Muslim clerks in the Currency Office, Calcutta.

(b) A statement is laid on the table.

Year.	Number of vacancies.	How they were filled.		
		Hindus.	Muslims.	Europeans and Anglo-Indians.
1927 .. ..	4	4 (a)		..
1928 .. ..	10	10 (a)	..	..
1929 .. ..	5	3	1	1
1930 .. ..	4	1	2	1
1931 .. ..	3	1	2	..

(a) Confirmation of men who have been officiating for a long time.

#### MUSLIM RAJPUT POPULATION IN PROVINCES.

**93. Kunwar Hajee Ismail Ali Khan :** With reference to my starred question No. 127 of 8th September, 1932, regarding the Muslim Rajput population of certain provinces, will Government kindly be good enough to lay on the table the figures of other Provinces ?

**The Honourable Mr. H. G. Haig :** No further particulars are available beyond those supplied in reply to the Honourable Member's starred question No. 127 on the 8th instant.

#### PROPERTIES OF THE NAWAB NAZIMS OF BENGAL AND BIHAR AND ORISSA.

**94. Mr. Nabakumar Sing Dudhoria :** Will Government be pleased to state :

(a) the date and year, when the Governor General decided that Nawab Nazims of Bengal, Bihar and Orissa, were not entitled to alienate the Nizamut properties ;

- (b) whether after the aforesaid decision any Nawab Nazim was informed not to confer *jageers*, gifts, or endow Nizamut properties for religious purposes ;
- (c) whether the decision of the Governor General was notified in the Government gazette, or whether the Nawab Nazim was officially informed that properties of a certain description were considered inalienable ; and
- (d) whether the so-declared Nizamut State properties were taken out of the possession of those who received the *jageers* or gifts, or were Motawallies of endowments appointed immediately after the decision of the Governor General ; if so, when such step was taken in the matter ?

**Mr. H. A. F. Metcalfe :** The information asked for is being collected and will be laid on the table in due course.

#### PROPERTIES OF THE NAWAB NAZIMS OF BENGAL AND BIHAR AND ORISSA.

†95. **Mr. Nabakumar Sing Dudhoria :** Will Government be pleased to state :

- (a) whether the title deeds of all the Nawab Nazims and Nizamut State properties were available, when the Commissioners, who were appointed under Nawab Nazim of Bengal's Debts Act of 1873, were preparing a list of the properties ;
- (b) if the title deeds of all the properties were not available, by what other means the Commissioners differentiated the Nizamut State properties from Nawab Nazim's private properties ; and
- (c) whether the Commissioners submitted a list of Nawab Nazim's private properties ; if so, whether a copy of the list is available ?

#### PROPERTIES OF THE NAWAB NAZIMS OF BENGAL AND BIHAR AND ORISSA.

†96. **Mr. Nabakumar Sing Dudhoria :** Will Government be pleased to state :

- (a) whether the properties purchased or *puttances* acquired by the last Nawab Nazim were considered by the Government inalienable, and unsaleable, or untransferable ; and
- (b) whether a list can be furnished of properties, purchased or acquired, by the last Nawab Nazim, by virtue of a deed of compromise or settlement in a law suit, or by *puttances* taken by His Highness ?

#### DISCHARGE OF TEMPORARY EMPLOYEES OF THE CURRENCY OFFICE, LAHORE.

97. **Kunwar Hajee Ismail Ali Khan :** (a) Will Government be pleased to state if the whole temporary staff employed in the Lahore Currency Office was discharged in the year 1929 ?

(b) If the reply to part (a) is in the affirmative, what was the number of Hindu and Muslim employees then discharged ?

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†For answer to this question, see answer to question No. 94.

(c) Is it a fact that after the date of discharge of the establishment mentioned in part (a), new temporary appointments were made in the above Currency Office ? If so :

- (i) what is the number of such appointments made upto date ; and
- (ii) how many of these posts were given to Hindus and how many to Muslims ?

(d) Were any of the men previously discharged in 1929 re-employed ? If so :

- (i) how many of them were Hindus and how many Muslims ; and
- (ii) what were the periods of previous service of Hindus re-employed and Muslims who were not re-employed ?

**The Honourable Sir Alan Parsons :** The information asked for is being collected.

#### MUSLIM STAFF IN THE CURRENCY OFFICE, LAHORE.

†98. **Kunwar Hajee Ismail Ali Khan :** (a) Will Government be pleased to state the total strength of the permanent staff in the Lahore Currency Office from the Currency Officer to the inferior staff ?

(b) What is the number of posts held by Muslims and Hindus in each category ?

(c) Is there any proposal under consideration to reduce the present permanent staff of the above Currency Office ?

(d) If the reply to part (c) is in the affirmative, what steps do Government propose to take to ensure that the existing Muslim proportion in the Currency Office staff is not decreased by any proposed reduction in the total strength ?

(e) Are Government prepared to issue special instructions to the Currency Officer, Lahore, in the matter ?

#### SUPERSESSION OF MUSLIMS BY CERTAIN HINDUS IN THE CURRENCY OFFICE, LAHORE.

†99. **Kunwar Hajee Ismail Ali Khan :** (a) Will Government kindly state if there are any instructions to the effect that senior members of the staff of Currency Offices in India should be trained for work in the various branches of a Currency Office ?

(b) Are senior Muslim members in the Lahore Currency Office provided facilities to get such training ? If not, why not ?

(c) If the reply to (b) above is in the affirmative, will Government kindly state if three Hindu clerks of the above office, viz. Messrs. Hari Ram, Gopi Lal and Sham Lal, were allowed to supersede Muslim employees who were senior to them in length of service ?

(d) Was not the supersession in each case made on the plea that the senior Muslim employees superseded did not possess the proper training required for the discharge of new duties ?

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†For answer to this question, see answer to question No. 97.

**MUSLIM GAZETTED OFFICER INCHARGE OF THE ADMINISTRATION BRANCH OF THE OFFICE OF THE ACCOUNTANT GENERAL, PUNJAB.**

100. **Kunwar Hajee Ismail Ali Khan :** (a) Will Government kindly state if there are any instructions debarring Muslim gazetted officers from holding charge of an administration branch of a Civil Accounts Office ?

(b) If not, has any Muslim gazetted officer held charge of the administration branch of the office of the Accountant General, Punjab, during the last ten years ? If so, for how long did he hold that charge ?

(c) Have there been any Muslim gazetted officers in the above office during the last ten years ? If so, why was the Administration Branch never put under the charge of a Muslim officer ?

**The Honourable Sir Alan Parsons :** (a) No.

(b) Yes. Three Muslim officers have been in charge of the various administrative branches for varying periods during the last ten years.

(c) The reply to the first part of the question is in the affirmative. The statement in the second part is incorrect.

**NON-APPOINTMENT OF MUSLIMS IN THE REFORMS OFFICE.**

101. **Kunwar Hajee Ismail Ali Khan :** (a) Will Government be pleased to state what is the total strength of the office of the Reforms Commissioner with the Government of India ?

(b) What is the number of Assistants and how many of them are Muslims ?

(c) Is it a fact that no Muslim has worked continuously in that office as an Assistant since its creation ?

(d) Is it a fact that the only Muslim Assistant working in that office was sent out on deputation to the Consultative Committee and his post has been filled up by a non-Muslim ? If so, why ?

**The Honourable Mr. H. G. Haig :** (a) The Reforms Office is a temporary Office. The office staff sanctioned for the current year is :

- 1 Superintendent ;
- 5 Assistants ;
- 6 Clerks and Typists ;
- 2 Stenographers.

(b) Of the five Assistants two are Hindus, one is a Muslim, one Anglo-Indian and one Sikh.

(c) and (d). The Muslim Assistant was lent to the Consultative Committee when it was constituted in January last. He reverted to the Reforms Office on the 16th of this month. The vacant post of Assistant caused by his employment in the Consultative Committee was not filled during the greater part of his absence.

**SELECTION OF STAFF FOR COMMISSIONS AND COMMITTEES FROM THE REFORMS OFFICE.**

102. **Kunwar Hajee Ismail Ali Khan :** Is it also a fact that when personnel is selected for Commissions or Committees appointed by Gov-

ernment under the Reforms, the staff working in the Reforms Office is invariably deputed for such work and men working in the Secretariat are rejected ? If so, why ?

**The Honourable Mr. H. G. Haig :** The Commissions and Committees to which apparently the Honourable Member refers have recruited their own staff under their own authority. The Franchise Committee recruited an accountant and two clerks and the Consultative Committee one Assistant from the staff of the Reforms Office. These are the only instances.

#### COMPLAINTS AGAINST THE SUPERINTENDENT OF POST OFFICES, SALEM.

103. **Mr. Bhuput Sing :** (a) With reference to the reply given by Mr. T. Ryan to starred question No. 455 on the 22nd February, 1932, will Government please state the result of enquiries made into maladministration of Lieut. Shujat Ali Saib, Post Office Superintendent, Salem ?

(b) What action do Government propose to take against the conduct of this officer ?

**Mr. T. Ryan :** (a) and (b). In view of the reply given to part (a) of the Honourable Member's starred question No. 455 on the 22nd February, 1932, the question of maladministration does not arise. As regards the matter referred to in parts (b) and (c) of the above question, his attention is invited to the final replies laid on the table of this House on the 5th April, 1932, in connection with his starred questions Nos. 515 and 516 on the 14th March, 1932.

#### DEVELOPMENT OF THE IMPERIAL INSTITUTE OF DAIRYING AT BANGALORE.

104. **Rao Bahadur M. C. Rajah :** With reference to their assurance given to the House on 12th February, 1932, will Government please state if it is now finally decided to allow the Imperial Institute of Dairying to continue at Bangalore ? If so, what further steps are Government taking towards its development ? Is this institute looked upon by Government, as a purely teaching institute or as a commercial concern also ?

**Mr. G. S. Bajpai :** The Imperial Institute of Animal Husbandry and Dairying, Bangalore, is to continue at Bangalore, though it is not possible to develop it in present conditions. Its main functions are research and teaching in dairying and allied subjects.

#### ORGANISATION, ETC., OF THE IMPERIAL INSTITUTE OF DAIRYING, BANGALORE.

105. **Rao Bahadur M. C. Rajah :** What is the present organization of the Imperial Institute of Dairying, Bangalore and the designation of the controlling officer ? What is the exact nature of the duties of this officer in so far as the advancement of the dairy industry is concerned ?

**Mr. G. S. Bajpai :** The Imperial Institute of Animal Husbandry and Dairying, Bangalore, comprises two Sections devoted to (i) Animal Husbandry and Dairying, and (ii) Animal Nutrition, respectively. The former Section is under the control and supervision of the Imperial Dairy Expert, and has attached to it a Dairy Farm, which is managed by a Superintendent, who assists in the teaching and research work. The Nutrition Section is in the charge of the Physiological Chemist, who is

assisted in his research and teaching work by a Class II Assistant. The duties of the Imperial Dairy Expert are :

- (i) to control the cattle-breeding farms and dairying operations at Bangalore, Wellington and Karnal ;
- (ii) to supervise dairy instruction at the three farms referred to above ;
- (iii) to work for the improvement of dairy methods in India ; and
- (iv) generally to advise and assist Local Governments, provincial officers and private concerns as well as Indian States in dairying matters when called upon to do so.

Both Sections are under the general administrative control of the Director, Imperial Institute of Agricultural Research, Pusa.

#### RELATION OF THE DAIRY DEPARTMENT OF THE GOVERNMENT OF INDIA WITH THE IMPERIAL COUNCIL OF AGRICULTURAL RESEARCH.

106. **Rao Bahadur M. C. Rajah** : In what way is the Dairy Department of the Government of India related to the Imperial Agricultural Research Council, to which reference was made by H. E. the Viceroy in his opening speech in the Assembly on the 5th September, 1932 ?

**Mr. G. S. Bajpai** : The Dairying Section of the Imperial Institute of Agricultural Research, to which the Honourable Member is presumably referring, is under the administrative control of the Department of Education, Health and Lands. The Department, however, consults the Imperial Council of Agricultural Research, when necessary, in connexion with the affairs of the Section.

#### DEVELOPMENT OF CATTLE DAIRYING DEPARTMENT.

107. **Rao Bahadur M. C. Rajah** : Are Government aware that the cattle breeding industry in this country is in a very unsatisfactory condition ? If so, have Government considered the question of giving their earnest attention to the further development of the cattle Dairy Department ?

**Mr. G. S. Bajpai** : The Government of India are aware that there is room for improvement in the cattle breeding industry, and both they and the Local Governments are doing what they can, with limited resources, to effect it.

#### IMPORTATION OF DAIRY PRODUCTS INTO INDIA FROM ABROAD.

108. **Rao Bahadur M. C. Rajah** : Are Government aware that various dairy products are imported into India in large quantities from abroad every year and that at the same time there is a great wastage of milk produced in rural areas in this country ? Has any attempt been made to manufacture these products at any of the Government institutions in this country ; and, if so, with what results ? Will Government please state nature, quantity, and value of such dairy products imported into India ?

**Mr. G. S. Bajpai** : Yes, except that in regard to the alleged wastage of milk in rural areas Government have no definite information. So far as Government of India Institutions are concerned, butter and cheese are already manufactured at the dairy research stations of the Imperial

Institute of Agricultural Research, under the Imperial Dairy Expert, and experiments are also being made in the manufacture of other dairy products. A scheme for establishing a research station dealing with this branch of the subject at Anand in Gujerat is also under the consideration of the Imperial Council of Agricultural Research. It is regretted that no information is available showing what Local Governments are doing in the matter. The import figures of dairy products during the year 1931-32 are given below :

Article.	Quantity (in cwts.).	Value (in rupees).
Butter .. ..	3,570	5,42,397
Cheese (including canned)	7,249	6,33,457
Ghee .. ..	2,415	1,31,557
Milk, condensed and preserved (including milk cream) ..	185,925	57,32,702

#### PREMATURE SLAUGHTER OF THE BEST TYPE OF MILCH ANIMALS.

109. **Rao Bahadur M. C. Rajah** : Has the attention of Government been drawn to the criticism frequently made in the Press on the unsatisfactory state of the milk supply in urban areas and the enormous drain on the cattle wealth of the country by the premature slaughter of the best type of milch animals, which the present system involves ? Have Government taken any action to counteract the evil effects resulting from the system ?

**Mr. G. S. Bajpai** : The Royal Commission on Agriculture drew attention to the unsatisfactory state of the milk supply in urban areas, and Government have no doubt that there is much room for improvement. The problem is, however, in the main one for Local Governments and Municipalities, and available information as to the extent to which they have dealt with it is shown at pages 20—21 and 31—33 of the First and Second Reports relating to the action taken on the recommendations of the Royal Commission on Agriculture. Copies of the reports are available in the Library of the House.

#### EXEMPTION OF OLD SHOPKEEPERS OF CANTONMENTS FROM TAKING LICENCES FOR TRADE.

110. **Sirdar Sohan Singh** : (a) Is it a fact that section 210 (3) of the Cantonments Act contemplates the grant of a concession to old shopkeepers of cantonments in exempting them from the obligation of taking out licences for trades mentioned in section 210 (1) of the Cantonments Act ?

(b) Is it a fact that under section 210 (3) quoted above such shopkeepers are required to take out a licence, only if a notice of not less than three months is given to them by the Cantonment Authority, requiring them to take out a licence ?

(c) Will Government state what are the considerations that determine the issue of a notice referred to above ?

(d) Is it a fact that in several cantonments, three months' notice is indiscriminately issued to all old shopkeepers ?

(e) Are Government aware that this indiscriminate issue of notices is considered by the people as a complete violation of the spirit of section 210 (3) of the Act ?

(f) Is it a fact that such indiscriminate notices have been issued at Deolali and Allahabad ?

(g) Will Government explain the reasons for taking such a step ?

(h) Are Government aware of the discontent caused by the above action ? If so, do Government propose to issue instructions to the effect that this concession be not interfered with, unless there be sufficient reasons compelling the withdrawal of the concession ?

**Mr. G. B. F. Tottenham :** The attention of the Honourable Member is invited to the answer given by Mr. G. M. Young to starred question No. 667, on the 23rd September, 1931, which explains the whole position. No separate representation has been received regarding the Allahabad case, but in view of the reply referred to, Government do not consider it necessary to examine that case.

#### ALLEGED RUDE BEHAVIOUR OF THE PRESIDENT, CANTONMENT BOARD, LUCKNOW.

111. **Sirdar Sohan Singh :** (a) Has the attention of Government been drawn to a statement published under the signature of the Vice-President and four other elected members of Lucknow Cantonment, on pages 27, 28 and 29 of the *Cantonment Advocate* for July, 1932, under the Heading "Alleged Rude Behaviour of the President, Cantonment Board, Lucknow" ?

(b) Will Government please state if the facts are as given in the statement ? If not, what are the facts regarding this incident ?

**Mr. G. B. F. Tottenham :** (a) Government have seen the article.

(b) I have called for a report and will lay the reply on the table in due course.

#### SEGREGATION OF PATIENTS SUFFERING FROM INFECTIOUS DISEASES IN CANTONMENTS.

112. **Sirdar Sohan Singh :** (a) Has the attention of Government been drawn to an article published on page 26 of the *Cantonment Advocate* for May, 1932, under the heading "Alleged abuse of Section 175 of Cantonments Act" ?

(b) Is it a fact that a young man of a very respectable family suffering from small-pox was forcibly removed from his house to the Cantonment infectious diseases huts ?

(c) Are Government aware that the huts of the Cantonment Board were insanitary and situated in a lonely place ?

(d) Is it a fact that the grandfather of the boy offered to take him outside Nowgong Cantonment, if his segregation was not arranged in his house but this request was not granted ?

(e) What is the policy of Government with regard to the segregation of such patients in cantonments ?

(f) Why was the segregation of the patient not arranged in this case in his house ?

(g) Do Government propose to inquire into the case and stop such forced segregation in huts ?

**Mr. G. R. F. Tottenham :** (a) Government have seen the article.

(b) to (g). The information has been called for and a reply will be laid on the table in due course.

#### LEGALITY OF IMPOSING WATER-TAX ON HOUSES WITHOUT WATER CONNECTIONS IN CANTONMENTS.

113. **Sirdar Sohan Singh :** (a) Is it a fact that in most cantonments water-tax is charged even from occupiers of houses taking their water-supply from public hydrants ?

(b) Are Government aware that under section 217 read with section 220 of the Cantonments Act, water-tax can be imposed only in case of houses having water-connections ?

(c) Are Government aware that in municipalities water-tax is not levied upon persons depending for their water-supply on public hydrants ?

(d) Do Government propose to examine the question and take legal advice as to the legality of imposing water-tax on houses other than those having water connections ?

**Mr. G. R. F. Tottenham :** (a) Yes.

(b) The Government do not admit the correctness of the Honourable Member's interpretation of the sections quoted.

(c) No.

(d) No.

#### PLATFORMS IN FRONT OF SHOPS OR HOUSES IN THE BAZARS OF CANTONMENTS.

114. **Sirdar Sohan Singh :** (a) Is it a fact that in the conference of the representatives of Government with the members of the All-India Cantonments Association in June, 1929, Government made a clear declaration that a Cantonment Authority was the final authority about the interpretation and application of the Government Circular No. 31622/1 (A.D.), dated 19th February, 1926, about the condonement of platforms in front of shops or houses in the bazars of cantonments ?

(b) Are Government aware that the Northern Command has issued a Circular to all the Cantonment Authorities that in disregard to the lists of condoned platforms prepared by a Cantonment Authority, the Cantonment Authorities under that Command should only recognise those platforms as are given in the G. L. R. ?

(c) Is it a fact that as a result of the above circular the platforms shown as condoned in the G. L. R. are less in number and dimensions than those given in the list of condoned platforms prepared by the Cantonment Authorities ?

(d) Are Government aware that as the Cantonment Authorities' lists have been followed ever since the receipt of the above Circular in 1926, their sudden abandonment in compliance with the Command's circular has caused a lot of discontent among those owners of houses who have not yet been able to utilise their condoned platforms according to the lists of the Cantonment Authorities ?

