

LEGISLATIVE ASSEMBLY DEBATES

MONDAY, 12th DECEMBER, 1932

Vol. VII—No. 9

OFFICIAL REPORT



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LEGISLATIVE ASSEMBLY.

Monday, 12th December, 1932.

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

QUESTIONS AND ANSWERS.

POSITION OF LIFE ASSURANCE COMPANIES IN REGARD TO RATE OF TAX APPLICABLE TO INTEREST ON SECURITIES.

1612. ***Sir Leslie Hudson** (on behalf of Mr. H. P. Mody): Will Government be pleased to state:

- (a) whether Notification No. 42, dated 10th September, 1932, Finance Department, Central Revenues, regarding the rate of tax applicable to interest on securities, is applicable to Life Assurance Companies;
- (b) whether the procedure followed in this regard in different Provinces is the same;
- (c) whether the Central Board of Revenue have received any representation in this regard from Life Assurance Companies in Bombay; and
- (d) if so, how they propose to deal with the matter?

The Honourable Sir George Schuster: (a) No. The Notification relates to the rate of tax applicable to interest paid on securities in an assessee's "previous year", whereas Insurance Companies are not assessed on the income of the "previous year", but on the results of a periodical actuarial valuation.

(b) I have no reason to suppose otherwise, but the Central Board of Revenue are making enquiries, and will take steps, if necessary, to secure uniformity.

(c) No, but one Company approached the Commissioner of Income-tax, Bombay.

(d) The Board accepted the opinion of the Commissioner that the Notification was not applicable.

UNDERSTAFFED CLERICAL AND COMPUTING BRANCHES OF THE GOVERNMENT OF INDIA PRESS, NEW DELHI.

1613. ***Mr. S. O. Mitra:** (a) Are Government aware that the Clerical and Computing Branches of the Government of India Press, New Delhi, are greatly understaffed, work is in arrears, and men are forced by the Manager to take work home, stay after office hours and work on Sundays and gazetted holidays?

(b) Will Government be pleased to state the number of occasions on which the staff of the Computing Branch was booked to attend on Sundays and holidays in the year 1932?

(c) Is it a fact that proposals for increasing the staff of the New Delhi Press have been under consideration for the last four years, but that no additional staff has been sanctioned?

The Honourable Sir Frank Noyce: (a) I am informed that temporary clerks have been engaged to prevent arrears and that no clerk is asked to stay after office hours or to take work home. Clerks booked to attend on a Sunday or a holiday, are granted compensation leave which is always taken.

(b) Nine (3 Sundays and 6 holidays).

(c) Proposals for increasing the staff have been held in abeyance owing to the pressing need for keeping down expenditure.

CLERKS IN THE GOVERNMENT OF INDIA PRESS, NEW DELHI, SHOWN ON THE FLUCTUATING STAFF.

1614. **Mr. S. C. Mitra:** (a) Is it a fact that there are certain clerks employed in the Government of India Press, New Delhi, who are shown on the fluctuating staff for the last three to four years and are not given any increment since the date of their employment?

(b) Is it a fact that they were originally taken for a few months to tide over the work in the busy season, but were subsequently retained owing to the increase of work of a permanent nature?

(c) If the replies to parts (a) and (b) are in the affirmative, will Government be pleased to state why the fluctuating staff are not brought on to the regular establishment when the work which they are doing is of a permanent nature? Do Government now propose to take steps to make the prospects of their service better by giving them regular increments and admitting them to the benefits of the contributory provident fund?

(d) Is it a fact that during all these years of their appointment there did occur a few vacancies on the regular establishment of the Reading Branch of the said Press, which were filled by outsiders of lesser qualifications? If so, why were the claims of men already in service overlooked?

(e) Is it a fact that whenever any officiating vacancy occurs in the Reading Branch of the Delhi Press, a warehouseman getting Rs. 20 per month is given the officiating chance and no man from the so-called fluctuating staff is allowed to officiate as such, though there are men possessing better qualifications? If so, why?

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

(c) (i) The fluctuating staff who are doing work of a permanent nature cannot be transferred to the regular establishment as the proposals for additions to the regular establishment have been held in abeyance on account of the present financial position. Four clerks originally employed on the fluctuating establishment have, however, been brought on to the regular establishment as vacancies occurred.

(ii) No.