(e) Do Government propose to issue instructions that the Cantonment Authorities' lists should stand as before ?

**Mr. G. R. F. Tottenham :** (a) and (b). Yes.

(c) and (d). Government have no information.

(e) No, but as a result of the recent conference with members of the Association, Government are considering the general question of the condonation of platforms and they hope to issue instructions in due course, which will cover the case of all platforms.

#### MILITARY SUB-ASSISTANT SURGEONS IN HOSPITALS MAINTAINED BY CANTONMENT AUTHORITIES.

115. **Sirdar Sohan Singh :** (a) Is it a fact that as a rule military sub-assistant surgeons are at present posted in hospitals maintained by Cantonment Authorities from the Cantonment Fund ?

(b) Are Government aware that most of the Cantonment Authorities desire to do away with this arrangement and to appoint their own doctor in place of those military doctors that are lent ?

(c) Are Government aware that the military doctor is of the status of a sub-assistant surgeon and the Cantonment Authorities can appoint an assistant surgeon on the same pay or with a slight increase in it ?

(d) Are Government aware that the Cantonment Authority of Ambala appointed its own doctor—an assistant surgeon—some years ago ?

(e) Is it a fact that after the Cantonment Authority of Ambala appointed its own doctor in its hospital, Government issued a circular to the Cantonment Authorities not to alter the old arrangement ?

(f) Is it a fact that recently the Cantonment Authority of Lucknow passed a resolution to appoint its own doctor but the Eastern Command rescinded the resolution under section 51 of the Cantonments Act ?

(g) Is it a fact that on the All-India Cantonments Association representing this matter to Government, Government replied that the old

arrangement was desirable from the military point of view for keeping the reserve of military doctors in Cantonment Authorities' hospitals ?

(h) Are Government aware that Cantonment Authorities hospitals are maintained from the Cantonment Fund and exist primarily for the civil population of the cantonments ?

(i) Are Government aware that cantonment people interpret this action as an unwarranted interference of Government in matters pertaining to the welfare of the civil population ?

(j) Do Government propose to re-consider their policy in this matter and to give the Cantonment Authorities a free hand to run their hospitals ?

**Mr. G. R. F. Tottenham :** (a) Yes.

(b) No.

(c) The reply to the first part is in the affirmative. Government have no information with regard to the second part.

(d) Yes.

(e) The reply is in the affirmative.

(f) and (g). The All-India Cantonments Association recently informed Government that the Cantonment Board, Lucknow, had passed such a resolution and that a reference was being made to the General Officer Commanding-in-Chief, the Eastern Command, on the subject. Government have no further information.

(h) Yes.

(i) Government have no information.

(j) Government do not consider that any change in the existing system is desirable.

#### **RENT OF THE BUILDING OCCUPIED BY THE CONTROLLER OF MILITARY ACCOUNTS, LAHORE DISTRICT.**

116. **Sirdar Sohan Singh :** (a) Will Government be pleased to state the total amount of rent per annum paid for the two hired buildings on the Mall, Lahore, occupied by the Controller of Military Accounts, Lahore District ?

(b) Are Government aware of the fact that several buildings in the Napier Barracks and other places in Lahore Cantonment can be made available for this office, if it is shifted from the city to cantonment ?

(c) If answer to part (b) is in the affirmative, are Government prepared to consider this measure of economy in these days of financial stringency ?

**The Honourable Sir Alan Parsons :** (a) Rs. 34,380 per annum.

(b) No.

(c) Does not arise.

**ANNUAL REPORTS ON THE PROGRESS OF EDUCATION IN THE CANTONMENTS.**

117. **Sirdar Sohan Singh :** (a) Are Government aware of the fact that the Inspecting Officer of cantonments in a Command devote very little attention to the spread of primary education among male and female children in cantonments and their reports contain no valuable information on this important subject ?

(b) Are Government aware that the Cantonment Boards in the Northern Command with a military majority are devoting very little attention to this subject ?

(c) Is it also a fact that in the Northern Command no Cantonment Board is spending a percentage equal to that in the neighbouring municipality under this head ?

(d) If so, are Government prepared to issue annual reports on the progress of education in the cantonments of each Command with special reference to educational finance ?

**Mr. G. R. F. Tottenham :** (a) No, Sir.

(b) No.

(c) Government have no information, but have already impressed upon Cantonment Authorities the desirability of spending a fair proportion of their funds on education.

(d) Local Governments have already agreed to deal specifically with this matter in their annual reports on education to which attention is invited.

**APPOINTMENT OF DOCTORS BY CANTONMENT BOARDS.**

118. **Sirdar Sohan Singh :** (a) Will Government be pleased to state whether it is a fact that the Cantonment Boards of Jullundur, Lahore, Ferozepore, Sialkot and Rawalpindi are not free to appoint their own hospital assistants (doctors) in their local civil hospitals and dispensaries ?

(b) Is it a fact that the military personnel forced on them belong only to the sub-assistant surgeon class with school education and no college or university degree ?

(c) Are Government aware that at the present scale of pay these Cantonment Boards can employ M.B., B.S., doctors with much higher qualifications in their respective hospitals ?

(d) Are Government prepared to issue instructions to the effect that Cantonment Boards be allowed to appoint their own doctors ?

**Mr. G. R. F. Tottenham :** (a) and (b). Appointments of Assistants to medical officers in charge of Cantonment hospitals or dispensaries are generally reserved for military sub-assistant surgeons who are not necessarily graduates.

(c) Government have no information.

**REPORT OF MR. K. M. HASSAN REGARDING THE REPRESENTATION OF MUSLIMS  
IN RAILWAY SERVICES.**

**119. Sir Zulfiqar Ali Khan :** Will Government please state :

- (a) whether the report of Mr. K. M. Hassan regarding the representation of Muslims in Railway services has been considered ;
- (b) whether any decision has been arrived at regarding the recommendations made in that report ;
- (c) the extent to which the various recommendations have been accepted ; and
- (d) when it is proposed to bring into effect the recommendations if any which have been accepted ?

**Mr. P. B. Rau :** (a) to (d). The report is still under the consideration of the Government of India.

**EXCESSIVE RETRENCHMENT OF MUSLIMS ON THE NORTH WESTERN RAILWAY.**

**120. Sir Zulfiqar Ali Khan :** (a) Are Government aware that in August, 1931, the Agent, North Western Railway, issued a letter No. 831-E.1281, dated August, 1931, to all Divisional Superintendents in which the Agent admitted that the number of subordinate Muslim employees retrenched was more than their existing proportion in the subordinate services warranted; i.e., 226 Muslims have been retrenched instead of 177 ?

(b) Will Government please state if the deficiency caused in the proportion of Muslims by excessive retrenchment of Muslims has been made good ; if so, how ?

**Mr. P. B. Rau :** (a) Government are not aware of any such letter issued by the Agent. The point referred to was noticed by the Railway Board in July, 1931, and pointed out to the Agent with the request "that the excess in the number of Muslims discharged be adjusted when recruitment is resumed by recruiting a correspondingly larger number of Muslims".

(b) Government have no information but the instructions issued in connection with the retrenchment authorized in the Government of India Communiqué, dated the 6th June, 1932, also provide for such adjustments in ordering discharges in each unit, as may be necessary in order to maintain the communal proportions approximately at the least they stood prior to the last year's retrenchment.

**MUSLIM REPRESENTATION IN CERTAIN DEPARTMENTS OF THE NORTH WESTERN RAILWAY.**

**121. Sir Zulfiqar Ali Khan :** (1) Will Government please state if it is a fact that on the North Western Railway there is not a single Muslim in the lower gazetted services (a) of the Traffic Department, (b) of the Engineering Department, (c) of the Accounts Department, and (d) of any Department ?

(2) Is it a fact that there is not a single Muslim Assistant Personnel Officer on the whole of the North Western Railway ?

(3) Will Government be pleased to state whether they propose to take any steps to appoint some Muslims to lower gazetted services ?

**Mr. P. R. Rau :** (1) There is only one Muslim officer in the Lower Gazetted Service on the North Western Railway at present. He is employed in the Transportation (Traffic) and Commercial Departments.

(2) Yes.

(3) Promotions to Lower Gazetted Services are made by selection from deserving subordinates irrespective of communal consideration.

#### DUTIES OF THE PERSONNEL OFFICER OF THE HEADQUARTERS OFFICE, NORTH WESTERN RAILWAY, LAHORE.

**122. Sir Zulfiqar Ali Khan :** (a) Are Government aware of the duties entrusted to the Personnel Officers of the Headquarters Office, North Western Railway, Lahore ?

(b) Is it a fact that the personal matters of all the subordinates of the North Western Railway are done by European Personnel Officers and personal matters of officers are done by a personnel officer who is a Hindu and the Muslim Personnel Officer is entrusted with the general duties such as welfare, sports and such like other miscellaneous work ?

(c) If the answer to the above is in the affirmative, will Government please state whether they intend to fulfil their promises of appointing the Personnel Officers in effective control of personal matters of staff ?

**Mr. P. R. Rau :** I would refer the Honourable Member to the reply given to question No. 676 asked by Mr. Muhammad Muzzam Sahib Bahadur on the 7th March, 1932.

#### CHECK OF THE WORK IN CONNECTION WITH THE ISSUE OF PASSES ON THE NORTH WESTERN RAILWAY.

**123. Sir Zulfiqar Ali Khan :** (a) Will Government be pleased to state if it is a fact that on the North Western Railway the work in connection with issue of passes is checked periodically by the staff under the Chief Accounts Officer and the Divisional Accounts Officers ?

(b) Is it a fact that this work is also checked periodically by staff under the Chief Auditor, Statutory Audit ?

(c) Is it a fact that recently the Agent, North Western Railway, has started a third periodical check of pass work by a special head clerk of his own office ?

(d) Is it a fact that the grade of this special head clerk and his assistant has been substantially increased on this account ?

(e) Is it a fact that extra expenditure is being incurred on the additional pay and travelling allowance of the staff of the Agent's office who check the pass work ?

(f) Are Government prepared to consider whether the triplicate check by the Agent's office be stopped forthwith and the extra expenditure saved ?

**Mr. P. R. Rau :** (a) Yes, once in three years.

(b) Yes.

(c) The check by the headquarters office was introduced in May, 1929, and is made once a year, provided the particular office has not been checked by Accounts during that year.

(d) With effect from 1st May, 1930, the scale of pay of the Head Clerk of the Pass Section of the Headquarters Office was altered from Rs. 215—15—275 to Rs. 285—15—330 and of the First Assistant from Rs. 100—5—140 to Rs. 160—10—200, not only on account of the inspection work undertaken by the Head Clerk but also on account of the general increase in work and responsibility of the Pass Section.

(e) Only the Head Clerk of the Pass Section is occasionally deputed to inspect the pass work of the subordinate offices. The extra expenditure involved is only the travelling allowance paid to him.

(f) The question will be considered.

#### **RETENTION OF THE POST OF OFFICE SUPERINTENDENT OF CONSTRUCTION, NORTH WESTERN RAILWAY.**

**124. Sir Zulfiqar Ali Khan :** (a) Will Government be pleased to state if it is a fact that the Superintendent in the grade, 400—20—500 in charge of the offices of Divisional Superintendents or in charges of Branches of the Agent's office, that is Commercial, Transportation, etc., have nearly one hundred clerks or more under them ?

(b) Is it a fact that the office Superintendent of Construction on the North Western Railway had about a year ago nearly same number of men under him ?

(c) Is it a fact that the construction programme has been very considerably curtailed and separate construction branch has been abolished ?

(d) Is it a fact that the posts of Chief Engineer, Construction, Deputy Chief Engineer, Construction, and many other Engineers have been abolished ?

(e) Is it a fact that there are now only about a dozen clerks left who have to complete the balance of construction work ?

(f) Is it a fact that the post of office Superintendent is still retained although all his clerical staff is nearly gone ?

(g) Are Government prepared to consider the question of the abolition of the post of office Superintendent of Construction ?

**Mr. P. R. Rau :** I have called for certain information and will lay a reply on the table in due course.

**ALLEGED DIFFERENTIAL TREATMENT IN CONNECTION WITH THE FILLING UP OF LEAVE VACANCIES ON THE NORTH WESTERN RAILWAY.**

125. **Sir Zulfiqar Ali Khan :** (a) Is it a fact that it is an established practice in the Headquarters Office, North Western Railway, Lahore, as well as in Divisions that sectional arrangement is always made for promotion in connection with the leave vacancy for a period of four months or less than four months ?

(b) Is it a fact that a departure was recently made from this practice in the Commercial Branch of the Headquarters Office, North Western Railway, Lahore, by issuing an order in the case of head clerk, the senior-most man in the whole branch should officiate even for a period of a few weeks ?

(c) Will Government please state special reasons which led to this differential treatment in the Commercial Branch ?

(d) Is it a fact that on several occasions Hindu clerks in grade II (68—4—80—5—95) were allowed to officiate as head clerks in grade IV (160—10—200) in Commercial Branch of the Headquarters Office, North Western Railway, Lahore ?

(e) Is it a fact that when in pursuance of the same a Muslim clerk in grade II recently officiated as head clerk in grade IV, he was not allowed to draw the usual officiating allowance granted to his colleagues in the similar circumstances on previous occasions ?

(f) Is it a fact that in the Refund Section of the Commercial Branch, recently a Hindu clerk, the seniormost man in the section, has been allowed to officiate as head clerk in connection with the leave vacancy of a few weeks ?

**Mr. P. R. Rau :** I have called for information and will lay a reply on the table in due course.

**NUMBER OF MUSLIMS QUALIFIED FOR PROMOTION AS ASSISTANT CONTROLLERS, SENIOR STATION MASTERS AND TRAFFIC INSPECTORS ON THE NORTH WESTERN RAILWAY.**

126. **Sir Zulfiqar Ali Khan :** (a) Will Government be pleased to state the number of Muslim employees on the North Western Railway, who are qualified for promotion as Assistant Controller, Senior Station Masters, Traffic Inspectors who have not been promoted to these posts ?

(b) Is it a fact that some of these men qualified for these higher posts two years ago ?

(c) Are Government prepared to consider the question of the promotion of these qualified men to the rank for which they are qualified with a view to improving the meagre proportion of Muslims in the upper subordinate ranks ?

**Mr. P. R. Rau :** (a) and (b). Government have no information.

(c) Promotion is made by selection from those qualified with due regard to seniority, and communal considerations have no place in it.

### APPOINTMENT OF A MUSLIM AS DIVISIONAL SUPERINTENDENT ON THE NORTH WESTERN RAILWAY.

127. **Sir Zulfiqar Ali Khan :** (a) Is it a fact that there is not a single Muslim Divisional Superintendent on the whole of the North Western Railway ?

(b) If the reply to the above is in the affirmative, are Government prepared to consider the advisability of appointing a suitable Muslim to the post ?

**Mr. P. B. Rau :** (a) This is the case at present.

(b) The posts of Divisional Superintendents are filled by selection from those officers who are considered best qualified, irrespective of nationality or creed.

### APPOINTMENT OF MUSLIMS IN THE ELECTRICAL BRANCH OF THE NORTH WESTERN RAILWAY.

128. **Sir Zulfiqar Ali Khan :** (a) Will Government please state if there is or has been in the past any Muslim gazetted officer foreman, chief clerk, accountant, head accountant, head draftsman, stenographer, and assistant watch and ward Inspector in the electrical branch of the North Western Railway ?

(b) If the reply to the above is in the negative, are Government prepared to consider the advisability of providing Muslim officers and other staff in order to redress the genuine grievances of the Muslim employees of this branch ?

**Mr. P. B. Rau :** I have called for information and will lay a reply on the table in due course.

### COMMUNAL COMPOSITION OF SKILLED AND UNSKILLED LABOUR RETRENCHED FROM THE NORTH WESTERN RAILWAY ELECTRICAL BRANCH.

129. **Sir Zulfiqar Ali Khan :** Will Government be pleased to state by communities :

- (a) the number of skilled and unskilled labour retrenched (separately) since last March, 1931, from the North Western Railway Electrical Branch ;
- (b) the number of skilled and unskilled labour (separately) re-engaged from amongst those retrenched ; and
- (c) the number of skilled and unskilled labour (separately) retrenched with three or over three years service and those retained with less than one year's service ?

**Mr. P. B. Rau :** I have called for information and will lay a reply on the table in due course.

### APPOINTMENTS BY COMMUNITIES OF CLERICAL AND DAILY-RATED STAFF IN THE ELECTRICAL BRANCH OF THE NORTH WESTERN RAILWAY.

130. **Sir Zulfiqar Ali Khan :** (a) Will Government be pleased to state the number of appointments both temporary and permanent by communities of clerical and daily-rated staff (separately under the heads

skilled and unskilled labour) made from 1st January, 1931, up to August, 1932, in the Electrical Branch, North Western Railway and the number obtained through Central Labour Exchange, North Western Railway, Moghulpura ?

(b) Is it a fact that a majority of these appointments were made direct by the officers of the Electrical Branch without the permission of the employment officer ? If so, why ?

**Mr. P. R. Rau :** I have called for information and will lay a reply on the table in due course.

#### APPOINTMENT OF MR. KUNDAN LAL KAPUR AS CHIEF CLERK IN THE ELECTRICAL BRANCH OF THE NORTH WESTERN RAILWAY.

131. **Sir Zulfiqar Ali Khan :** Is it a fact that Mr. Kundan Lal Kapur, Chief Clerk in the Electrical Branch, North Western Railway, Moghulpura, was imported from Headquarters Office, North Western Railway, Lahore, where he was only in grade II (Rs. 68—4—80—5—95) and on transfer was promoted straight to grade IV (Rs. 160—10—200) and within a period of two years or so he was raised to grade VI, that is, Rs. 285—15—330, as Chief Clerk, thus superseding many Muslim qualified clerks in the North Western Railway offices ?

**Mr. P. R. Rau :** I have called for information and will lay a reply on the table in due course.

#### RULES REGULATING THE RECRUITMENT OF MINISTERIAL STAFF IN THE CENTRAL STANDARDS OFFICE, RAILWAY BOARD.

132. **Sir Zulfiqar Ali Khan :** (a) Will Government be pleased to state the number of assistants, clerks and stenographers employed in the Central Standards Office for Railways, Railway Board ?

(b) What reasons, if any, are attributed to the total disappearance of Muslims from this office ?

(c) How many men were recruited from outside and how many men were taken from the Railway Board Office at the time of its formation ?

(d) What rules regulate the recruitment to that office ? Are the candidates indented for from the Public Service Commission ?

**Mr. P. R. Rau :** (a) The Staff of Central Standards Office consists in all of 35 Assistants, Clerks, Stenographers and Draftsmen. Of these eleven are Hindus, eight Muhammadans, eight Europeans and Anglo-Indians and eight Sikhs. Excluding draftsmen the number of Assistants, Clerks and Stenographers is ten. Of these seven are Hindus, one Sikh, one Muhammadan and one Anglo-Indian.

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

(c) Five were recruited from outside the Railway Board's Office on the strength of their previous experience in Railway and other Government Drawing Offices ; one Stenographer was transferred from the

Department of Industries and Labour and one from the Railway Clearing Accounts Office ; two typists were recruited by open competition, and the rest of the staff transferred from the Railway Board's Office.

(d) No rules regulating recruitment are laid down as it is usually found possible to fill vacancies by transfer.

#### RECOMMENDATION OF THE RAILWAY RETRENCHMENT SUB-COMMITTEE FOR THE ABOLITION OF THE CENTRAL STANDARDS OFFICE.

133. **Sir Zulfiqar Ali Khan** : Is it a fact that the Railway Retrenchment Sub-Committee recommended the total abolition of the Central Standards Office ? What steps, if any, have been taken to give effect to these recommendations ?

**Mr. P. B. Rau** : The Railway Retrenchment Sub-Committee did not recommend the total abolition of the Central Standards Office. The recommendation of the Committee and the decision of the Government of India thereon will be found on page 4 of the memorandum dealing with the recommendations of the Railway Retrenchment Sub-Committee, which was circulated to the Assembly in the beginning of November, 1931.

#### COMMUNAL INEQUALITIES IN THE STAFF OF THE CENTRAL STANDARDS OFFICE.

134. **Sir Zulfiqar Ali Khan** : Will Government be pleased to state the stage at which the recommendations contained in Mr. Hassan's report at present are ? Are they applicable to the Central Standards Office for Railways as well ? If so, what procedure will be adopted to redress communal inequalities ?

**Mr. P. B. Rau** : The recommendations contained in Mr. Hassan's report are still under the consideration of the Government of India.

#### NATURE OF WORK DONE BY THE CENTRAL STANDARDS OFFICE.

135. **Sir Zulfiqar Ali Khan** : (a) Will Government be pleased to state the nature of work done by the Central Standards Office for Railways ?

(b) How many receipts have been dealt with in this office for the last two years ? How many specifications have been issued ? How many of them were mere copies of the Indian Stores Department specifications ? What amount, if any, accrued to Government on account of sale proceeds of these specifications and the value of drawings supplied by this office ? How much is spent annually on printing and ferroing these drawings and specifications ?

**Mr. P. B. Rau** : (a) The Central Standards Office for Railways deals with the preparation of Standard Drawings and designs for Permanent Way, Bridges, Signal and Interlocking Locomotives and Rolling Stock ; also standard specifications for railway materials.

(b) The number of receipts, in addition to un-official references from the office of the Railway Board and other offices, during the last two years was 9,189.

153 I. R. S. Specifications have so far been issued. None of these specifications are mere copies of the I. S. D. Specifications. 63 are, however, based on the I. S. D. Specifications and their issue is made with due acknowledgment.

I. R. S. Specifications are stocked and sold by the Central Publication Branch, Calcutta. Information regarding the amount realised up to date is being obtained and a statement will be laid on the table of the House in due course.

The booked receipts for the sale of drawings is Rs. 16,003 up to date. The booked expenditure up to date on printing specifications and printing and ferroing drawings is Rs. 23,557.

#### MARRIED LADY CLERKS IN THE RAILWAY BOARD AND ITS ATTACHED OFFICES.

136. **Sir Zulfiqar Ali Khan** : Will Government be pleased to state how many married lady clerks are employed in the Railway Board's office, and its attached offices ? Is there a Home Department circular regarding lady clerks not to be retained in service after they are married ? If so, why are such lady clerks retained in the Railway Board's office ?

**Mr. P. R. Rau** : There are no married lady clerks in the Railway Board's office.

There is one in the Central Standards Office.

There is no Home Department circular prohibiting the employment of married lady clerks.

#### POSTING OF MR. COLAM AS DEPUTY CHIEF CONTROLLER IN THE CENTRAL STANDARDS OFFICE.

137. **Sir Zulfiqar Ali Khan** : Will Government be pleased to state if Mr. Colam, now acting as Agent, Madras and Southern Mahratta Railway, is again being posted to the Central Standards Office for Railways as Deputy Chief Controller ?

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

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#### THE CRIMINAL LAW AMENDMENT BILL.

**Mr. B. B. Puri** (West Punjab : Non-Muhammadan) : Sir, I was dealing with clauses 2 and 13 when the House rose yesterday. Clauses 2 and 13 relate to dissuasion or an attempt at dissuasion on the part of a person to any individual from entering the police or the military service, etc. This is made an offence, and as I pointed out yesterday, this is made a non-bailable and a cognizable offence. Apparently from the Government point of view, it is a serious offence. Now, it seems to me that this provision is a singularly unfair provision to an accused person, and I endeavoured to point out yesterday that an act of dissuasion or advice could not *per se* be regarded as an objectionable act. An act is either penal or innocent according to the circumstances of each case, and an act should

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be regarded as innocent unless its penal character is established by the prosecution. That, I understand, Sir, is an accepted proposition of law. The present provision offends against this well-known principle in the sense that the moment the prosecution establishes that there has been dissuasion on the part of a person, he is *prima facie* supposed to have committed the offence, and it would then be for him to establish an exception. In the proposed provision, the burden of proving innocence has been placed on the accused person. You will be able to see my point if you compare this provision with the next provision, namely, proposed new section 164B, the opening words of which are : " whoever, with intent to prejudice any public servant, etc. ". Now, here I take it that the ingredient of offence lies in the intention, which is mentioned in the section. In the same way, in clause 2, there should have been words to the following effect :

" Whoever in bad faith intending to prejudice the Government or its administration dissuades a party from entering the police or military service will be guilty ", etc., etc.

If the provision had taken that form, it would have been in perfect consonance with the established principle of law, but in its present form it places the accused person at a considerable disadvantage who shall have to establish his innocence with an initial presumption in favour of his guilt. The only exception provided is, that the provision would not extend to the case in which advice is given in good faith for the benefit of the individual to whom it is given. There is no definition of " good faith " laid down in the Bill and I take it that the definition, laid down in section 52 of the Indian Penal Code, would govern the case and, for the information of the House, just to refresh their memory, I shall, with your leave, read the words of section 52, which are as follows :

" Nothing is said to be done or believed in good faith which is done or believed without due care and attention."

Therefore, if this is the definition of " good faith " on which we are to work for the purposes of this Bill, then it is very doubtful if the exception would be of any use to any party. In any case, our notions as to what is a " good faith " may be quite different from those of the Government.

**Sir Hari Singh Gour** (Central Provinces Hindi Divisions : Non-Muhammadian) : That section merely says what is *not* good faith. It does not define it.

**Mr. B. R. Puri** : If there is any better or more comprehensive or more positive definition of that, perhaps my Honourable friend would enlighten the House and myself also. But I do not find that there is any better or any more exhaustive definition of good faith laid down anywhere. So we are compelled to resort to what we have got. The uncertainty caused by leaving " good faith " undefined is obvious. Suppose a young man comes to me, and I, in perfect good faith,—knowing his temperament and his family history—were to dissuade him from joining the police service, I shall nonetheless be guilty of having committed this offence if the definition of good faith, as understood by the prosecution, is different from mine.

Sir, whatever may be the merits of the police, surely it is not seriously claimed that it is an ideal service likely to improve the morals of those who enter it. After all, there is plenty of corruption in that department, great deal more than there is in other departments. And suppose I were

to dissuade a person from entering the police service on this very ground, with a perfectly honest intention, would I still be guilty ? As long as you do not make any provision to meet such like cases, you are placing upon the Statute-book a most pernicious law which is liable to be used and misused to the prejudice of the people.

In this connection, Sir, it is well to remember that, even during the days of the Great War, such a law did not exist. When the conditions were such that every available man was wanted on the front, when a dissuasion of that kind would have proved extremely mischievous and harmful to the Government, even in those trying times such a provision was not conceived of. Are the present conditions worse than those during the war ? What has happened now which has necessitated the introduction of this law which, even in time of the great stress, was not thought of ? Are we to believe that the Government are actually at war—war of a most desperate character—with the people ? Remember what the Secretary of State says—the movement is crushed, the Congress is gone to pieces and the clouds have disappeared. How can the Government reconcile such a position ? I would, therefore, strongly urge that a law of this kind, which is liable to a considerable amount of abuse, should not be introduced, more so, when the conditions prevailing do not demand it. Incidentally, I would ask you, Sir, to pursue this question a little further and see what provision the Bill makes for those cases where a person, without any dissuasion, of his own will chooses to resign and relinquish the police or military service ? Sir, if it is a penal act on the part of a person to prevent another from entering the Government service, it should *a fortiori* be equally penal for a person who is already in the service of the Government to relinquish that service. I would ask you, Sir, to apply your mind for a moment and see how you are going to meet the case of a person who has made up his mind to resign the service. Would that be *prima facie* penal ? If, then, the attempt shall also be penal, so that the moment a Government official sends in his resignation, it would be an attempt on his part to relinquish the Government service. What is the principle underlying this law ? The object apparently is that your services may not be hampered. The services can be hampered by preventing people from joining them and the services can equally be hampered, perhaps far more seriously, by the people relinquishing the service. Therefore, the principle being the same, if one is penal, there is no earthly reason why the other should not equally be penal. In this way, the moment a Government servant puts in his resignation, he has attempted to dissuade himself from relinquishing the service. That would lead to absurdities and I would ask the Government, Sir, to see where this law will lead us to.

Now, Sir, with these remarks I will pass on to the next clause. That is clause 3 of the Bill. It introduces a new provision, namely, section 164A. It says :

“Whoever induces or attempts to induce any public servant to disregard or fail in his duty as such servant shall be.....”

Then there is a very important explanation added to it :

“For the purposes of this section, a servant of a local authority, or of a railway administration, and a person belonging to any class of persons declared by the Local Government in the local official Gazette to be public servants for the purposes of this section shall be deemed to be a public servant.”

The offence consists in inducing a person who is already a public servant. The last section dealt with the case of a prospective public servant and this

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one deals with a person who is already a public servant. Now, Sir, what is a public servant? All sorts of menials, all sorts of servants of local authorities and of railway administration and persons belonging to any class can be declared by the Local Government to be public servants. As regards the powers of a Local Government, I shall have to say something when I come to deal with another very important question, but, for the present, I will confine myself to the main provision. This provision, as you will see, is open to the same objection as the last provision with regard to the burden of proof which has been placed again on the accused. You will also see that this section has been wedged in, in Chapter IX of the Indian Penal Code. Chapter IX deals with various offences which are all bailable. This is the only offence, therefore, which would be non-bailable in that Chapter and a cognizable one. But what I would particularly ask you to note is the utter lack of proportion in the matter of sentence when we compare it with the existing provisions of the Indian Penal Code. Take, for instance, section 186 of the Indian Penal Code. Section 186 of the Indian Penal Code says :

“Whoever voluntarily obstructs any public servant in the discharge of his duty, the offence shall be punishable with imprisonment of either description for a term which may extend to ....”

—please note the sentence,—

“three months or with fine which may extend to Rs. 500 or with both.”

Sir, in the proposed provision, the mere inducement of a public servant to disregard his duty is punishable with a sentence of one year, for a mere inducement, for a gentle inducement unaccompanied by any act of a more serious kind, the sentence proposed is one year's imprisonment of either description. For the actual obstruction of a public servant in the discharge of his duties, the law, as it exists at present, the sentence provided is only three months imprisonment or with fine. I would ask the Government to compare these two provisions and see whether there is any sense to provide a heavier sentence for a comparatively much lighter offence. After all, obstruction is a far more serious act than mere inducement. I would have expected that the Government would put this section 164A side by side with section 186.

**Mr. H. L. Nichols** (Burma : Nominated Official) : Why should not the Honourable Member tell all this to the Select Committee when the time comes? Are these not Select Committee points?

**Mr. B. R. Puri** : It would perhaps be for the benefit of the Select Committee, if I tell all these things now. I may or may not be there. Of course, I will endeavour to attend the meetings of the Select Committee. I am a member of the Select Committee. But anything may happen to me. I might die in the meantime or I might be hauled up under any one of these Ordinances to-morrow.

**Mr. N. M. Joshi** (Nominated : Non-Official) : The object of the Honourable Member is to defeat the motion.

**Mr. B. R. Puri** : Now, Sir, I should have thought that it would certainly have been more fair if this particular clause had been tacked on to section 186 or placed side by side with the section with which it

bears an apparent similarity. On the other hand, it has been put amongst a series of other provisions with which it has got absolutely no resemblance whatsoever. But, on further reflection, I discovered that probably the reason which led the Government to act in this manner was that if this provision had been placed side by side with section 186, there would be a tell-tale contrast between the two, and that is exactly what the Government wished to avoid. If put side by side, it would appear—obstruction, three months : gentle inducement, one year : and, on the face of it, it would be absurd. But the matter does not end there, there is yet another provision to which I shall draw the attention of the House, and that is, section 189. Section 189 says :

“Whoever holds out any threat of injury to any public servant or to any person in whom he believes that public servant to be interested for the purpose of inducing that public servant to do any act or to forbear.....shall be imprisoned to the extent of two years or with fine or with both.”

Kindly note what the procedure is. It is not a cognisable offence, and it is a bailable offence. Now, compare this provision for a moment with the proposed section 164A of the present Bill. You will find there is a world of difference between the two. That inducement in section 189 has assumed the form of a positive threat of violence and even then the Legislature has provided that the offence shall be non-cognisable and shall be bailable. With what fairness and reasonableness, therefore, can it be urged that for a far more serious form of the same offence, you allow an accused person bail and you make the offence non-cognisable, and for a much milder offence you are introducing a new element, namely, you are permitting the police to arrest any man without any warrant—it being made a cognisable offence, and no bail. I would, therefore, ask the Government to seriously consider this aspect and see for themselves whether, after comparing these provisions *inter se*, the charge of utter lack of proportion is not conclusively established against them.

And, now, I would ask the Government to compare this provision with the other provisions of Chapter IX, namely, the sections which deal with the giving or taking of bribes. The reason why I bring in those provisions is that this section 164A has been wedged in, in Chapter IX which deals with a particular form of corruption. After all, the giving of a bribe is also a form of inducement. In one case it is a simple oral inducement like what we have in the Bill and, in the other, the inducement takes the form of a bribe—but the object is the same, namely, to induce a public servant to do something which he would, otherwise, not be willing to do. Between the two the offering of a bribe is a more serious and a more heinous and more aggravated form of inducing a public servant to commit a dereliction of his duty. That being so, has any regard been paid to this distinction in the matter of punishments ? All offences relating to the giving of bribes are non-cognisable and bailable offences, but, in the proposed Bill, the Government are recommending that mere inducement should be made a cognisable and a non-bailable offence.

I would now, with your permission, deal with a very important clause of the Bill, namely, clause 4. Clause 4 introduces into the Bill section 164B. It is a clause which requires to be read and re-read and, again, re-

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read, because it is a most interesting and a most amusing provision. And, in order to refresh your memory, I will just read it :

“Whoever, with intent to prejudice any public servant in the discharge of his duties, or to cause him to terminate or withhold his services in the discharge of his duties, or to commit a breach of discipline,”

—and now comes the most amusing part of it—

“refuses to deal or do business with, or to supply goods to, or to let a house or land to, or to render any customary service to such public servant or any person in whom such public servant is interested, or refuses to do so on the terms on which such things would be done in the ordinary course, or abstains from such professional or business relations as he would ordinarily maintain with such person, shall be punished with imprisonment for a term which may extend to six months, or with fine, or with both.

*Explanation.*—For the purposes of this section, ‘public servant’ has the same meaning as in section 164A.”

That is to say, not only a public servant, under the Government, but a public servant of a local authority or a railway administration or anybody who has been declared as a public servant by the Local Government, shall be a public servant for the purposes of this section. Sir, I must congratulate the Government for the drafting of this provision. It has spread its net as wide as possible and one can fully expect plenty of fishes to fall in. The clause is so admirably drawn up that I think a public servant hereafter would be an utter fool if he pays for anything. All his needs are amply provided in this section. The language is such that it lends itself to terrible abuse. Only the other day we had to alter a very important provision of the Criminal Procedure Code, namely, section 526, on the ground that the language of the section was such that it was liable to be abused. But what are the Government doing here—they are now introducing in this provision a most pernicious law which could be recklessly abused to an extent which would make the situation absolutely intolerable for the subjects. This provision, Sir, places the subject in this official-ridden country in a most servile position. If this becomes law, I really cannot conceive what would be the safe place for the poor innocent subjects to go to ? (*An Honourable Member* : “To Jail.”) Perhaps the jail, as an Honourable friend suggests, in order to escape from the tyranny of the public servants. That reminds me of a little story that I once read of an Irishman who was about to be tried for a serious offence. The Court was convened, the prisoner was put into the dock and he was asked whether he pleaded guilty or not. “Not guilty, my Lord”, he said. The plea was recorded. Presently the first prosecution witness was called in and, as soon as he was put into the witness-box, the prisoner turned towards him and who should he see but a very dear old friend of his. He was shocked to see him and so he addressed the Judge : “My Lord, may I know if this gentleman is going to depose against me ?”. His Lordship turned round and said : “Well, I can’t say, but I expect he is”. “Well, my Lord, in that case may I change my mind ? I will plead guilty, not because I have done anything, for I am as innocent as a babe, but merely to save my friend’s soul.” The prisoner, with a touch of humour, chose to plead guilty to save his friend from the ignominy of making a false statement. Sir, if this provision becomes law, your ‘services’ will be corrupted and you would be placing an uncontrollable temptation before the

public servants. It may perhaps not tempt such highly placed public servants as I see in front of me, but we cannot forget the lower ranks of the services who are liable to misuse all these provisions for their own personal ends. And, when we consider their case, I would ask you seriously to put yourself this question whether these provisions are not liable to terrible abuse. And, if they are of that character, you have no right to place them on the Statute-book. Innocent citizens, in order to escape from the public servants' tyranny, shall have to shut themselves in.

**An Honourable Member :** Shutting themselves might bring them within the clutches of the law.

**Mr. B. B. Puri :** It might ; but then migration might also be treated as denying the customary services. Sir, my only request is that if this is going to be the law which is to control the destinies of the people of this country, and that for an unlimited period,....

**Rao Bahadur B. V. Sri Hari Rao Naydu** (Madras : Nominated Official) : It is only to be enforced by a Notification. Sub-clause (2) of clause 1 says that sections 4 and 7 will only come into force when the Local Government enforces them by Notification in the Gazette.

**Mr. B. B. Puri :** Thank you for this valuable information which I could not get otherwise. Now, Sir, if that is going to be the law which is to govern the destinies of the people of this country, my only request to the Government would be, kindly do declare me a "public servant". I am not quite sure if M. L. As are public servants ; they may or may not be ; perhaps, like lawyers, they are officers of the Court only when it is a question of some obligation, but when there is a question of some privilege, they are nobodies. If they are not, may I request the Government to kindly declare them as public servants and then perhaps it may not be necessary to move the Resolution for curtailing our Travelling Allowance—for we will forego the same with pleasure. (Laughter.)

**An Honourable Member :** We do not want to be public servants.

**Mr. B. B. Puri :** As I have pointed out, this provision is very exhaustive, but if suggestions are invited, I would like to add the following words to the section :

"Whoever stares at a public servant or a servant of such public servant, whoever talks unkindly to a public servant, whoever cracks a joke with him, whoever fails to invite him to dinner when others are invited (Laughter), shall be guilty of having committed this offence and shall be liable to imprisonment of either description. (Laughter.)"

As I pointed out, it would be placing a most terrible handle in the hands of unscrupulous public servants of the lower orders...

**Mr. N. M. Joshi :** Why lower ?

**Mr. B. B. Puri :** Do you mean to include all classes of public servants ? Might be the middle class, you mean ?

**Mr. N. M. Joshi :** Why do you suppose that the higher officers are free from this ?

**An Honourable Member :** Quite right.

**Mr. B. B. Puri :** If such a terrible weapon is placed in the hands of the public servants, it would be a wonder if they did not take full advantage of it and in any case, partial advantage. The language of the section is so wild that I can well imagine a private gentleman being turned out of a shaving saloon only half shaved, because a public servant had just then walked in and demands that he should be shaved first. This is the law which you are going to enact, and no Government, which have the least claims to civilisation, can ever be a party to laying down such a trash...

**Mr. B. Das (Orissa Division : Non-Muhammadan) :** Who told you this Government is civilised ? They are not.

**Mr. B. B. Puri :** This brings me to clause 7. This clause 7 relates to the imposition of fine upon parents for the sins committed by their sons. It goes further and says, that in the event of the parent failing to pay the fine, he can be sent to jail also.