(d) Certain vacancies on the industrial establishment, which includes the staff of the Reading Branch were filled by qualified outsiders because none of the fluctuating clerical staff applied for the posts. Clerks are ordinarily unwilling to work in the industrial branches where the conditions of service are different.

(e) Warehousemen have been given such opportunities. As already stated, clerks are ordinarily unwilling to work in the industrial branches. But if in future they apply for transfer to the industrial branches, their applications will be considered.

Dr. Ziauddin Ahmad: In case the fluctuating staff is required all the year round, will it not be better to make them permanent, so that better efficiency may be obtained?

The Honourable Sir Frank Noyce: I agree with the Honourable Member, but I would point out that I have already stated that proposals for additions to the regular establishment have had to be held in abeyance on account of the present financial position.

HEALTH OF MR. SUBHAS CHANDRA BOSE.

1615. ***Mr. S. C. Mitra:** (a) Will Government please inform the House the present state of health of State Prisoner Mr. Subhas Chandra Bose?

(b) Is it a fact that there was a difference of opinion amongst his medical advisers as to the cause of his intestinal troubles? Has it been referred to a Medical Board for correct diagnosis? If so, what is the opinion of the Medical Board? Is it unanimous?

(c) Is it a fact that there is no arrangement at Bhowali Sanatorium for treatment of intestinal troubles whether due to tubercular affection or otherwise? If not, why has Mr. Bose not been transferred to any other suitable place where proper arrangement may be made for the treatment of his intestinal troubles?

(d) Is it a fact that the Medical Board in Madras suggested that in case of necessity Mr. Bose should be transferred to a place out of India—preferably Switzerland—where most up-to-date treatment for this particular disease, may be availed of?

(e) Are not Government aware that an adjournment motion in the Bengal Council has been carried without division for not taking adequate and timely steps for the health of Messrs. Bose and Sen-Gupta?

The Honourable Mr. H. G. Haig: (a), (b), (c) and (d). I would refer the Honourable Member to the reply I gave to Pandit S. N. Sen's starred question No. 1524 on the 5th December, to which I have nothing to add at present. I hope to be able to give further information to the House when Government have considered the report of the Medical Board which has just been received.

(e) I have seen a Press report of the debate. The Government have taken, and are taking, special pains to provide suitable treatment for Mr. Bose.

Mr. S. C. Mitra: Is it a fact that the sanatorium will be closed on the 15th of December? If that is so, do Government propose to send Mr. Bose elsewhere for treatment in the meantime?

The Honourable Mr. H. G. Haig: Yes, Sir; it is intended to send Mr. Bose to Lucknow for further examination and treatment. The Board, which has just examined him, concluded that in any case the Bhowali treatment has not done him any good.

Mr. S. C. Mitra: Is it a fact that for intestinal tuberculosis there is no proper treatment in India and that the best place is either Denmark or Vienna, and, if that be so, do Government propose to send him out of India for treatment?

The Honourable Mr. H. G. Haig: When Mr. Bose has been further examined in Lucknow, the whole question will be further considered.

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

1616. ***Mr. S. C. Mitra:** (a) What is the present state of health of Mr. J. M. Sen-Gupta? Why has he been transferred from Jalpaiguri Jail to Alipur Central Jail? Is it due to his bad health? If so, what steps have been taken for his treatment since his transfer to Alipur?

(b) Is it the intention of Government to release him or to transfer him to a sanatorium in view of his continued ill-health in jail?

The Honourable Mr. H. G. Haig: (a) I would refer the Honourable Member to the reply I gave to Pandit S. N. Sen's starred question No. 1524 on the 5th December, 1932.

(b) No.

HEALTH OF MR. SARAT CHANDRA BOSE.

1617. ***Mr. S. C. Mitra:** (a) What is the present state of health of Mr. Sarat Chandra Bose? Is he still in the Jubbulpore Jail? Who are the other State Prisoners now in the Jubbulpore Jail since the transfer of Mr. Subhas Chandra Bose? What association does Mr. Sarat Bose get in that Jail?

(b) Is it a fact that he has not recovered from diabetes from which he has been suffering? Do Government intend to remove him to a healthy place?

The Honourable Mr. H. G. Haig: (a) The medical reports show that he is keeping fairly good health. He is still detained in the Jubbulpore Jail. There has been no other State prisoner in that jail since his brother was transferred for medical treatment. The question of arranging suitable association for him is under consideration.