**An Honourable Member :** That is clause 8.

**Mr. B. B. Puri :** Oh, yes : I forgot. Clause 7 beats everything that has gone before it. It says :

“ 507A. Whoever, with intent to cause any person to abstain from doing or to do any act which such person has a right to do or to abstain from doing,—

(a) obstructs or uses violence to or intimidates such person or any one in whom such person is interested, or loiters at or near a house where such person or any one in whom such person is interested resides or works or carries on business or happens to be, or persistently follows him from place to place, or interferes with any property owned or used by him or deprives him of or hinders him in the use thereof, or

(b) loiters at or near the place where such person carries on business, in such a way or with intent that any person may thereby be deterred from entering or approaching or dealing at such place, or does any other act at or near such place which may have a like effect,

shall be punished with imprisonment for a term which may extend to six months, or with fine, or with both.”

This is what is called the molestation of public servants....

**An Honourable Member :** Of any person, not merely public servants.

**Mr. B. B. Puri :** One has only to read the section to realise the horrors of it. I think it is one of those provisions regarding which hardly any comment is needed. Under this law, before I pass through a street, I shall have to make inquiries whether a public servant has not already gone ahead lest my shadow falls on him.

**An Honourable Member :** Not public servant ; any person.

**Mr. B. B. Puri :** Any private person, yes ; that is still worse. It would not bring about a clash between the public servants and the people, but between the people *inter se*. According to this, even if a shadow of a person falls on another, he is liable, because it amounts to “ pursuing ” and “ following ”. If a person goes about merely for a stroll, he can be hauled up for committing an offence of this kind. Without any further criticism of a law like this, I would ask the Government seriously to reflect whether,

with such laws and with such magistracy as we have got, you are not seriously undermining the society and social order of things. I will make myself clear. If the laws are bad, the mischief could still be mitigated if the magistracy is above criticism. But if the laws are of the kind of which we have got some samples here and the magistracy is also not up to the mark, then the position of the subject really becomes intolerable. If I do not give a blow for a blow, and, if a murder is not committed for a murder, it is because people still have some confidence left in their mind about the impartiality of the Courts of justice. I know that if my next door friend were to give me a blow, my remedy is that I could go before a Court of law and get redress, but if I were to know that I cannot get justice from the Court, if I cannot depend upon the impartiality of the Court of justice, then the moment I receive a blow I would give him two in return.....

**Mr. Gaya Prasad Singh** (Muzaffarpur *cum* Champaran : Non-Muhamadan) : Only if you are stronger, you can give him two.

**Mr. B. R. Puri** : The situation thus created would be one of complete disorder in society, and therefore, it is of paramount importance that you should create and promote confidence of the people in your administration of justice and that in two ways : one is, that your laws should be perfectly reasonable, they should not be unjust, they should not be oppressive, they should not be degrading and humiliating to the people ; and they should not be liable to abuse ; the second is, that the magistracy should be above suspicion. Now, Sir, I have no desire to malign a class of public servants, but I should like to meet an honest man who could put his hand on his breast and say that in political cases the magistrates do justice. ("Hear, hear" from the Nationalist Benches.) I make bold and state that not only the common run of people, but people of the highest classes, entertain this belief.....

**The Honourable Mr. H. G. Haig** (Home Member) : On a point of order, Sir. Is the Honourable Member in order in directing a perfectly unjustifiable attack on the magistracy in connection with this Bill ?

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola) : The Honourable Member is criticizing the agency which will have to administer the Act, and, in doing so, is entirely within the privilege which he enjoys. (Applause from the Nationalist Benches.)

**Mr. Gaya Prasad Singh** : Why don't you separate the judicial from executive functions ?

**Mr. B. R. Puri** : If I say anything against a class of public servants, it is with a great deal of hesitation that I do so. It is not that I seek any pleasure in running down a class some of whom, I know, are perfectly honourable, most of them are perfectly honourable so far as the ordinary cases between A and B are concerned ; but what I do say is that so far as political cases are concerned, there is a well founded belief in the minds of the people of this country that no impartial justice can be expected from your Courts of justice.

**Mr. F. E. James** (Madras : Europeans) : Sir, on a point of order. May I draw your attention to Standing Order 29 which says that a Member, while speaking, shall not reflect upon the conduct of His Majesty the

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King or the Governor General or any Governor, or any Court of law, in the exercise of its judicial functions.

**Mr. B. Das :** Magistrates are not judicial officers.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola) : The Honourable Member does not reflect on any Court of law, but makes general observations on the agency which is going to be entrusted with the duty of administering this law if passed. (Applause from the Nationalist Benches.)

**Mr. B. B. Puri :** Now, Sir, lest it should be considered that it was a gratuitous attack made without any justification, without any data, without any foundation in my possession, I would straightaway take the House into confidence and say that not only is it the belief with the ordinary common run of people, but it is the belief in higher circles as well, and I will tell the House with all the sense of responsibility that attaches to my position what I know from personal knowledge. I had the privilege to represent.....

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola) : The Chair ruled him in order but wishes to ask the Honourable Member whether it is desirable to pursue the point any further.

**Mr. B. B. Puri :** If the Chair will only permit me to mention just one little incident after which I would leave it. I was referring to that well-known trial between Sir Michael O'Dwyer and Sir Sankaran Nair. I had the privilege to represent Sir Sankaran Nair, and we had to examine about 100 or 150 witnesses who were produced on behalf of Sir Sankaran Nair as a defendant in that case. While the case was proceeding, not once but on many occasions that gentleman had to remark—" You carry on the case ; I am not fighting for the verdict ; I know it is a political case, and, in political cases, verdict is foregone conclusion—nor does it count ".

That being the case, it is clear that with such laws as you are now proposing to lay down and with the beliefs and the convictions which the people have with regard to the magistracy, you will be creating a very difficult and a very unfortunate situation in the country.

This brings me, Sir, to the next clause, 383A. This is a provision which makes parents liable for the sins of their children. All I need say with regard to this provision is, that it violates the universally recognised principle that every man is responsible for his own act. The other day, my friend, Mr. Gwynne, inadvertently gave expression to the same principle, and, on that principle, he wanted to justify a course which was followed by Government. I pointed out to him then that in the course of the next two or three days I would be able to remind him—unfortunately he is not in his seat now. But, Sir, there is no gainsaying the fact that this is a very strange law and constitutes a marked departure from the well-known principle of law which lays down that nobody can be held responsible for the acts of others. My son may be moulded on different lines, he may have his own views.....

**Mian Muhammad Shah Nawaz** (West Central Punjab : Muhammadan) : He has different views. (Laughter.)

**Mr. B. R. Puri** : ....different from the views that I possess, and there is no justification why the parent, who may be sitting hundreds of miles away, should be penalised and sent to jail. The offence of the father is not going to be determined by what the father has done, but by the nature of the offence which the son has committed. Sir, under the existing law, nobody can be punished for anything done by the principal offender, unless it is proved that he is guilty of having committed an abetment of that offence. But, before an abettor can be punished, it is always for the prosecution to establish that he has committed an act of abetment. Here, you have thrown all your law of abetment to the winds. You have straightaway assumed that a person is guilty of having abetted an offence, because he happens to be the father of the offender.

**Mr. K. C. Neogy** (Dacca Division : Non-Muhammadan Rural) : This is propaganda in favour of birth control !

**Mr. B. R. Puri** : It is, as a matter of fact, in favour of birth control ; it really comes to that. The only way in which the person can save himself is not to marry, because if he marries and gets children, he might find himself in jail. So, the best thing would be not to marry at all.

**The Honourable Mr. H. G. Haig** : Cannot the Honourable Member control his children ?

**Mr. B. R. Puri** : Now, Sir, there is a proviso added :

“ Provided that no such order shall be made unless the parent or guardian has had an opportunity to appear before the Court and be heard.”

He is given the privilege of being heard, but heard on what point and under what conditions he has to be exempted from that liability, nothing is said.

Sir, the next provision is clause 15, and this brings me to a very important question which I wish to place before the House. I would first of all ask you to look at page 5 of this Bill, clause 15. It says :

“ Section 16 of the Indian Criminal Law Amendment Act, 1908, shall be re-numbered as sub-section (1) of section 16, and to that section as so re-numbered the following sub-section shall be added, namely :

“(2) The Governor General in Council, if satisfied to the like effect, may, by notification in the Gazette of India, declare an association to be an unlawful association, and thereupon such association shall be, so long as the declaration remains in force, an unlawful association for the purposes of this Act throughout the whole of British India.”

Section 16 of the Criminal Law Amendment Act says :

“ If the Governor General in Council is of opinion that any association interferes or has for its object interference with the administration of the law or with the maintenance of law and order, or that it constitutes a danger to the public peace, the Governor General in Council may, by notification in the official Gazette, declare such association to be unlawful.”

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I would also ask you to look at section 15 of the Act which defines an unlawful association. It says :

“.....(a) which encourages or aids persons to commit acts of violence or intimidation or of which the members habitually commit such acts, or

(b) which has been declared to be unlawful by the Governor General in Council under the powers hereby conferred.”

Now, the point that I wish the Government to note is, that there is a fundamental defect in this provision, namely, that it is absolutely *ultra vires*, that this Legislature is not authorised to permit the Governor General in Council to do anything of the kind. Let me make my position clear. The Central Legislature has been given certain powers of legislation for this country. This power is derived from an Act of Parliament, called the Government of India Act. It is under the Government of India Act that this House has got the power to legislate for this country. In order to see what are the powers of this Legislature, the only source to which we have got to refer is the Government of India Act. The powers which this House can exercise are prescribed there. They cannot be added to, or extended, or restricted. For all practical purposes, that is the only repository to which we have got to refer, namely, the Government of India Act. Now, please note that, under the Government of India Act, the Legislative Assembly is the only body that can legislate ; there is no other contemporary body, there is no other rival agency, which has got the right and the privilege to legislate, barring perhaps the emergency powers which have been conferred upon the Governor General, namely, of promulgating Ordinances or issuing Regulations—those are defined in sections 71 and 72 of the Government of India Act. Thus, barring those two particular sections, namely, sections 71 and 72, one dealing with Regulations and the other with Ordinances, there is no other body or agency which has got the right to legislate in this country. That being so, this Legislature cannot abdicate its functions or transfer its functions to anybody or any agency to supplement its own function which is exclusively conferred upon it. Sir, to illustrate what I mean, if this Legislature were to lay down that whoever is a member of an unlawful association shall be guilty of such and such an offence and that, what is an unlawful association shall be declared by Mr. Kabeer-ud-Din Ahmed and published in the *Statesman* newspaper, no doubt you will agree that that would be an absurd law. Precisely so. Because, Mr. Kabeer-ud-Din Ahmed's position is not the Legislature and the Legislature has got no business to say that they would take him in partnership in this matter. Either the Legislature should legislate itself or not legislate, but they have got no right to invite somebody else, no matter how highly placed he may be, to come and help in the function of legislation, and yet this is precisely what you have done here. You say it is for the Governor General in Council to lay down what an unlawful association is. I submit that the Governor General in Council has got no right whatsoever to do so. It is for the Legislature to lay down the conditions which would make an association an unlawful association. It is not for a private individual or for a body of individuals, no matter who they may be, to usurp the function of legislating. Therefore, to the extent that this provision transfers its powers to the Governor General in Council, this provision is positively bad and *ultra vires*. I

would invite your attention to section 84 of the Government of India Act, which says :

“ A law made by any authority in British India and repugnant to any provision of this or any other Act of Parliament shall, to the extent of that repugnancy, but not otherwise, be void.”

All that you need now consider is section 65 of the same Act, and you will find that it is the Central Legislature that has got power to make laws. Therefore, my submission is that this power, which is conferred upon the Governor General in Council, is not conferrable under the Government of India Act and, if that is done, it would be repugnant to that extent, and it would be wholly illegal and *ultra vires*. I would ask you now to turn for a moment to section 15 of the Criminal Law Amendment Act. You will see here that in two ways an association can be declared to be unlawful. One is, if the magistrate declares it for the purposes of the particular case over which, at the moment, he is exercising jurisdiction. Certain conditions are laid down for his guidance. Evidence is led by the prosecution in support of their case. The witnesses are examined and cross-examined and, after the whole evidence is sifted, the magistrate comes to one or other conclusion. If the magistrate finds that the association is unlawful, the finding could be challenged in a Court of appeal and, although a conviction may have ensued in the first instance, that conviction is liable to be set aside if you can successfully satisfy the appellate Court that what the magistrate has found to be an unlawful association on the evidence led is not to be an unlawful association. Either the evidence is not trustworthy, or the evidence is inadequate, or it is open to some other objection. Therefore, it is always open to an accused person to challenge that finding. But there is another agency which has been given the legislative power to declare what an unlawful association is and that is the Governor General in Council. The magistrate can only deal with this question, when the case is before him, but the Governor General in Council in advance can declare that any particular combination of people constitutes, according to his view, an unlawful association. Therefore, this is a clear case where another agency has been called in to legislate, a power exclusively possessed by the Legislatures. In this sense, I would submit that the existing provision of the Criminal Law Amendment Act is equally bad and *ultra vires* and, for the similar reason, your present Bill which contains the same provision with regard to the power of the Governor General in Council to declare an association unlawful is bad and *ultra vires*.

There is one more clause to which I will have to refer, in order to show you to what extent this Bill goes in this direction, this is clause 12, which says :

“ The Local Government may, by notification in the local official Gazette, declare that any offence punishable under section 186, etc.....notwithstanding anything contained in the Code of Criminal Procedure be cognizable and non-bailable.”

Now, here is a most flagrant case where you are giving to an executive body, namely, the Local Government, the power to repeal your legislative Act. The Act of the Legislature, namely, the Criminal Procedure Code, lays down that certain classes of offences shall be non-cognisable and shall be bailable. You are giving a power to an executive body to declare in their own Gazette in spite of what your Criminal Procedure Code says. We declare that certain offences shall be cognisable and non-bailable—although very opposite and contrary of what you have done and, I submit,

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the Criminal Procedure Code lays down to the contrary and this is a flagrant overthrow of a legislative Act. No executive Government, no outside agency, no individual, and nobody in Council or out of Council, have the power given to them under the Government of India Act to legislate either singly, individually or in partnership with us. It is our right, our exclusive right, and if we delegate that right, we are committing really a dereliction of our own duty and we are going beyond the powers which have been conferred upon us. We have got no right to abdicate these powers and the Local Governments or the Governor General in Council have got no right to assume these powers. Therefore, to this extent this law is bad, the previous law is equally bad, and the present law which repeats that provision is no better. (Hear, hear.) Now, Sir, looking at this clause, it would appear that it furnishes an illustration of "legislation made easy". There is the Governor General in Council who can declare what an unlawful association is; there is the Local Government which can declare what are the abode and premises of such unlawful association; there is the District Magistrate who can take possession of those premises; and there are his subordinates who can go into the premises and help themselves to anything they like which they find there. (Hear, hear.) If it is a milch cow, they can drink the milk. If it is a motor car, they can have a free ride. (Laughter.) If there is any money found there, they can forfeit it! Sir, is this a "legislative", or a purely "executive" Act? I would ask you, Sir, and the Government to seriously consider whether this is not a sugar-coated pill, full of executive bitterness, only with a little superficial coating of sugar, a mere tinge and colouring of legislative character being imparted to the Bill. I submit, Sir, that a law of this kind could not be tolerated. And I would ask the Government—to sum up—that they are now trying to introduce laws which, I venture to submit, can hardly be called civilised laws. They are most uncalled for, most inappropriate, most liable to abuse, and most mischievous laws, because they place such a great temptation in the path of the executive officers and their subordinates; and these laws, I venture to submit, are conceived solely on account of the great distrust which the Government seem to cherish against the subjects of this country. The Government are so distrustful of the people! If that is their feeling, then they must expect reciprocity of such feelings from the people towards them. (Hear, hear.) It is only when you repose confidence in the people that you can expect reciprocity yourself. (Hear, hear.) Sir, a Government, which look on every combination of men as a conspiracy and every patriot as a rebel, cannot expect the people to look upon the Government and their agents as people who are here for the benefit of the people. (Hear, hear.) Sir, I think it would be doing a good turn not only to the people of this country, but, I think, Government in its own interest would be much better advised if they were not to resort to such desperate measures, and measures which would engender and promote desperation on the part of the people. (Hear, hear.) And I have here one word to say to my Honourable friends, the nominated Members. We were reminded yesterday by my Honourable friend, Mr. Anklesaria, that we were people who hunted with the hound and ran with the hare. Sir, those who live in glass houses should not throw stones at others. (Hear, hear.) (Mr. S. C. Mitra: "He is not here.") There he is actually in front of

me,—he is sitting there. (*Mr. Gaya Prasad Singh* : “ Quite indistinguishable from the Official Members ! ”) I have got no desire to say anything unpalatable, but I trust that the nominated Members will be doing their duty much more honourably and much more honestly if they gave a candid, a straightforward and a bold opinion to the Government, that they are on the wrong track in enacting such laws. Sir, the other day I happened to have the privilege of sitting at the same table with a young English gentleman who, it appeared, had recently come out to this country and had been attending the Assembly and watching the deliberations of this Honourable House, and he asked me what particular section of the House did I belong to. I said, I belonged to the Opposition. He said, “ Why, Opposition ? ” I said, “ Why not ? ” Suddenly changing the topic he said : “ Do tell me who are the people who are sitting on the Back Benches behind the Treasury Benches ”. I said “ those are ”—I mean no offence to my Honourable friends—“ voting machines imported from the different parts of the country. (Laughter, and “ Hear, hear.”) Some of them are silent machines, like those portable silent Remingtons ; some of them have merely arrived here, like the gentleman who arrived in a big hotel and put down his name in the visitors book, and who was asked by the clerk in charge : ‘ Well Sir, do you want a room ? ’ ‘ No, I do not want a room ’, he said. Then he was asked ‘ do you want dinner ? ’ ‘ No, I do not want a dinner either, I merely want to arrive—it is a long time since I have arrived at a hotel, I have seen very important people arriving here, so I thought I will also arrive here ’.” (Laughter.) Sir, some of my Honourable friends here have merely “ arrived ” ; they do not give us the benefit of their views, but, at the same time, when their services are required, they give their votes. (Laughter.) Sir, may I beg of them and appeal to them and say that this is an occasion when they should be more serious in the discharge of their duties ; that they should support Government only if they honestly and conscientiously believe that the Government are in the right, but that if their conscience dictates otherwise, they should be bold enough to tell Government that they are on the wrong track. Sir, with these words, I oppose the motion. (Loud Applause.)

**Mian Muhammad Shah Nawaz** : Sir, the object of this Bill is to end the civil disobedience movement. The authors of this movement regard it as a perfectly legitimate form of political agitation against the present system of Government, to which resort can be had under pressing necessity. The Government, on the other hand, regard it as dangerously subversive. In point of fact, it is a deliberate attempt to coerce the authority by mass action. Mass action is another name of force ; and when its avowed object is to paralyse the administration, a Government must either resist or abdicate. Honourable Members are aware that the civil disobedience movement was inaugurated on the 6th April, 1930, when Gandhiji went to Dandi beach and broke the salt laws by manufacturing salt. From 7th April onwards, undoubtedly there were serious disorders and disturbances throughout the length and breadth of this vast country and no province was immune from unrest. The Government attribute all these disorders and disturbances to the general excitement caused by the civil disobedience movement but, in point of fact, there are other factors which also have caused unrest. There is the unprecedented class conflict in this country. There is the question of unemployment. The constitutional issue is still hanging in the balance. There is communalism and possibly communism. Agricul-

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gural distress is very acute and widespread. All these factors have contributed to the general unrest in this country. Sir, on the 11th April, 1930, there were serious riots in Bombay and Calcutta ; on the 15th April, another riot in Calcutta ; on the 16th April, there was another serious riot in Karachi ; on the 18th April, a very serious attack was made by the terrorists on the Armoury at Chittagong ; on the 23rd April, there was a very serious disturbance in Peshawar and, then, on the 8th May, there was a most serious riot at Sholapur and the Government were compelled to proclaim martial law there. These are the hard facts of the situation, which we cannot ignore. But the Government cannot ask us to pass this law which will really create a desert in the name of peace. Sir, from the 19th April till the 7th of July, Lord Irwin was compelled to promulgate several Ordinances. He was forced to arrest the leaders of the Congress. On the 5th March, 1931, there was an agreement between the leaders of the Congress, headed by Mr. Gandhi, and Lord Irwin's Government. The terms of this agreement are embodied in a Notification which was published in the Gazette of India. By its terms, the civil disobedience movement was called off and picketing stopped. In November last, Gandhiji went to England to confer with his colleagues with a view to arrive at the greatest possible measure of agreement so as to make it the basis of the new constitution. Unfortunately, he would not budge an inch from his position. The Conference also broke down on the communal issue. Meanwhile, Gandhiji's followers thought that the terms of the agreement of 5th March, 1931, were broken by the Government. The Government, on the other hand, blamed the leaders of the Congress and thought that the terms of the agreement were violated by them. The result was that the civil disobedience movement was revived with all its vigour. His Excellency Lord Willingdon then promulgated six Ordinances which expired in June last. He again promulgated these Ordinances, which expire towards the end of December. My learned friend, Mr. Puri, has raised a point that the Governor General had no jurisdiction to promulgate the Ordinances for the second time. The point has not been decided, but it is quite obvious that he had the power to do so. If the Governor General is not prohibited by an express enactment of law not to promulgate the Ordinance for the second time, there is no reason why he should not have the power to promulgate them again after the expiry of six months. The point is obvious. Indeed, if the point had been raised, it should have been raised by Mr. Puri who has been defending many cases under the Ordinances.