(b) I understand he still suffers from diabetes. Government have received a representation from him as regards the place of his detention, and this is under consideration.

MANUFACTURE OF SALT ON THE ORISSA COAST.

1618. ***Sardar G. N. Mujumdar** (on behalf of Mr. B. N. Misra): (a) Are Government aware that in 1822 the revenue from salt duty in Orissa coast was Rs. 18 lakhs as stated in Toynbie's History?

(b) If the answer to part (a) be in the affirmative, will Government please state when and how salt manufacture on the Orissa coast was stopped?

The Honourable Sir George Schuster: (a) It is stated on page 70 of Toynbee's Sketch of the History of Orissa from 1803 to 1828, on the authority of Mr. Sterling that at some unspecified period the salt monopoly in Orissa yielded a net revenue of little less than 18 lakhs of sicca rupees, I presume annually. 15 sicca rupees were equivalent to 16 Company's rupees.

(b) Manufacture by the "Panga"† method ceased in 1889. This was due to a variety of causes. The extinction of jungles from which firewood had been obtained, the heavy fees demanded by zamindars for the excavation of salt earth and for the extraction of fuel from their forests and the gradual dying out of the prejudice against the use of imported salt.

Manufacture by the Karkatch‡ method ceased in 1897-98. This method, though cheaper, was handicapped by the weakness of the brine, and the unsettled weather that is apt to prevail on that part of the coast during the manufacturing season. It succumbed on the opening of the East Coast Railway to the competition of Madras and foreign salts.

MANUFACTURE OF SALT AT HUMMA, SORDO AND NAUPADA IN THE GANJAM DISTRICT.

1619. ***Sardar G. N. Mujumdar** (on behalf of Mr. B. N. Misra): (a) What quantity of salt is being manufactured at (i) Humma, (ii) Sordo, (iii) Naupada (in the Ganjam District) annually during the last ten years, respectively?

(b) If the information in reply to the above question is not available, will Government please enquire and place the reply on the table of this House?

The Honourable Sir George Schuster: (a) and (b). I am obtaining the information asked for and will lay it on the table in due course.

MANUFACTURE OF SALT AT PARIKUD, MEALUD AND OTHER PLACES ON THE ORISSA COAST.

1620. ***Sardar G. N. Mujumdar** (on behalf of Mr. B. N. Misra): (a) Will Government please state if they have taken any action to encourage salt manufacture in (i) Parikud, (ii) Mealud and (iii) other places on the Orissa coast?

(b) What is the distance between Hamma and Parikud?

The Honourable Sir George Schuster: (a) Not directly. The development of local industries is a matter for the Local Government.

(b) The distance is 25 miles over Ganjam Road or train to Balugaon and 12 miles over Chilka Lake.

RULES FOR DETERMINING SENIORITY IN THE OFFICE OF THE CONTROLLER OF RAILWAY ACCOUNTS.

1621. ***Sardar G. N. Mujumdar** (on behalf of Mr. B. N. Misra): (a) Is it a fact that the rules for determining the relative seniority of non-gazetted staff of the Controller of Railway Accounts' Office lay down that the seniority shall be fixed with reference to substantive pay?

† Evaporation by artificial heat of salt earth dissolved in water.

‡ Evaporation of sea brine by solar heat.

(b) If so, will Government please state what objections there are to fixing the seniority of clerks in lower class according to the length of their continuous service? Is it a fact that the Auditor General in India, at the time of introducing the time scale of pay in 1922, had held that pay was not the criterion for purposes of seniority and that this rule still holds good in the Posts and Telegraphs and Civil Accounts Offices and the Office of the Director of Railway Audit and is generally applicable to the staff of the Railway Board also?

(c) Is it a fact that while determining the relative seniority of the staff transferred from the office of the Secretary, Indian Railway Conference Association, due consideration was paid not only to their previous service but also to the initial starting pay which was higher than the minimum pay of the grade?

(d) If the reply to part (c) above be in the affirmative, will Government please state why the continuous service of clerks taken over from the late Accountant General Railways' Office and other departments is not considered a deciding factor for fixing the seniority?

(e) Is it a fact that, to complete the strength of the office of the Controller of Railway Accounts, clerks were permanently taken over not only from the late Accountant General Railways' Office but also, time after time, from the Railway Board, Indian Railway Conference Association, old Chief Auditors' Offices, other departments and officers on special duty?