But, Sir, before I come to the specific provisions of this drastic Bill, I desire to point out the causes which have led to the civil disobedience movement. We must diagnose the disease first and then administer healing remedies to it. I will, therefore, place these causes before the House.

The first cause is the constitutional issue which has not yet been settled. The civil disobedience movement, as Honourable Members know, was launched against the present system of Government ; and, if the British Parliament is prepared, as I hope they are prepared, to give us autonomy in the provinces and responsibility at the centre with the necessary safeguards for the period of transition, I think the civil disobedience movement should disappear to a great extent. Honourable Members are aware of the historic declaration which the Prime Minister was pleased

to make on the 9th January, 1931, by which the British Parliament and the British Government are now pledged to give responsibility to the Indian Legislatures, both at the centre and in the provinces, subject to the necessary safeguards for the period of transition and also subject to the necessary guarantees as required by the minority communities to protect their own rights and liberties. But, Sir, in spite of this declaration, there has been a lurking suspicion in the minds of a section of people of this country and, especially in the minds of the Congressmen that Government are not prepared to give responsibility at the centre simultaneously with provincial autonomy. That idea may be wrong, but it is there. Mr. President, the plan of the Secretary of State gave rise to grave misgivings. The British Cabinet has its own difficulties ; its main prop is a body of Conservative members among whom men of the type of Mr. Winston Churchill can always have a good hearing. No man has done greater harm to the cause of the British Empire and India than Mr. Winston Churchill. Last year, this gentleman raised an issue on the Indian constitution, but carried with him into the division lobby a miserable rump of forty Members only.

Sir, I wish the Congress were to participate in the deliberations of the revised procedure of the Round Table Conference. India warmly welcomes the statement of His Excellency the Viceroy, which was made the other day, to the effect that the Round Table Conference methods are now restored in the future reforms procedure. For this happy ending of fears, doubts and misunderstanding, His Excellency the Viceroy and his Government are entitled to a warm thanks by the people of this country. But still there are many things to be done to complete the picture. The lurking suspicion still remains that responsibility at the centre may be postponed.

**An Honourable Member :** What about civil disobedience movement which has not yet vanished ?

**Mian Muhammad Shah Nawaz :** The civil disobedience movement will disappear considerably if the British Government and the British Parliament will give a constitution satisfactory to the people of India and fulfil their aspirations.

**Sir Abdullah-al-Mamun Suhrawardy** (Burdwan and Presidency Divisions : Muhammadan Rural) : Terrorism has not disappeared.

**Mian Muhammad Shah Nawaz :** Terrorism has not disappeared from the world. In India, at present, it is confined to the province from which my Honourable friend comes. It is for him to devise ways and means and methods to eradicate this evil of terrorism. The Bengal Legislative Council has already passed a law which, I have no doubt, will, in time to come, eradicate this evil. But terrorism will persist in Bengal if it receives, to some extent, support from its people. My Honourable friend has to blame the people of his own province.

**Sir Abdullah-al-Mamun Suhrawardy :** What about the gentlemen to the right of the Honourable Member whose lead he follows ?

**Mian Muhammad Shah Nawaz :** He belongs to your province.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola) : Will the Honourable Member please go on with his speech ?

**Mian Muhammad Shah Nawaz :** I was saying, Sir, that we would like the Congress to participate in the revised procedure. It is a great pity that the civil disobedience movement was revived not on a constitutional issue, but on a side issue. In grappling with the shadow, they missed the substance. Sir, Ordinances and repressive laws are fleeting evanescent things as compared with the solid fact of securing power which can mend them or end them. If the new constitution is not satisfactory, then woe unto this country. Then, I am afraid, the present Bill, even if passed into law, will not help the Government. But if the constitution is satisfactory to the majority of the people of this country, to the moderate element and to the Muslims and other communities, excluding the Congress, then I am firmly convinced that the Government are entitled to maintain law and order effectively until the new constitution can safely function. (Applause.) Sir, the new constitution cannot be inaugurated with turmoil prevailing in the land. I do hope that men, devoted to the single ideal, men, determined to remove all obstacles from the path of further constitutional reforms, will go to England and try to achieve a lasting settlement between Great Britain and India. The constitutional issue is one of the causes of discontent and unrest in this country which, I do hope, will soon disappear. Meanwhile we must press on with our high purpose in faith which moves mountains.

The next cause of the civil disobedience movement is unemployment. The devil, it is said, readily finds work for idle hands to do. Now, in the increase of crime and unrest throughout this country and, indeed, all over the world, we may find one of the sinister effects of unemployment. Men and even women are driven to break the law by sheer necessity of doing something, if not by more powerful urges. Our young men are suffering from the want of occupation in these difficult times. This is partly due to our defective educational system which turns out hundreds of our young men from schools and colleges unequipped for a calling and ready to fall into the clutches of scheming men who hope to harness their idealism and energy to the chariot of their criminal ends. If young men are given more opportunities for employment, if industries are developed in the country, if agricultural distress is removed, I hope it will soon disappear—I have no doubt that crimes will decrease and the civil disobedience movement will vanish. But, as long as the civil disobedience movement has an amount of sympathy from the people, it will persist. It will encourage our misguided youths to kill an official with a revolver in one hand and poison in the other and to throw a bomb amidst a dancing party. Government are, therefore, bound to protect their own servants and the public who are suffering from the consequences of this movement which has done India so much ill in the past. It is difficult to imagine how a Swaraj Government, if it is established in the near future, could do otherwise than what the present Government are doing. I have no doubt in my mind that if Mr. Gandhi or his followers were given the power to make laws, they will see that the civil disobedience movement is ended.

The other cause which has given impetus to the civil disobedience movement, especially in the northern India, is the agricultural distress. Times out of number I have pointed out that the distress is very great and widespread and agriculturists can hardly eke out an existence. Their whole income goes towards the payment of land revenue and water rates. Their hard labour and their equipment are all spent in payment of notified

liabilities at ludicrously high rates and the eyes of these poor agriculturists have grown dim with gazing on the pilot stars for a relief, but relief cometh not. They are buried in debts up to their ears. Sir, the State is a big tree and the agriculturists are its roots and branches and, if the roots are not watered, the leaves fall, the branches break down and the tree perishes and, then, there will be weeping and gnashing of teeth. Mr. President, the agriculturists are born in debt, they live in debt and they die in debt. And now I have a very serious complaint to make against the Honourable the Home Member and the Honourable the Law Member and, I hope, they will look into the point which I desire to urge before the House. Last year, in this magnificent hall, we discussed the provisions of the Usurious Loans Act. I then pointed out that the provisions of the Usurious Loans Act are absolutely ineffectual. They could not give any relief to those who are obliged to raise loans at exorbitant rates of interest. Government then made a definite promise to amend the law, but they have not brought in a Bill yet. On the other hand, they are bringing in this Bill which is very drastic in order to maintain law and order. They do not care tuppence for the distress caused by the slump in the prices of agricultural commodities. Is this the way in which you are going to relieve the distress among the agriculturists who form the bulk of the population of this great country? A year has passed, and I was looking forward to see during this Session, some amending Bill to correct the Usurious Loans Act, but I do not see it. Government are callously indifferent. If you cannot increase the prices of agricultural products, you can certainly reduce the rates of interest and give relief to the agriculturists and other persons who are buried in debts up to their necks.

The fourth cause which has led to the civil disobedience movement is the class conflict. I am not talking of the division of our countrymen into Hindus, Muslims, Sikhs, Parsis and Christians. These have existed since a very long time and they will continue to exist till greater enlightenment, political wisdom and political experience bring about communal concord by mutual consent. I hope the day is not very far when people will have common interests and give up this communalism. But, Sir, I am talking of another kind of unprecedented class conflict. Capitalists and labourers, employers and employees, landlords and tenants, even motorists and pedestrians are well-defined classes. Government, therefore, cannot ignore this unprecedented class conflict and, I am glad to see, that they have made some sort of provision against this class hatred. It is doubtful whether section 153-A of the Indian Penal Code can meet the present position, but I think a provision in this Bill will certainly meet it.

I now come to the Bill itself and let me say at the outset and quite clearly that I cannot, and, I shall not, agree to place this Bill permanently on the Statute-book. I will point out that some of the provisions can be inserted in the Penal Code, most of them should not find a place in the Penal Code and some of them should be cut out. Sir, our esteemed and able friend, the Home Member, has told you that Government are passing great powers into the hands of the Indians and, as there is a danger of upheaval, they have brought this drastic measure for the Assembly to pass. He has reminded us of the French Revolution and Communism in Russia, but I can tell him quite confidently that there is no Robespierre and no

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Lenin in this country. The Indian people are, as a matter of fact, very peaceful.....

**An Honourable Member :** What about Gandhi ?

**Mian Muhammad Shah Nawaz :** Undoubtedly, Mr. Gandhi is one of those gentlemen who would like to coerce the authority by mass action and, as he is armless, he thinks, albeit erroneously that the civil disobedience movement will probably be the best to achieve change of representative Government. Well, Sir, Gandhi is neither a Robespierre nor a Lenin. The Indian bent of mind is, as a rule, very gentle, tranquil and true. Our esteemed and learned friend, the Home Member, says that we should remove the odium of the Ordinances. But, what of the odium, that he is going to inflict, on the elected Members of this Assembly ? The Honourable Member forgets that after all we have the honour of representing certain constituencies in this House. Do you think, Sir, that we, who have the honour of representing certain constituencies in this House, could justify our presence in this Hall if we were to give power to the Government to confiscate credits, securities and monies by executive orders ? That is not possible, Sir, and we cannot do it. If there is an emergency, this Bill should be treated as an emergency Bill. The Government should not ask us to place it permanently on the Statute-book.

Sir, I will now come to the specific provisions of the Bill. My esteemed friend, Mr. Puri, has made a very long speech and he has dealt very exhaustively with each clause ; and, as I am not a long-winded speaker in this House, I will not take much time, but briefly express my opinion on the different clauses. My learned friend, Mr. Puri, has objected to clause 2 which lays down that if a person dissuades or attempts to dissuade any other person from entering the navy, army or air force, he will be liable to be imprisoned for one year or to pay a fine or to both. My learned friend has said that the intention ought to be an ingredient of this offence. There I differ from him. There are certain crimes in which intention is an ingredient, but there are other crimes where the effect of a certain action is a crime. Here the effect of dissuading would be not to allow people to enter the army or the navy. Therefore, the clause, as it goes, is free from objection. I can give an instance. A man drives rashly, going at a speed of twenty-five miles. He is liable to be fined, although he may not injure anybody, but the effect of such driving might be to hurt some one and so he comes within the clutches of law. So is the case with section 304-A, of the Penal Code. But why should we bother about this clause 2 ? Government say that the Congress leaders have been dissuading people from entering the army and police. What of that ? The people want employment. If Government want a thousand recruits for the army or the navy or the police, let them give me seven days' notice and I will provide them with such recruits and I am certain, that my Honourable friend, Captain Sher Muhammad Khan, can give them another thousand within a week. But I really think that the question does not arise. There may be rare cases in which persons were dissuaded from joining the army or police, but such cases are so very rare that I do not find any mention of it in the book called "India in 1930-31". Therefore, the clause, as it stands, is really quite harmless and will not affect anybody. We all want employment.

We are dying for employment ; please create employment for us so that we may have our bread ; we do not want butter ; we want only bread. For goodness sake, give us employment of any kind.

I now come to clause 3. I would have no objection to this clause, but I have serious objection to the explanation given thereto. Public servant is a public servant. It may be a servant of the Government ; it may be a servant of a railway company ; but public servant, as defined in this explanation, seems as follows :

“For the purposes of this section, a servant of a local authority or of a railway administration, and a person belonging to any class of persons declared by the Local Government in the local official Gazette to be public servants for the purposes of this section shall be deemed to be a public servant.”

(At this stage Rao Bahadur M. C. Rajah, M.L.A., entered the Chamber and was greeted with Cheers.)

I am glad to see Mr. Rajah here after achieving a great success. (Continued Cheering.) Happily a settlement has been arrived at, and we are very glad that Mr. Gandhi has broken his fast. As I was saying, the explanation defines a public servant thus :

“For the purposes of this section, a servant of a local authority or of a railway administration, and a person belonging to any class of persons declared by the Local Government in the local official Gazette to be public servants for the purposes of this section shall be deemed to be a public servant.”

That is to say, an employee in a private concern or a factory can be declared to be a public servant by the Local Government. Is this fair ? Is this just, I will ask the Honourable Sir Brojendra Mitter ? I thought the definition of a public servant as defined in the Indian Penal Code was quite clear and satisfactory. It cannot be so extensive and all comprehensive ; it cannot be so wide. Anybody, any person who is employed anywhere, in any private concern, or factory, or manufactory that can be visualised, may be called a public servant. I have very serious objection to this definition and to these words : “a person belonging to any class of persons declared by the Local Government”. These words should be omitted and cut out entirely.

I now come to clause 4, which seeks to insert a new section 164-B in the Indian Penal Code. My learned friend, Mr. Puri, has referred to it and given us very interesting experiences. I entirely agree with him. This clause should not be made part of the Penal Code at all. As a matter of fact, this clause should be eliminated entirely. This clause can be enforced by a Notification by the Local Government. If you want this clause to be enacted, it should not be enacted by this House. Leave it to the Local Legislatures if you like ; and let them have a law according to their own peculiar conditions. I cannot agree, Sir, that this House should be made to consider a clause like this. The clause has already been read out by Mr. Anklesaria and by my able and esteemed friend, Mr. Puri. It is very drastic ; it is very objectionable. It gives great power to the public servants ; they are already too powerful. I must say that many men are frightened of a public servant. Take, for instance, the case of a patwari. I am perfectly certain that despite the fact that the Honourable the Law Member and the Home Member are the custodians of law and order, if I were to send a patwari from one of my villages to Simla, to measure the boundaries of their houses, they will soon realise the power of the patwari ; and

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yet the Government are ready to place a weapon of oppression, not only in the hands of public servants, but also in the hands of their relations, that is to say, any one who boycotts such relations, directly or indirectly, may be sent to prison. Again I come to the customary services. I remember the martial law days in Lahore in 1919 when British justice, for the first time, completely slept, when Colonel Johnson was in charge of the city of Lahore. That gentleman interpreted customary service to include the salute.

**An Honourable Member :** Sarkar Salaam.

**Mian Muhammad Shah Nawaz :** Do you expect that we should salute a public servant ? I dare say it is not included in the customary services, but it goes without saying that customary services include the supply of chickens and eggs and milk and fruits. Do you really desire that corruption should increase ? Is it not already too much prevalent in the country ? Do you really think that public servants should be the servants of the bureaucratic Government and not the servants of the public ? Do you think that they should be the monarchs of all they see and survey ? As it stands, this clause is most objectionable and it should not see the light of the day either here or in any of the Local Legislatures. But I contend that sections 186 and 189 of the Indian Penal Code are quite sufficient to meet the situation. I will read to you, Sir, these two sections: Section 186 runs thus :

“Whoever voluntarily obstructs any public servant in the discharge of his public functions shall be punished with imprisonment of either description for a term which may extend to three months or with fine which may extend to five hundred rupees or with both.”

Section 189 runs thus :

“Whoever holds out any threat of injury to any public servant or to any person in whom he believes that public servant to be interested for the purpose of inducing that public servant to do any act or to forbear or delay to do any act connected with the exercise of the public functions of such public servant, shall be punished with imprisonment of either description for a term which may extend to two years or with fine or with both.”

Is that not enough ? I will now read clause 4—or section 164-B which will correspond to this :

“Whoever, with intent to prejudice any public servant in the discharge of his duties, or to cause him to terminate or withhold his services in the discharge of his duties, or to commit a breach of discipline, refuses to deal or do business with, or to supply goods to, or to let a house or land to, or to render any customary service to such public servant or any person in whom such public servant is interested, or refuses to do so on the terms on which such things would be done in the ordinary course, or abstains from such professional or business relations as he would ordinarily maintain with such person, shall be punished with imprisonment.....”

Without doubt there is a difference. The clause is very wide, very comprehensive. But the present situation can easily be met by sections 186 and 189 of the Penal Code. What is the good of giving wide powers to public servants ? They are likely to abuse them. They will use them for paying low prices for articles they get. A public servant may say “I can get a chicken for three or four annas in the rural areas and I will not pay more than three or four annas”. In this way the Government seek to give power to public servants to get supplies without adequate consideration—

which is already a crime under the penal law. But, Sir, cases of molestation or boycott of public servants are so very rare that they are negligible. Again, the explanation given underneath this clause really surpasses my imagination. It is stated there—"for the purposes of this section 'public servant' has the same meaning as in clause 164-A". That is to say, any person who is an employee in any private concern or in any private institution can be called a public servant, and if he is not given a supply of chickens or of eggs or anything eatable or if he is not given land on hire or a house or a building or a tent, then the person refusing to render such help or supplies can be ruined. This, Sir, is a very strange law indeed.

**An Honourable Member :** This is a lawless law.

**Mian Muhammad Shah Nawaz :** This law should not be inserted in the Penal Code. It will pollute the fountain head of criminal justice.

I now pass on to clause 7 of the Bill. This relates to picketing. I confess that picketing has, in some cases, interfered with the liberty of the individuals. It has certainly led to a serious riot in Benares where a hartal was proclaimed and a Muslim foreign cloth dealer did not close his shop and was consequently murdered. I know it led to a serious riot in Amritsar where the victim was a Hindu. I am aware that in Madras the picketing of toddy shops and liquor shops has led to serious riots. Therefore, picketing, if accompanied by intimidation or annoyance, can be made an offence. But here, again, I would request the Government to leave it to the Local Legislature. We should not be made to enact this law, and also the Local Governments should not be empowered to make it a law by Notification. If Local Governments want to make picketing an offence, they should do it with the assent of the Local Legislature by a measure of legislation or by a Resolution to be passed by them. Why should we be called upon to make a law for the Local Legislatures? Conditions in the different provinces vary materially; those conditions are not alike; I do not say that if picketing is followed by intimidation or annoyance or bodily harm, it should not be made an offence. But what about the temperance societies who desire that India should become dry, who think that drinking of liquor is a great evil and it should disappear.

Well, Sir, I remember, one day, I went to a party where a discussion took place on the life of Omar Khyam, and there I heard :

"Forget the past regrets and the future fears

With a flask of wine and thou singing beside in the wilderness

We will make paradise on earth."

That reminded me of Tennyson's poem :

"Fill the cup and fill the can

Have a row before the morn

Every moment dies a man

Every moment one is borne."

Immediately I came to the liquor shop which conveniently lies opposite to the house of my Honourable friend, Mr. Puri, I saw there volunteers singing a song in Punjabi :

"*Bhan botal tor pigale nua*

*Lakha lanat piwan' wale nua.*"

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Its translation is this : " Break your bottle and break your cup, thousands of curses on one who drinks ".

Now, Sir, these were two paradoxical things, and I desire to know what my friend, Mr. Puri, would do under such circumstances, because I noticed that these volunteers were singing these songs to the detriment of the Parsi gentleman who owned the shop, and undoubtedly detrimental to the taste of my learned friend, Mr. Puri. Sir, this little song, though no doubt couched in very harsh words, had one good effect on the Sikh community. I know, in those days, the Sikh community to a man had given up drink, though subsequently they reverted to their own ways of folly and sin. I am giving these instances, because, while a certain song may persuade a man to improve himself or another song may curse another man, I think he will be a wise man who will listen to both the songs and do just as he likes. After all, you want a certain reform to be effected, and somebody must be injured. It is a question of the greatest good to the greatest number. If you think that the shops are at a short distance from the place where you can give lectures on temperance reform, or if you can abuse people who drink from the Town Hall which may be at a distance from the liquor shops, you will not be interfering with the liberty of the individuals directly. Indeed it may serve a good purpose. If clause 3 is to be passed into law, I do hope that it will be carefully considered by the Select Committee, if the Bill is referred to a Select Committee, and I should like to make it perfectly clear, at this stage, that I am entitled to throw out the Bill if it does not emerge from the Select Committee in a satisfactory manner and with the modifications we suggest. It must be a temporary dealing with an emergency.

I now pass on to clause 8.....

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola) : I should like to know how long the Honourable Member is likely to take ?

**Mian Muhammad Shah Nawaz** : Half an hour or twenty-five minutes more, Sir.

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola) : Then I think the House should now adjourn.

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

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

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**Mian Muhammad Shah Nawaz** : Sir, I was dealing with clause 8 of the Bill. I have heard that the sins of the fathers can be visited on the sons, but I have never heard that the sins of sons and daughters can be visited on the father or the guardian. A provision like this does exist in the unwritten law of the Tribal Area of the Frontier Province. To some extent, it did exist in the Frontier Crimes Regulation of 1901, which happily has now been suspended. Under that iniquitous Regulation, if A gets a decree against B, and B cannot satisfy the decree, A can recover the decretal

amount from the relations of B or from the tribe to which B belongs. As a member of the Frontier Regulations Committee, I cross-examined several officials of the Frontier Province on this point of the Frontier Crimes Regulation. All the officials unanimously agreed that this sort of section should be cut out and should not exist in the criminal law of the land. Little did I dream that a provision, of the kind which I see now, would be placed before this House and that I should be asked to express an opinion on it. My opinion is this. Don't insert it in the Criminal Procedure Code, and don't add it after section 383. A son who is just under sixteen years of age is for several purposes a free agent. The son is a free agent to contract a marriage, and, if he commits a *breach of the peace*, why should he not be fined, and, if the fine cannot be recovered, why should he not be imprisoned? Under the provisions of the Penal Code, a boy—he may be a juvenile offender,—if he commits a crime, he is sentenced to imprisonment; if he commits murder, he is sentenced to transportation for life. Then, why should a boy, under sixteen years of age, not be imprisoned, and why should the father or the guardian be imprisoned if the fine is not paid by the son? But what would be the position if the guardian is a woman, and say, a *pardanashin* lady? Can she control the actions of her sons or her daughters? She may be called before a Court of justice and asked why her son has committed a breach of the peace. The simple answer would be: "I am a woman. I cannot control the actions of my son. I cannot go out. Why should I be fined or imprisoned?"

Well, Sir, this sort of clause should not be made a part of the Criminal Procedure Code. It will reflect on the British sense of justice, and Britishers are well known for their sense of justice. Can the Honourable the Home Member give me any instance in any civilised country where such a law exists? I do admit that if martial law is proclaimed in Germany or, for the matter of that, in England, such a law may be proclaimed by military authorities. But I have never heard of an instance of that kind where the country is generally peaceful. In this country, civil and criminal justice is being well administered, revenues are paid, the conditions in the rural areas are normal, we are not living in times of martial law, and there is no state of war in India. Then, why do you make a provision in this Bill which may be enacted only in days of martial law? I think this clause of the Bill should not exist even as an emergency measure. Cases under special laws under which guardians are punished for their wards, *e.g.*, smoking, are quite different.

I now come to clause 9. My Honourable and learned friend, Mr. Puri, has dealt with it. Suffice it to say that the offences under this section may be made cognisable, but they should all be declared bailable. There is no reason why they should be declared non-bailable. Offences of this kind, breach of the peace, criminal trespass intimidation picketing—they should all be made bailable and not non-bailable. Now, Sir, the most important clauses in the Bill are clauses 14 to 17. The Bill intends to make an addition in the Criminal Law Amendment Act of 1908. Honourable Members are aware that this Act was applicable, to begin with, to the provinces of Bengal and Assam, but its provisions could be extended by Notification by the Local Government to any other province. Gradually this Act of 1908 was extended to every part of the country by several Notifications. This Act consists of a few sections, 15, 16, 17 and 18. Section 15 defines

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an unlawful association. It means an association :

“(a) Which encourages or aids persons to commit acts of violence or intimidation or of which the members habitually commit such acts, (*mark the word ‘habitually’*) or

(b) which has been declared to be unlawful by the Local Government under the powers hereby conferred.”

Section 15, sub-section (2) (b), gives wide powers to the Local Government to declare any association unlawful that they may deem fit. Under the provisions of the present Bill, the powers are given to the Governor General in Council. I have no objection to it ; indeed it may be an advantage, but the powers of the Local Government should be taken away. Sir, the Criminal Law Amendment Act makes it an offence if a member of an unlawful association takes part in meetings of any such association, or contributes or receives or solicits any contribution for the purpose of any such association, or in any way assists the operations of any such association, and he shall be punished with imprisonment for a term which may extend to six months, or with fine, or with both.

Then, sub-section (2) of section 17 declares :

“Whoever manages or assists in the management of an unlawful association, or promotes or assists in promoting a meeting of any such association, or of any members thereof as such members, shall be punished with imprisonment for a term which may extend to three years, or with fine, or with both.”

The law, as it stands in the Act of 1908, is sufficiently drastic. The present Bill proposes to add several sections to it. Clause 17-A is very important. Honourable Members perhaps have not seen the significance of this clause. I will briefly explain it to the House. The Local Government can declare any place which, in its opinion, is used by an unlawful association for unlawful purposes. The District Magistrate or any officer, authorised in this behalf, can take possession of the notified place, confiscate all the movables thereon and, if anybody remains in the premises, he is guilty of criminal trespass, and, contrary to the provisions of the Criminal Procedure Code, the offence is made cognisable and non-bailable. The magistrate then can notify to the Local Government that he has occupied such and such a place and that place may be returned to the real owner or it may not be returned. Take the case of an association which has taken a place on rent or lease and it was so taken before the association was declared unlawful. You inflict a great hardship on the owner of the premises. He loses his contract. You interfere with the agreement in any way you like. This nullifies freedom of contract and freedom of action. The clause, as it stands, can be modified, provided that the person, who is in occupation, or some member of the unlawful association can show that it was not used for unlawful purposes and that it was used for all legitimate purposes. It may be used for political agitation, but all political agitation is not unlawful. The man who is the owner of this property and who may have suffered by the occupation of this place by the magistrate should be entitled to come forward and prove his case that he knew nothing and that his property should be released forthwith.

I now come to clause 17E. This is one of the most drastic clauses that I have ever seen. Briefly put, it entitles the Local Government to confiscate all securities, credits and monies which are used for the purposes of an unlawful association or are intended to be used for the purpose of an unlawful association. The monies can be confiscated even if they are in the hands of a third person and the Government can confiscate at its sweet pleasure. If a gentleman belonging to the C. I. D. reports to the Local Government or his superior officer that such and such credits or monies or securities are in the hands of such and such a person, and are used for the purposes of the unlawful association, the Local Government may, after making such inquiry as it thinks fit, confiscate those securities, etc. Further, an officer can go and inspect books and documents concerning those credits and securities and if the man, in whose possession those securities and monies and credits are, cannot pay or has not got them in his possession, then he must pay the market value of those securities and monies and, if he cannot pay, then they are realised from him as arrears of rent and the market value of the securities and monies are to be assessed by the Local Government. That means the judge and the prosecutor are combined in one person. There is a maxim—no *dalil*, no vakil, no appeal. This literally applies to the provisions of this most objectionable clause. The man cannot go to the Civil Court. Even in a criminal proceeding, he cannot show that the securities did not belong to the unlawful association and clause 17F renders him helpless and without any remedy. Let him go to dogs or to hell, the securities and credits, etc., shall stand confiscated. Is this the way you are going to administer justice? By all means confiscate the funds of unlawful associations if you can show that they were used for the purposes of the unlawful association, but the onus lies on the prosecution to prove its case and not on the innocent third party. This clause, I do not think, can be amended in any way. Possibly if the Government can prove affirmatively and positively that the funds, directly and not indirectly, belong to the unlawful association which has been declared unlawful either by the Local Government or by the Governor General in Council, you might confiscate them, but, in each case, you must give a chance to the man in charge of them to prove that the securities were never intended to be used for the purposes of the unlawful association.

I now come to clause 19. This adds certain provisions to the Indian Press Emergency Act of 1931. Honourable Members are aware that last year we passed this Act. It remains in force for two years. A Select Committee was appointed to go into the provisions of that Bill and I had the honour of sitting on that Committee. We went into the different clauses of the Bill and we cut out many clauses, and the clauses, which are now intended to be added to the Press Act of 1931 were willingly cut out by the Government. I then pointed out that the words "directly or indirectly" were very drastic. I then pointed out, how very drastic were the following provisions which are now sought to be embodied in clause 20, namely :

"or which tend, directly or indirectly,—

- (c) to seduce any officer, soldier, sailor or airman in the military, naval or air forces of His Majesty or any police officer from his allegiance or his duty, or
- (d) to bring into hatred or contempt His Majesty or the Government established by law in British India or the administration of justice in

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British India or any Indian Prince or Chief under the suzerainty of His Majesty's subjects in British India, or to excite disaffection towards His Majesty or the said Government or any such Prince or Chief, or

- (e) to put any person in fear or to cause annoyance to him and thereby induce him to deliver to any person any property or valuable security, or to do any act which he is not legally bound to do, or to omit to do any act which he is legally entitled to do, or
- (f) to encourage or incite any person to interfere with the administration of the law or with the maintenance of law and order, or to commit any offence, or to refuse or defer payment of any land-revenue, tax, rate, cess or other due or amount payable to Government or to any local authority, or any rent of agricultural land or anything recoverable as arrears of or along with such rent, or
- (g) to induce a public servant or a servant of a local authority to do any act or to forbear or delay to do any act connected with the exercise of his public functions or to resign his office, or
- (h) to promote feelings of enmity or hatred between different classes of His Majesty's subjects, or
- (i) to prejudice the recruiting of persons to serve in any of His Majesty's forces, or in any police force, or to prejudice the training, discipline or administration of any such force, "

If any person commits any of the acts noted above, then the provisions of the Press Act of 1931 will at once apply. His security and deposit will be forfeited, his second deposit may be forfeited, and so on, and so forth. Sir, if these provisions were enacted into law, can any press or newspaper work satisfactorily, impartially and independently. (An Honourable Member : "What about the gutter press ?") I am not, Sir, thinking of the gutter press ; I am aware that the gutter press does exist in some parts of the country, I am aware that some vernacular papers now and then do some mischief, but the mischief is not so extensive as to entitle us to enact this sort of law, which does away with the liberty of the press. Mr. President, through you I would ask the Honourable the Home Member and the Honourable the Law Member, who were sitting with me on that Select Committee, whether or not it is a fact that the Government did agree to the cutting out of clause 20 from the Press Bill. If that is the case, then I ask, what are the reasons, what are the additional facts which the Government can produce so as to entitle them to put forward these provisions which nearly a year ago the Government agreed to give up ? Sir, a year has passed and I am as diligent a reader of the newspapers as my Honourable friend, the Home Member, but, I have not come across any instances in which the press has abused its power to such an extent that these provisions are now needed. (Applause.) Sir, I clearly think that the provisions of the Act of 1931 are quite sufficient to meet the situation. Indeed I placed all my amendments before the Select Committee. Some I won and others I lost on the floor of the House, but we were all convinced that we were at that time helping the Government and not obstructing them. There were some Members who were annoyed with me and thought that I had been hand in glove with the Government. That, of course, was absolutely untrue and has always been untrue, because I am not and shall never be with them if I find that they are not in the right. Then, Sir, the Honourable Sir James Crerar and we went into the clauses of the Press Bill and we came definitely to the conclusion that the Bill, as it emerged from the Select Committee, was quite sufficient to meet the situation,

because it gave quite sufficient and requisite powers to the Government to deal with the gutter press.

**Mr. S. C. Mitra** (Chittagong and Rajshahi Divisions : Non-Muhammadan Rural) : Perhaps the present Home Member is improving on Sir James Crerar !

**Mian Muhammad Shah Nawaz** : In fine, I think, Sir, that the civil disobedience movement is a dangerous movement, that having regard to all the facts, we must give the requisite power to the Government to deal with the situation. I do not, however, agree that the powers should be so drastic and so extensive as are given in this Bill. We, the moderates (*An Honourable Member* : "the non-descripts")—all right, we the Independents and we the "non-descripts" (Laughter) do urge on Gandhiji the necessity of withdrawing the civil disobedience movement, which, in our opinion, has done such ill to India in the past and which will do a great deal of more mischief to India in the future if persisted in. At the same time, we ask the Government to withdraw all repressive laws if the civil disobedience movement is called off. I do hope, that the Congress will now adopt a very reasonable attitude and will stop the civil disobedience movement. But, as I say, if the new constitution comes into force and it is satisfactory to the Liberals and the Moderates, then the Congress cannot be permitted to go on with the civil disobedience movement. The Government, therefore, must be given the necessary powers to maintain law and order until the new constitution can safely work, because, in my humble judgment, no constitution can be workable with trouble and disturbances in the land. (Applause.) Mr. President, I have given you the causes, the root causes which have led to the civil disobedience movement. I again say that we must tackle the problems involved which have given impetus to this ill-advised movement. If we cannot reduce the extent of the unemployment, if we cannot remove the agricultural distress, if the class hatred continues, as it continues now, then neither this Bill nor any other similar Bill, however drastic, will be of any avail. (Applause.) Sir, threats of civil disobedience are stultifying unless they carry with them the germs of constructive effort.

3 P.M.

They land us nowhere and are worse than futile. The civil disobedience movement and the repressive laws do create a breach which it might take years to heal and they destroy all hopes of peaceful self-government. They do endanger the establishment of immediate self-government and, in the interests of India, we should make a supreme effort to prevail upon the leaders of the Congress to call off the civil disobedience movement, so that there may be no necessity for passing the present Bill, even in a modified form. I would like to make it quite clear, Sir, although I maintain that the requisite powers should be given to the Government to deal with the civil disobedience movement and the Bill may as well be circulated till the first of November by an executive order and the Select Committee should report by the 15th November, yet, if the Bill does not emerge from the Select Committee in a satisfactory form, then I reserve my right to throw it out at the third reading stage. (Loud Applause.)

**Kunwar Raghubir Singh** (Agra Division : Non-Muhammadan Rural) : Sir, no elected Member can be in favour of putting more shackles and fetters on the freedom of citizens. But my party (*An Honourable Member* : "What is the meaning of this 'But' ?") is generally in favour of the Select Committee. (*Mr. N. M. Joshi* : "It

[Kunwar Raghubir Singh.]

is not.") You are not in my party. Sir, when I support the motion for the Select Committee, I do so, not for stifling the constitutional agitation, but because we are face to face with a situation which aims at the overthrow of the entire social, economic and political fabric of society. So, it is but natural that abnormal measures should be taken to cope with the situation. It was, I think the Leader of the Nationalist Party, who suggested that the Ordinances, as framed by the then Governor General, should have been brought before this House for consideration. Sir, now that defect is being rectified and the Bill has been brought before the House for our consideration. Secondly, Sir, most of the obnoxious clauses of the Ordinances have been taken out as has been clearly said by the Honourable the Mover of the Bill. (*Mr. Gaya Prasad Singh* : "Then why refer it to Select Committee? Pass it at once.") You will understand everything when you reach that point. As I said, Sir, in the beginning, the present movement was affecting the social, economic and political fabric of society. So, I would take up all these points one by one to clear my point. Sir, the present society, as it is now constituted, will not remain in this very stage. Changes are bound to come and they are liable to affect the general state of affairs as we see from the examples of Afghanistan and Russia. Sir, like other countries in the world, the East also changes, but very slowly. The examples of Afghanistan and Russia have been an eye-opener to those who advocate drastic changes and the present movement is certainly meant to revolutionise the state of administration and of general society. Sir, in my province, the question of the no-rent campaign has been troubling us, I mean the Zamindars, and the Government equally. I was reading only the other day the *Pioneer* in the Library that some Raikes, as the Zamindars are called in my province, are receiving threatening letters from the terrorists. (*Mr. Lalchand Navalrai* : "You have not received any.") No. You are not one of the non-co-operators. Sir, even laudable steps are being hindered. This country being an agricultural country, most of us live on land and, if once the relations of landlords and tenants are disturbed, agrarian troubles begin and we do not know where we shall be. We shall get back at least three centuries as we were at the end of the Mughal rule, with the result that even the strongest Swaraj Government will not be able to control the affairs of the country. This is the effect which our economic life is bound to suffer if all the demands of the civil disobedience-wallahs were to be met. Sir, for an orderly progress, a well constituted and strong Government is very necessary. The civil disobedience movement aims at the negation of all government and, once this feeling is generated, you will not be able to hold on. I would go a step further and say, that even the Swaraj Government will not be able to check this terrorism which is now rampant. Sir, if the House will allow me, I will relate to it a small personal experience. (*Honourable Members* : "Certainly ; take your own time.") I own some landed property in the district of Mainpuri. The man in charge of that landed property put to auction the crops of a tenant. The Congressmen, when they heard about it, came to the house of my *Karinda* and began to picket it. They remained there for about a week and did not allow anybody to go outside the house, not even for the calls of nature, and all the people remained shut up in the house. So, if this picketing is not coercion, I do not understand what it is.

**Dr. Ziauddin Ahmad** (United Provinces Southern Divisions : Muhammadan Rural) : What is the name of the village ?

**Kunwar Raghubir Singh** : The name of the village is Baragaon. The clauses of the Bill will not affect any layman in his day to day duties and avocations, nor will they affect any constitutional agitation. If there is anything in the Bill which is distasteful to the House, it will not be beyond the ingenuity of my lawyer friends like the leader of my party and Mr. Gaya Prasad Singh—who, by the way, are also on the Select Committee—I say it will not be beyond the ingenuity of these legal luminaries to rectify these defects in the Bill. Pandit Jawahir Lal Nehru, the prime mover of the no-rent campaign in the United Provinces, has, I admit, a great hold over the young, but the older and the saner and more experienced men are against revolutionary changes. Men, like Babu Bhagavan Das, are against the Congress movement of no-rent campaign, and, though he was against the starting thereof, yet it was a pity that his advice was not followed and, before Mahatma Gandhi could come back from England, this no-rent campaign was started. In view of these facts, I would like to appeal to the Government to use more of the Indian Penal Code and the Criminal Procedure Code than measures like the Ordinances.

**Mr. Lalchand Navalrai** (Sind : Non-Muhammadan Rural) : There is now no difference between the Ordinances and the Penal Code.

**Kunwar Raghubir Singh** : I think to cover cases of intimidation, nuisance and coercion, there are good provisions in the laws I have just indicated. Coercion, nuisance and intimidation are absolutely against the wishes of Mahatma Gandhi, the apostle of non-co-operation and civil disobedience.