(f) If the reply to part (e) above be in the affirmative, will Government please state whether their grades of pay were different? Is it a fact that the staff attached to officers on special duty were given higher pay than they would have drawn in the ordinary course, and which they were allowed to draw even after transfer to the office of the Controller of Railway Accounts?

Mr. P. R. Rau: (a) and (b). I would refer the Honourable Member to the rules for determining the relative seniority of non-gazetted staff in State Railway Accounts Offices, a copy of which is in the Library of the House. These apply to the non-gazetted staff of the office of the Controller of Railway Accounts as well. They were framed last year after full consideration and Government see no reason to alter them.

(c) and (d). I am informed that the seniority of the clerks in the office of the Controller of Railway Accounts was fixed strictly in accordance with these rules after taking into account all relevant factors, such as, pay, length and character of service. It may, however, be mentioned that promotion depends upon merit and suitability and not primarily on the position in the seniority list.

(e) It is a fact that the office of the Controller of Railway Accounts, when it was constituted in 1929 was recruited from various sources.

(f) The answer to both parts of the question is in the affirmative. The pay of staff transferred to this office was paid in each case after taking all circumstances into consideration, including the pay they were in receipt of before such transfer.

ORISSA COMMITTEE REPORT.

1622. ***Mr. B. N. Misra:** (a) Will Government be pleased to state whether they have despatched their views on the Orissa Committee Report?

(b) If the reply to the above question be in the negative, will Government be pleased to state when they are going to send their final views on the Orissa Committee's Report to the Secretary of State for India?

(c) Do Government think that the matter will not come up before the Third Round Table Conference?

(d) If the reply to part (a) be in the affirmative, will Government be pleased to inform the house what were the views expressed by them in their despatch?

The Honourable Sir Brojendra Mitter: Sir, with your permission, I shall reply to questions Nos. 1622, 1623 and 1624 together.

The Government of India have obtained from the Local Governments concerned their views on the Orissa Committee's report and have addressed the Secretary of State in the matter. The whole question is under consideration and I am not in a position to state the views either of Local Governments or of the Government of India at this stage.

2. As regards the discussion of the question at the Round Table Conference and the representation of Orissa thereon, I would invite the Honourable Member's attention to the reply given by my Honourable colleague, the Home Member, to Mr. Bhuput Sing's short notice question on the 22nd November last.

ORISSA COMMITTEE REPORT.

†1623. ***Mr. B. N. Misra:** (a) Will Government be pleased to state the dates on which they requisitioned and received the opinions on the Orissa Committee Report from the Local Governments of (i) Bihar and Orissa and (ii) Madras?

(b) Will Government be pleased to state the opinion of the Bihar and Orissa Government with regard to the separation of Orissa?

(c) Will Government be pleased to state the opinion of the Madras Government with regard to the separation of Orissa?

PLACING OF THE ORISSA SEPARATION CASE BEFORE THE THIRD ROUND TABLE CONFERENCE.

†1624. ***Mr. B. N. Misra:** (a) Will Government be pleased to state the reasons why they have not sent an Orissa delegate to the Third Round Table Conference?

(b) Will Government be pleased to state whether they have arranged to put the Orissa separation case before the Third Round Table Conference and in what manner?

(c) If not, do they propose to place it before the Joint Parliamentary Committee?

COST INCURRED BY GOVERNMENT ON THE HAULAGE, TRAVELLING AND OTHER ALLOWANCES FOR THE NOMINATED MEMBERS OF THE LEGISLATIVE ASSEMBLY.

1625. ***Pandit Satyendra Nath Sen** (on behalf of Pandit Ram Krishna Jha): Will Government be pleased to state the amount of cost incurred by

† For answer to this question, see answer to question No. 1622.

Government for payment of haulage, travelling and other allowances for the Nominated Members of each Assembly since 1921?

The Honourable Sir Brojendra Mitter: The information asked for is being collected and will be laid on the table of the House in due course.

POSTS CARRYING SPECIAL PAY IN THE IMPERIAL SECRETARIAT PROPER HELD BY MUSLIMS.