**Mr. S. C. Mitra** : Yet Mahatma Gandhi is in jail.

**Kunwar Raghubir Singh** : He will be out shortly. So long as these abnormal times continue, abnormal measures will have to be continued. Protests are useful to rectify wrongs, but complaint against great severity is unnecessary when they themselves court suffering. In conclusion, I appeal once again to the Government that lawful activities should never be curbed and that constitutional protests must be paid more heed to than they have hitherto been paid.

**Sir Muhammad Yakub** (Rohilkund and Kumaon Divisions : Muhammadan Rural) : Sir, I quite agree with my Honourable friend, Mr. Puri, whom I wish to congratulate on his very exhausting and elaborate and also very exhaustive speech, that this is no doubt too serious an occasion to indulge in the vein of oratory. It is an occasion on which we ought to take courage in our both hands and, unmindful of cheap applause or the public frown, express our views with strict sincerity and according to the behests of our conscience. It is not, therefore, with an easy mind that I rise to take part in this Debate. It pains me very much to think that conditions in my country should be such as would necessitate the promulgation of drastic measures, on the other hand it is a matter of some satisfaction to me that Government have after all considered it fit to consult the Assembly, and, instead of adopting the doubtful method of renewing the Ordinances, have decided to adopt the regular method of placing them before the House in the form of a Bill and giving the representatives of the people a voice in the matter. The Assembly was

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never consulted when the Ordinances were first issued, nor when the previous Ordinances were renewed, and the Members of the Assembly, justly, complained that they were never thought fit to be taken into partnership in this business. Now that the oft-expressed wish is fulfilled, I hope Honourable Members would realise the responsibility which is being placed on their shoulders. Of the urgent necessity for some extraordinary measures, in order to meet the extraordinary conditions prevailing in this country, there can be no question. The Congress civil disobedience movement on the one hand and the extraordinary activity of the terrorist on the other hand threaten the country with complete chaos and, to meet the threat, immediate and drastic action was certainly called for. To begin with my own Province, the no-rent campaign of the Congress, if it was allowed to expand to its full capacity, would have ruined the whole Province, but it was speedily suppressed by the help of the new Ordinances, and general peace and tranquillity were soon restored. It is unnecessary to go back very far into the past in order to discover the evil effects of civil disobedience against which the present Bill is, mainly, directed. It may, however, be as well to remind Honourable Members of the conditions which existed at the beginning of June, 1930, when the previous civil disobedience movement had been allowed to run its course for full two months without resort by Government to extraordinary measures. The Honourable the Home Member has already quoted several extracts from the writings of Lord Irwin on the subject which clearly show how grave a situation had arisen and how serious a challenge had been made to Government's authority. To these statements I can add but little, unless it be to say that such a state of affairs had arisen that any one who disobeyed the Congress mandate did so at his peril. Merchants, who persisted in their normal trade, had their shops burnt down, their families were harassed and insulted by *siapa* and other forms of social boycott, and, in some cases, they were subjected even to personal physical injury. Government servants, who were but doing their duty, true to the salt they were eating, suffered greater hardships. Their families, in most cases in far off villages, were subjected to unspeakable insults and indignities and to every form of boycott and harassment, while the men themselves were compelled to work long hours, faced frequent risks to life and person, were taunted and abused on every possible occasion, and were even unable, in many cases, to buy necessities of life. One has only to mention the names of Peshawar, Delhi, Daspur in Bengal, and Sholapur in Bombay, to bring back recollections of what the Congress was responsible for in 1930. Memories of what happened in Cawnpore, in March, 1931, are still more clear.

So much then for past history. If there is less crime to be set to the Congress account in 1932, it is solely because of the prompt promulgation of the Ordinances, on the 4th January, when the Congress declared its intention to renew the civil disobedience movement. Even so, there is a fairly long list of insensate acts of violence or childish mischief to be set to its credit (or perhaps, I should say discredit). The present campaign was not a month old when the celebration of the Frontier Day by the Bombay Congress brought serious rioting in its train. The Congress may disclaim responsibility for the turn which events took, as indeed they invariably do when their misdeeds are made public. But those who read

the bulletins, issued by the Labour Sub-Committee of the Bombay Provincial Congress Committee, a few days before the riots occurred, will know where the blame lay. I will leave it to Honourable Members to decide what effect such phrases as "Listen, you devils of the British Empire, your days are numbered" or "We as the soldiers of free India will drive you out" are likely to have on the labourers for whose benefit they were written. A week or two later, Sirdar Sardul Singh's dictatorial orders, regarding the seizure of public buildings and offices, led to serious rioting in Behar, first, at Torapur in the Monghyr district and, later, at Shevhar in the Muzaffarpur district. On each occasion, a mob of villagers, whose feelings had been played upon by educated Congress workers, made a determined and murderous attack, with brickbats and lathis, on the police station and the comparatively small force of police within it.

**Mr. Gaya Prasad Singh :** Whose version is this ?

**Sir Muhammad Yakub :** This is the version which appeared in the papers, and I am not here to give an explanation to you. I consider it beneath my dignity to reply to these interjections.

The police were compelled to fire and several were killed and many injured, most of them unfortunately the illiterate dupes of those who had organised the attacks.

The same month saw a flood of violently worded leaflets, posters and anonymous letters in almost every province.

**An Honourable Member :** How do you know ?

**Sir Muhammad Yakub :** They were published in papers and I have got extracts with me. A typical one distributed in Sind reads thus :

"Inquilab, murder, zindabad ! Brother cloth dealers, you are requested to stop dealing in foreign cloth, else your stocks will be set fire to. Join the Congress and promote the cause of Swadeshism. Follow violence, use khaddar and offer heads. Reduce the use of the quantity of the articles on which taxes have been imposed. Reduce your post. Encourage Indian arts."

**Mr. Gaya Prasad Singh :** Where did you get this ?

**Sir Muhammad Yakub :** I need not answer you.

Another was circulated at about the same time, and reads :

"Caution. Beware of foreign cloth. Declaration of new war. To kill two birds with one shot. By burning the foreign cloth of Indian merchants we shall kill the Englishman. My foreign cloth dealers if you fail to refrain from booking fresh orders for dealing in foreign cloth during the month of March, your shops will be burnt like those in Cawnpore."

**An Honourable Member :** Were any burnt ?

**Sir Muhammad Yakub :** They were burnt at Cawnpore, Lucknow and other places. The deaf and the blind can never hear nor see.

Yet another case, this time from Bombay, where the Congress Emergency Council published in its bulletin a notice saying that it had decided to enforce a complete economic and social boycott against Jivatlal Pratap Singh, because he had done business with a firm on the boycott list. That

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is the Congress boycott ; that is the kind of thing that brought about the Bombay riots last May ; and it is against a campaign carried on by such methods that the present Bill is mainly directed. As was only to be expected, this flood of leaflets, posters, bulletins, etc., was quickly followed by a regular orgy of arson all over the country. Cloth and toddy shops were set on fire and even bombed. The same thing happened to the houses and hayricks of loyal village policemen or of those who had paid their revenue. In some cases even personal violence was done to recalcitrant merchants or zealous village officers. This campaign was not confined to one or two provinces, but extended throughout the length and breadth of India, from Assam to Gujerat and from Madras to the Punjab. Needless to say, a number of merchants succumbed to this tyranny and signed the Congress pledge regarding the boycott of British goods.

The next step was the ' postal boycott week ' in April. Everyone is familiar with the results of this appeal. Possibly some have suffered from them. Deny responsibility the Congress may, but the cold fact remains that attempts to destroy letters and to cut telegraph wires occurred simultaneously in every province of India and, at the exact time, which was fixed for postal boycott week. It will give some idea of the extent of the damage done if I say that over 300 such cases have occurred in the United Provinces alone since this circular was issued. The Madras Government issued a communiqué on this subject which concluded with these words :

" Although the Congress may not have suggested directly that incendiarism should be embarked on, there can be no doubt that the campaign against law and order which they have been conducting is a direct encouragement towards such acts of lawlessness as the endeavour to burn letters in letter-boxes."

With that conclusion, all reasonable men must agree. Sirdar Sardul Singh and other Congress dictators, who issued such circulars, were all alive when the great outbreak took place in the Punjab and the Bombay Presidency in 1919, and one must credit them with sufficient common sense and experience to know that if through bulletins and circulars they call on people to boycott the posts and telegraphs and railways as much as possible, enthusiasts will be found to make such boycott all the easier by trying to destroy letters or telegraph wires or even railway lines. How true this is, is shown by the fact that almost all the culprits detected have proved to be Congress workers. In Delhi, for instance, it has been proved that two offences of wire-cutting were committed under the direction of a local Congress leader, that three separate Congressmen were responsible for five cases of mischief to letter-boxes, while certain other Congress workers set fire to a foreign cloth shop. The truth of this assertion is shown also by a case recently decided in Behar. Two derailments occurred at the end of January and one of those responsible for these outrages confessed to the Court that as a result of discussion with his friends,—probably my friend, Mr. Gaya Prasad Singh, was one of them,—on the question of Swaraj, he had come to the conclusion that any damage that he could inflict on the Government would be worth while ; and he had accordingly decided to derail a train, in the hope that his so doing would reduce traffic and thereby affect railway revenues.

**Mr. Gaya Prasad Singh :** Where did you get all this rubbish from ?

**Sir Muhammad Yakub :** By such persons are the ranks of the Congress swelled. That chaos has not resulted from the execution of Congress orders by material such as this, is due entirely to the existence of the present Ordinances, a part of which this Bill seeks to retain on the Statute-book. How many times such murderers as Bhagat Singh and "Dauntless Dinesh" have been extolled from the Congress platform and in the Congress press, I should hesitate to say. I am credibly informed that another camp follower of the Congress who, for many weeks, became a supreme Congressman and one whose recent close study of terrorist conspiracy must have taught him where such words would lead, said in his last speech :

"Certain people might be advocates of non-violence, under the force of their obligations or on account of their helplessness or weakness, and it is possible that some Indians may be fighting the war of non-violence. I am prepared to say that the majority of India is not fighting the war of non-violence by regarding it as a creed, and if the majority be not advocates of non-violence and the necessity for violence should arise, the people will regard violence as lawful to meet that necessity."

These then are some of the methods, the propaganda, the words spoken and written, of those who claim to belong to the non-violent Congress. These are the results achieved and the effect produced on the ordinary man in the street. Who dares to say in the face of these facts, that such intimidation should be allowed, that an organisation, which stoops to such means, should go uncontrolled, or that the press, which supports such a movement, should be given unbridled license to foster the spirit of revolution ?

**Mr. Gaya Prasad Singh :** Who has written out the speech for you ? Home Department ! !

**Sir Muhammad Yakub :** Don't talk nonsense. Such being the conditions prevailing in the country, no sensible legislature can deny the Government the power to arm itself with adequate means for the maintenance of law and order. It must be recognised that no Government can be stampeded into dismay and impotency merely by the action of a comparatively small body of people who adopt unconstitutional methods to bring about their ambition. That being so, I feel constrained to accept the principle of the Bill. My acceptance of the principle of the Bill does not, however, necessarily imply my acceptance of all the provisions of the Bill as they stand. (*An Honourable Member :* "Why not ?") I admit that certain provisions of the Bill are too drastic and too vague and require to be modified by the Select Committee, for instance, the power to declare all associations illegal, "which, in the opinion of the Governor General in Council, interfere with the administration of the law and order or constitute a danger to the public peace", is very vague and wide ; even a bar association or a literary or social organisation may come under its too wide operation if the executive so wills. Immediately after such a declaration, the District Magistrate, or any officer authorised by him, will be able to take possession of any place with all property thereon and declare any of its funds forfeited. Then, again, the offence under this section is sought to be made cognizable and non-bailable, the result of which is that an arrested person will not get sufficient opportunities to defend himself properly. Certain other ordinary offences are to be made cognizable and non-bailable and the jurisdiction of Civil and Criminal Courts is going to be barred in certain proceedings or orders purporting to be made in good faith under

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some of the sections by Government servants. Besides this, the question of the life of the Bill is an extremely important one. It cannot be expected that the Act will remain on the Statute-book for all times, for, if discontent has become endemic and, what was regarded as an emergency, when the Ordinances were first promulgated, is now to be declared by the Government the normal state of affairs, it should be obvious that the perpetuation, in essence, of the Ordinance regime would not remedy the evil but could only aggravate it. A Government that is unable to restore normal conditions within a reasonable time, even though it is armed with extraordinary powers, shows that either its policy is wrong or it is inefficient. We are very often told about the duty of Great Britain to leave no legacy of a strife or evil to the self-governing India of tomorrow. The loading of the Statute-book with repressive legislation, of the most stringent character, would be indeed a novel way of discharging that duty. There can be no gainsaying the fact that, unfortunately, communal feelings are at their highest pitch these days and after the transfer of power into its hands, the majority will, I am afraid, play havoc with the minorities, in this country, by the help of these drastic measures. Therefore, I, belonging to a community which is a minority in this country, feel greatly alarmed at the idea of placing the drastic and emergency measures permanently on the Statute-book. But these points are all to be dealt with by the Select Committee, where I hope the Honourable the Home Member will show the same spirit of conciliation which he has shown as regards the Code of Criminal Procedure (Amendment) Bill. Of course, I do not see any reason for supporting the dilatory motion for circulation of the Bill ; the provisions of the Bill have not only been before the public for about ten months, but they have also undergone the test of being acted upon and sufficient public opinion has been expressed on them. It would certainly be a great tactical blunder on the part of this House if we were to throw out this Bill at this stage, because if as a certified Bill, it goes to the Council of State, all chances of its being modified or improved or altered would be lost ; and the drastic provisions of the Bill would stand for ever on the Statute-book. Therefore, I hope and pray that sensible Members of this House—not laughing Members and jokers like my friend, Mr. Gaya Prasad Singh.....

**Mr. President** (The Honourable Sir Ibrahim Rahimtoola) : Order, order ; the Honourable Member should proceed on the assumption that the whole House consists of sensible men.

**Sir Muhammad Yakub** : But, Sir, exceptions prove the rule ; so I say that sensible Members of the House will realise their responsibility and will vote for this Bill being referred to the Select Committee.

**Honorary Captain Rao Bahadur Chaudhri Lal Chand** (Nominated Non-Official) : Sir, at the very outset, I want to say that I will be very brief and will not take any time over preliminary objections or the detailed examination of the Bill. I do not even propose to meet abuse by abuse and will not call names to the elected Members of this House, as has been done by the Honourable Mr. Puri, while appealing to the nominated Members and, if I appeal to the Opposition Benches, it will be a sincere and brotherly appeal and not by way of retort. Again, as was so ably and unreservedly pointed out by the Honourable the

Mover, this Bill has been necessitated by the civil disobedience movement. The Honourable Mr. Puri, in his usually, learned and analytical speech has asked the Government not to "govern" but to "go". His argument was based on the interesting illustration that where the majority of the people are of the opinion that two and two make five, those who have been saying that two and two make four, should, either revise their arithmetic or go. I fully agree with him, and advise the Government to go as soon as the majority of the people are actually against them. As a matter of fact, however, they themselves will not be persuaded to stay when that stage is reached. The real issue, therefore, is whether that stage has been reached or not. For this, we must examine our own records. During the past 12 years, a life and death struggle has been going on between the extremist section of the Indian politicians on the one hand, and Government on the other. Schools, Courts, Councils and even this Assembly have been boycotted from time to time. Even now, the extremists are not here. The presence of Honourable Members, who adorn the elected Benches here, is an index of a powerful majority being against that section. To-day, after 12 years, what do we see, schools are full, Universities are turning out more graduates than before, and the Courts are as busy as ever. That for 12 vacancies for the Indian Sandhurst, there should be over 400 applications shows that services are popular. All this shows, Sir, that the majority of people have not yet joined the ranks of the extremists, and Government should, therefore, *govern* and not *go*. (Applause from the Official Benches.) In reality, there are three sections of population in India, *firstly*, there are the extremists including the terrorists; *secondly*, there is the moderate school of thought who believe in constitutional methods, and, *thirdly*, the vast majority of the people who have no political views of their own but are open to conviction and most of whom have not even got political consciousness roused in them.

**Mr. K. C. Neogy :** To which class do you belong ?

**Honorary Captain Rao Bahadur Chaudhri Lal Chand :** I know to what class I do not belong. This class of people serves as a good material for exploitation and they form the majority. Now, the Bill is a real attempt to put a stop to this exploitation, and nothing else. Those of us, who have followed the activities of the civil disobedience movement in the United Provinces, know full well that the no-tax campaign began with rent and land revenue and not with income-tax, as the latter was likely to affect people who had a calculating spirit and could not be easily won over. Similarly, whenever there is a campaign against the recruitment to the services, they begin with the sepoy or the constable and leave the High Court Judges alone. Sir, this is all exploitation of the weak by the strong.....

**Mr. B. Das :** What about your exploitation of the *Rayats* ?

**Honorary Captain Rao Bahadur Chaudhri Lal Chand :** I belong to that class which is exploited. Sir, it is not only the duty of the Government to stop this exploitation, but it would be sinful on their part, and they would be failing in their primary duties if they allowed this pernicious propaganda of bringing about lawlessness in the country in this manner to continue. We have been told that people are starving and an economic depression of unprecedented magnitude has come

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over the country, and naturally the blame is laid at the door of Government. But might I ask, is there no such depression in democratic America or in Ireland? Sir, the depression is world wide, with this difference that in India full advantage has been taken of this depression and unemployment by the extremist section in order to spread disaffection against Government.

**Mr. S. C. Mitra** (Chittagong and Rajshahi Divisions : Non-Muhammadian Rural) : What have Government done to solve the problem of unemployment and trade depression, as in all other parts of the civilised world?

**Honorary Captain Rao Bahadur Chaudhri Lal Chand** : Read His Excellency the Viceroy's speech. Sir, as I said just now, Honourable Members here belong to the school which believes in constitutional methods of agitation and reforms. They come to this House in face of the opposition of the extreme wing. They did not favour civil disobedience and non-co-operation, otherwise they would not have been here. This was the fundamental difference between the two schools. They are, however, now brought into direct clash with the extreme wing, inasmuch as, the question is, whether civil disobedience is in the best interests of the country or is detrimental to its interests. At the time of the election, Honourable Members gave an impression that they thought it was not in the best interests of the country, and I hope when they are approached by Government to put a stop to it, they will not, by their conduct in this House, say that they were then mistaken. Sir, lest I may not be misunderstood, I wish to point out that I do not in any way minimise the great services, this moderate section, to which Members of this House belong, has done to the country.

**Mr. B. Das** (Orissa Division : Non-Muhammadian) : Please do not insult us.

**Honorary Captain Rao Bahadur Chaudhri Lal Chand** : At every step in the Reforms they have been successful in bringing about pressure upon Government to give as much as possible. The stage has now arrived when full provincial autonomy is in sight and the prospects of a united Federated India are also very near. Every step forward means that our responsibility is increasing. Time is not far off when the Treasury Benches will be adorned by the leaders of the different parties in this House. At a time like this, Government have approached this House to give them extra powers to maintain law and order in the country, and it is only fair that future administrators of this country should approach this difficult Bill with its far-reaching implications and consequences, in the spirit of that great responsibility, which they are going to shoulder in the near future.

Craze for popularity is one of human weaknesses. The elected Members passed through this ordeal when they sought election in face of opposition, and I hope the same strength of conviction will be displayed while dealing with difficult problems.

I confess that I cannot say 'Aye' to every word of this Bill. There are certain clauses of the Bill which will certainly need modification. Clause 8, for instance, is liable to be stretched to absurd lengths by some over-zealous magistrates down below.....

**Mr. Gaya Prasad Singh :** You will not be nominated again if you speak like this.

**Honorary Captain Rao Bahadur Chaudhri Lal Chand :** Sir, the reason for the liability of guardians and parents for acts of children is not far to seek. It was part of the programme of the civil disobedience movement that prisons should be filled and that prison administration should be made impossible. When these magistrates saw this, they began to inflict fines in place of imprisonment, and the result was, that peoples' properties were attached and disposed of. But ingenious brains in the other camp invented devices to defeat Government, and it was in order to defeat such magistrates and the Government that children were put at the front so that no property might be attached or disposed of. (*Mr. B. Das :* "You are insulting those children.") Similarly, the phrase in clause 7 "in whom they are interested" is much too wide and will have to be limited. All these can fully be discussed in the Select Committee, and, I am sure, the Honourable Mr. Haig will show such magnanimity and broad-mindedness in accommodating the Opposition as he showed on the amending Bill of section 526 of the Criminal Procedure Code. My Honourable friend, Mr. Puri, gave a graphic analysis of the Bill when he characterised it as imbibing constitutional affection for Government servants in the hearts of the people. (*An Honourable Member :* "He said statutory affection".) Let it be so. May I now literally paraphrase the Bill ? It comes to this, *firstly*, that people shall not be prevented from entering the Public Services ; *secondly*, that public servants as such shall not be allowed to be boycotted or molested ; *thirdly*, that mischief-mongers shall not be allowed to use children for their work ; and, *lastly*, that unlawful associations shall not be allowed to foster in this country. Sir, there may be honest differences of opinion regarding the methods that have been proposed to achieve these ends, but no one here probably will say that these things should be allowed or even countenanced by this Honourable House. Certain methods have been proposed by Government. They have the sanction of a year's working behind them, and this working provides material for discussion. The Select Committee will consider all these methods and the Bill will emerge shorn of all these defects. It is probably for this reason, that the Press has been comparatively quiet over this Bill ever since its introduction into this House. My Honourable friend, Mr. Puri, suggested that the prison gates should be thrown open, and that it is not for people to go in, but for people to come out. But was not this done before the second Round Table Conference, and has not that experiment failed ? (*An Honourable Member :* "Who is responsible for its failure ?")

**Mr. B. R. Puri :** That was not my point.

**Honorary Captain Rao Bahadur Chaudhri Lal Chand :** This was because the leaders could not control the younger generation, and they could not afford to displease them.

[Honorary Captain Rao Bahadur Chaudhri Lal Chand.]

Sir, this is not a new Bill. It has not only been in circulation for ten months, but has been actually operating during this period. But for this Bill in the shape of Ordinances, the country would have been today in the throes of a revolution, and, therefore, circulation is not necessary.

Looking at it from another point of view, the introduction of this Bill should be welcomed by this House. The general trend of speeches at Delhi was that if the Ordinances were not brought before this House, this House had better be dissolved. Consistency requires that Honourable Members should avail of this opportunity that is offered to them.

One word more, and I have finished. The civil disobedience propaganda has gone into the villages, and, as the messages from above have to pass through so many agents, they reach the villager in a disguised and different form, and sometimes they assume shapes which were never intended by those who broadcasted them. I give one instance to illustrate my point. A client came to me the other day and asked me if the execution of a decree for Rs. 4,000 against him could be delayed till the New Reforms. On my saying no, and thinking that I was trying to refuse the case, he at once offered a decent fee. Again my reply was the same, and I told him that the money should be utilised in bringing down the decretal amount. Now, the reason that he gave to me for this was very interesting. He said that some people had gone to his village and told them that the National Congress and Mahatma Gandhi were in favour of repudiation of all debts of the country, and they wanted to begin a new era of Swaraj with a clean slate for all. I need hardly say that this was the result of the repudiation of national debts by the Congress. Besides, the material employed for the boycott is of a very undesirable type. A lawyer friend of mine in Delhi told me that his servant joined the volunteers and, after picketing for some time in the Cloth Market, was sent to jail. On coming out, he came to his old master and brought some money also with him. On enquiry whether he was getting any pay in jail, he said that he collected the amount from cloth merchants when allowing disposal of foreign cloth. Even this could be tolerated, but the difficulty is that civil disobedience is a breeding ground for terrorists. As all Honourable Members here detest that movement, it is only fair that they should take steps and nip the movement in the bud. With these few words, I appeal to Honourable Members to accept the principle and leave modifications to the Select Committee.

We have all along cried against a regime of Ordinances, and it is now for us to put an end to this era by giving a Bill sanctioned by this House to Government. The opportunity, for which we pressed so hard in Delhi, has come. A refusal at this stage will only create an emergency and occasion for Ordinances to continue and will also show that we want Ordinances and not law made by this House. (Loud Cheers.)

**Diwan Bahadur Harbilas Sarda** (Ajmer-Merwara : General) : I rise to oppose the motion moved by the Honourable the Home Member. When introducing this Bill, the Honourable Mr. Haig said that as the civil disobedience movement, to control which the Ordinances had been promulgated by His Excellency the Governor General, had not completely died out, though it had been brought under control, it had become necessary for him to ask this House to embody the provisions of the most important of the Ordinances in the permanent criminal law of the land. Sir, I can appreciate the humour of this declaration of the Home Member, though I see no logic in it. Because a temporary political phenomenon had arisen and has not completely subsided, therefore the permanent criminal law of the land should be altered so as to be incorporated into it the drastic provisions of the Ordinances is not a conclusion which can be logically arrived at. He has not shown by placing facts or concrete cases before us that the executive Government are unable to carry on their functions satisfactorily without assuming powers which this Bill proposes to give them. We admit that the executive Government of a country are entitled to come

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to the Legislature of that country and ask for extraordinary powers to meet extraordinary situations. Just as the executive Government have got the right to approach the Legislature for such powers, it is the right of the Legislature carefully to examine the provisions of the Bill embodying that demand in relation to the situation which the Government say had arisen and which had compelled the Government to ask for the conferment of those extraordinary powers. It is the bounden duty of a Legislature to examine and see that the executive Government are not invested with powers in excess of what the situation demands, powers which are liable to be abused by the executive. More particularly, it is the bounden duty of the Legislature to see that these requests are refused if, in the opinion of the Legislature, the powers are not only liable to be abused, but they are to be exercised by an executive which is irremovable by the Legislature.

We all here think, and I think the whole country thinks, that the powers which the criminal law of this country confers on the executive Government are not only sufficient to enable the Government to discharge its functions and carry out its duties for the proper administration of the country, but that these powers are more than sufficient for the purpose. If, therefore, the executive ask for further powers, they have to make out a case and satisfy the Legislature that a situation has arisen which requires that the Government should be invested with powers still more drastic than what they possess. But, as I have said before, they have not done so. They have not convinced this House so far by the facts, that they have placed before us, that they are entitled to be invested with further extraordinary powers.

The Honourable the Home Member, his face wreathed in smiles, his countenance free from the slightest trace of administrative anxiety or care, invites this House to agree to invest the Government with powers embodied in this Bill,—a Bill, for which, with my limited knowledge of English, I find it difficult to find an adjective fully expressive of its implications, save one which I may not use. It reminds me of the good old lady, Mrs. Partington, who sat snugly, prepared to take a good breakfast and calling in a cajoling voice to the chicken hopping round her : “ Come, come and be killed.”

[Diwan Bahadur Harbilas Sarda.]

Sir, unless and until the Honourable the Home Member convinces us of the necessity of investing Government permanently with powers with which no legislature in the world has permanently invested any executive Government, it is futile for him to expect this Legislature to agree to give him what he demands.

Looking at this Bill, in the light of the principle which I have laid down in regard to what the executive can claim and what the Legislature should or should not give, I find that there are two features in this Bill which make this Bill quite unacceptable to this House. They are the duration of the Bill and the extent of its provisions. If the Honourable the Home Member expected us to accept his assurance that the Bill had been introduced in the Assembly only to enable the Government to control and deal with the civil disobedience movement, then he should not have introduced it in the shape in which he has done. He does not say that the civil disobedience movement is going to be a permanent feature of Indian political life. It is a temporary movement which has come into existence lately, and he does not contend that this movement will last for ever. If, therefore, he had introduced a Bill limiting the life of that Bill to one year or 18 months or two years, we would no doubt have understood and appreciated his motive and we would not have doubted his *bona fides*. But, in order to deal with a temporary malady, he proposes that the medicine which had been prescribed for it should now be made the normal diet of the sick man. That shows that it is not to deal with the civil disobedience movement only that this Bill has been introduced, but that there are other reasons for it. Possibly the idea is completely to control the public activities of the inhabitants of this country for ever.

Now, so far as the extent of the provisions of the Bill is concerned, I will give two instances to show that the provisions of this Bill, as I understand them, are all embracing. In clause 2 of the Bill, it is enacted :

“Whoever dissuades or attempts to dissuade the public or any person from entering the Military, Naval or Air Service of His Majesty shall be punished with imprisonment for a term which may extend to one year, or with fine, or with both.”

There is a proviso, but it does not cover a case in which advice is given in good faith, but not for the benefit of the individual to whom it is given. Under the clause, if anybody tries to persuade any person not to enter the military of Government, and that advice is not given for the personal benefit of that person, the person who gives that advice is liable to be hauled up and imprisoned. This, Sir, is too comprehensive and unjust a provision to be embodied in an enactment. Take, for instance, the case of a man who is out of employment. He wants to enter the military service of Government. His wife tries to persuade him not to do that and tells him that if he is sent on field service and is killed, she would be left a widow, and there would be nobody left to look after her. Now, under the terms of this clause, she will be liable to be hauled up.

**The Honourable Sir Brojendra Mitter :** No, no.

**Diwan Bahadur Harbilas Sarda :** I know it is not the intention of the Government that this clause should be applied to a case like that. but it is so loosely drafted, it is so comprehensively worded, that it covers such a case.

**The Honourable Sir Brojendra Mitter :** It does not. It comes within the protection of the proviso.

**Diwan Bahadur Harbilas Sarda :** No. The proviso only applies to the case of one who tries to dissuade a person "in good faith for the benefit of that individual" from entering such military service. It does not apply to the case where the wife tries to dissuade the husband, for her benefit. (Laughter.) Therefore, by no twist of language, can you extend the exception to protect her. You may try to interpret it in whatever way you like, but the words do not admit of that interpretation, and the wife is liable to be hauled up before a Court. What I contend is, that the Bill is so badly and loosely drafted, that unless it is modified, it can be applied to such a case.

Now, take another clause, clause 7. It is proposed to add section 507A, which is :

"Whoever, with intent to cause any person to abstain from doing or to do any act which such person has a right to do or to abstain from doing,....loiters at or near a house where such person or anyone in whom such person is interested resides or works or carries on business or happens to be, or persistently follows him from place to place,.....shall be punished with imprisonment for a term which may extend to six months....."

Now, this provision too is equally too comprehensive, and unless it is modified or the intention of Government is translated by words into restricting it to certain political matters, the clause, as it stands, will cover the case of a man interested in and working for social reform. A person, 70 years old, is entitled to, and has a right to, marry, under the law, a girl 14 years and 3 days old. If a social reformer or anybody, who takes interest in purifying society, tries to dissuade that man from following that course, and if he loiters or stands in front of the door of that man's house, under this law he can be prosecuted (Hear, hear), for there is nothing to show that the provisions of this section will be limited to political matters only. If a man takes part in any activity of a social nature or of an educational nature or an economic one, it will bring him under the provisions of this law, and he will be liable to be prosecuted. I am, of course, convinced that Government's intention is not to bring such cases under the clause, but the Bill is so worded that any magistrate or any Local Government, that wishes for any reason to bring an inconvenient person within the clutches of the law, can do so under this clause. I, therefore, think that the Bill, as framed now, is too comprehensive to be acceptable to the House. If it was properly framed and, if the duration of the legislation was limited to one or two years, we could at least appreciate the motive of the Government and accept their assurance that they want only to have the power to deal with a particular movement. And, until that is done, we cannot consider this Bill and we must, therefore, vote against it.

**Mr. N. M. Dumasia (Bombay City : Non-Muhammadan Urban) :** Sir, it is a cruel irony of fate that on the eve of a great political change,—when we are on the very threshold of Responsible Government—we should have been called upon to consider a measure most distasteful alike to the Government and the public. (Hear, hear.) But as the late Mr. Gokhale once said, "while the plans of statesmen have matured slowly, events designed by malignant fates have moved faster".

[Mr. N. M. Dhanasia.]

A terrible responsibility has been cast on us and the manner in which we discharge it will prove the measure of our fitness for Swaraj. If this Bill is designed to crush the spirit of Indian nationalism, then every Member will consider it his duty to crush it instantly and mercilessly ; but, if it is designed, as claimed by the Honourable the Home Member, to meet the civil disobedience movement, then it should be considered on its own merits. The admirable restraint, with which the Home Member has put forward his case against the civil disobedience movement, must disarm every criticism against Government on the score of vindictiveness. I am sure that the present measure, though necessary, will generate further agitation and discontent in the country, but however obnoxious the measure, and however painful the duty and whatever the consequences, I submit that neither Government nor the Legislature could abdicate their proper function. We would not be fulfilling our duty to the public if we hesitated to accept the opprobrium of passing a drastic measure, if it was conceived in the best interests of the country. It is rightly said that " Law is not the enemy but the friend of liberty, and that only in a State, in which the laws are obeyed, can men be free in their varied occupations ". It cannot be denied that the civil disobedience movement interfered with and ruined legitimate business of innocent persons on whom depended their and their family's living. I cannot help paying a tribute to H. E. Sir Frederick Sykes, the Governor of Bombay, and the aggrieved merchants, for their patience in spite of provocation and Congress dictation. Sir, the civil disobedience movement, which has been launched to overthrow the Government, has inflicted greater losses on society than on the Government, and the cruel social boycott which was enforced to turn public servants in Gujerat against the Government was more tyrannical than any of the tyrannical laws enacted by the Government to check organised disorders. But it cannot be denied that while several of the patriots—the flower of our manhood and womanhood—who are rotting in jail, though disloyal to the Government, were intensely loyal to their country and, on the ground of patriotism to their country, the late Mr. Messingham, Editor of the *Nation*, defended the Slav regiments that had surrendered to the enemy in the War. Though I confess that this measure is intended to check a subversive movement and save the public from grievous economic loss and widespread distress, it will be regarded by many patriotic persons as a weapon of repression and it should, therefore, not be allowed to remain on the Statute-book a day longer than is absolutely necessary, and I put it to the Government that the best way of allaying discontent, that it will generate, is by hastening the advent of Responsible Government in India.

Before I came to Simla, I consulted some eminent men in Bombay as to the line of action to be adopted regarding this Bill. One gentleman told me that the civil disobedience movement was a lawful movement ; that it was the only way of teaching a lesson to the Government under the cruel burden of whose heavy taxation people were groaning. Another gentleman, equally eminent, said that so long as the civil disobedience movement for overthrowing the Government and establishing the Mob Raj continued, it was the duty of every responsible Legislature to consider the Bill on its merits and accord that measure of support which it deserved to preserve

the society from disintegration, and Government from disruption. Were I convinced that the civil disobedience movement was dead and that it would not be revived, I would strongly oppose this measure, but my doubts on this point were cleared by Mr. Gandhi's letter to Sir Samuel Hoare, dated the 13th March, in which the apostle of the Non-co-operation Movement made it clear that for him civil disobedience movement was an article of faith. In the very same letter, Mr. Gandhi talks of repression as embittering the already bitter relations between the Government and the people. He says that it is not by stopping the civil disobedience movement that the process of bitterness can be removed. Is not the civil disobedience movement also embittering the feelings and are Government to sit with folded hands when a subtle movement for its destruction is allowed to proceed unchecked? The reply is obvious. Neither the Government nor responsible citizens with a sense of civic duty and civic responsibility can sit silent when the work of destruction continues.

As I have said in the beginning, this Bill should be crushed if it were designed to stem the rising tide of nationalism, but if it were intended to deal with the spirit of lawlessness, and a menace to public safety then it should be given that treatment which the gravity of the occasion requires. Lawlessness should be suppressed at all costs. It should be admitted with shame that exceptional circumstances do exist in the country which call for exceptional measures, but these measures should not be of a permanent character. It is not fair to place opprobrium of a repugnant measure on the present Legislature; nor is it fair that the present Government should embarrass its successor by exhausting all preventive and punitive measures. It should be left free to choose its own weapon from its own armoury to cope with the situation that may then arise. If Government seek this power for the safety of its successor, then I do not think it should receive encouragement at the hands of any Member; but if it is designed to check terrorism and communism, it must command sympathetic and careful attention at the hands of the Members of all parties. The civil disobedience movement, which was a challenge to Government, will be a most terrible legacy, for any future Government to inherit and it should not, therefore, be tolerated both by the Government and the people of India. In his recent memorable interview given to the representatives of the Press at Yeravada, Mr. Gandhi said that untouchability is an issue of transcendental value, far surpassing Swaraj. Sir, the country is to be congratulated on the miracle that has happened at Poona, namely, the removal of untouchability—a curse of centuries in India—by a stroke of the pen. Mr. Gandhi's triumph is the biggest triumph of the biggest man in the world and it has added the most brilliant chapter that has ever enshrined the pages of history of this country of ancient civilisation. Let us hope that the other question of life and death to India, namely, the attainment of Swaraj will be peacefully settled by the Government and Mr. Gandhi.

But just as the problem of the depressed classes surpassed every issue in Mr. Gandhi's eyes, so the civil disobedience movement transcends every issue including Swaraj which, if won by means disastrous to the peace and prosperity of the country, would be short-lived and, therefore, not worth having. (Hear, hear.) We cannot deny that exceptional circumstances exist in the country to-day, but who is responsible for it? During the War, we were constantly told that it was fought to make the world safe for democracy and that there would be self-determination for all the subject

[Mr. N. M. Dumasia.]

racess after the war to win which India gave its best treasure in men, money and materials. After the war, we were told that self-determination was not for India, but only for enemy countries to free whom India was, in the words of Lord Hardinge, bled white. India, however, got, as its reward, the Rowlatt Act, which was the real parent of the civil disobedience movement. Add to that the currency muddle and the Jallianwala Bagh affair which drove iron deep into the souls of the people. That is, however, past history. Let it be buried in oblivion. Let us hope that the Round Table Conference would enshrine some bright pages in the history of British connection with India and that it would bring peace and prosperity to our much troubled and unhappy land. Let us hope that, with the advent of the promised responsible Government in the near future, the need for this drastic law would disappear and that India would soon enjoy the blessings of peace.

While I am prepared to support an emergency measure for a limited period, for eradication of terrorism and communism, I must raise a warning against the permanent statutory restriction sought to be imposed on the Press. These are abnormal times ; and they are bound to pass away as soon as the constitution, now being hammered out, is finally settled. We value nothing more than the freedom of the Press, a most valued gift from the British and if that gift is taken away, the next step in the political advance, however great, will be a very poor substitute for depriving us of a right that has made the Indian Press a most powerful factor in releasing liberal and progressive forces in India. If the disruptive forces are driven underground, they will not tend to the stability, but to the disruption of the British rule in India. I do not mean to say that the Government should not take effective measures in putting down seditious and subversive movements with a strong hand, but I submit that the ordinary law of the land now in existence is sufficiently stringent. I say this from my experience as one of the oldest journalists of at least 42 years' standing. The law that secured the conviction and long term of imprisonment of Mr. Gandhi and the late Mr. Tilak cannot be said to be erring on the side of leniency. No Legislature would or could agree to permanent statutory provisions against the freedom of the Press. The translation of the provisions of the Ordinances against the Press into a permanent Act will be a standing insult and indignity to the Indian nation and it will give rise to an agitation which will not cease till they are repealed. I, therefore, request the Government, and appeal to them with all the earnestness at my command, not only to modify some of the drastic provisions, but to limit and define the period of the operation of the law as, otherwise, it will be a constant source of irritation, agitation and discontent throughout the country and embitter the already embittered public feelings. India wants peace and only high statesmanship and a spirit of conciliation which, I know, our sagacious Viceroy Lord Willingdon possesses in abundance, will bring that peace in India.

The Assembly then adjourned till Eleven of the Clock on Wednesday, the 28th September, 1932.