1626. ***Dr. Ziauddin Ahmad** (on behalf of Mr. M. Maswood Ahmad): Is it a fact that in answer to unstarred question No. 155 (c) answered on the 30th September, 1932, it was stated that 13·7 per cent. of posts carrying special pay in the Imperial Secretariat proper are held by Muslims? Will Government kindly state the number of Muslims drawing special pay departmentwise, together with their names and the work for which this special pay has been granted to them, excluding the Reforms Office which is on a temporary basis, as also excluding Attached Offices?

The Honourable Mr. H. G. Haig: The percentage was for the Departments of the Government of India and their Attached Offices combined. In regard to the rest of the question I would refer the Honourable Member to the statement laid on the table on the 14th September, 1932, in reply to question No. 1107. That statement gives all the information the Honourable Member requires, except that relating to names of Muslims holding posts carrying special pay. I regret I am unable to undertake to collect this information.

APPOINTMENT OF A MUSLIM TO SCRUTINISE THE COMMUNAL COMPOSITION STATEMENTS OF VARIOUS DEPARTMENTS.

1627. ***Dr. Ziauddin Ahmad** (on behalf of Mr. M. Maswood Ahmad): Is it a fact that Government in the Home Department issue, from time to time, instructions to other Departments to remove communal inequalities? Will Government kindly say whether the Home Department who issue these instructions or any other Department is made responsible to see that such instructions were acted upon and not abused by other Departments? Is it a fact that in each Session of the Legislature there are questions pointing out communal inequalities in different Departments? Are Government prepared to take any action in the matter; or are they prepared to appoint a Muslim to scrutinise the various communal composition statements received from various Departments and suggest means of improving the position of Muslims?

The Honourable Mr. H. G. Haig: General instructions were issued by the Home Department in 1926. Each Department or office is individually responsible for their observance in respect of its own establishment; but the Home Department have also prescribed an annual return with the object of watching the effect of the general instructions. As explained in reply to starred question No. 335 on 16th September, 1931, Government have already undertaken an enquiry into the matter and hope to reach decisions on its results at an early date.

PERCENTAGE OF MUSLIMS IN THE IMPERIAL SECRETARIAT SERVICE OF THE DEPARTMENT OF EDUCATION, HEALTH AND LANDS.

1628. ***Dr. Ziauddin Ahmad** (on behalf of Mr. M. Maswood Ahmad): (a) Is it a fact that in May, 1924, the number of Muslims in the Imperial

Secretariat Service (Central Service, Class II) of the Department of Education, Health and Lands was as under?

Total number of Assistants and Superintendents	38
Number of Muslims	9
Percentage of Muslims to the total number	23·7

(b) Is it a fact that in November, 1932, the number of Muslims in the same service of the same Department was as follows?

Total number of Assistants and Superintendents	37
Number of Muslims	7
Percentage of Muslims to the total number	18·91

(c) Is it a fact that the number and percentage of Hindus and Sikhs in the same Service in the same Department was 14 or 36·86 in 1924 and 24 or 65 per cent. in November, 1932?

Mr. G. S. Bajpai: (a) to (c). On the 1st May, 1924, there were only eight Muslims out of 37 Superintendents and Assistants actually serving in the Department of Education, Health and Lands. All these eight Muslims were in the grade of Assistants, and one of them was employed as Librarian. In November, 1932, there were six Muslim Assistants and one Muslim Superintendent in the Department. The decrease of one Muslim Assistant was due to the transfer of the Muslim Librarian to Calcutta on a salary of Rs. 750—50—1,250 as compared with the salary Rs. 200—15—500 which was the scale attached to his post in the Department of Education, Health and Lands. The percentage in 1924 was 21·62 and in November, 1932, 18·91.

The correct percentage of the various communities in these grades on the dates mentioned by the Honourable Member is shown in the statement which I lay on the table.

Statement.

Year.	Total number of posts in the grades of Superintendents and Assistants in Education, Health and Lands Department.	Hindus.		Minority Communities.										Remarks.
				Muslims.		Sikhs.		Europeans, Anglo-Indians, etc.		Other Communities.		Total percentage of Minority Communities.		
		No.	Percentage.	No.	Percentage.	No.	Percentage.	No.	Percentage.					
										No.	Percentage.		No.	
1924	37*	12	32.43	8	21.62	2	5.41	15	40.54	..	..	67.57	
1932*	37	21	56.76	7	18.91	3	8.11	6	16.22	..	..	43.24	

* Excludes one Muslim Assistant who was on deputation.

Mr. Amar Nath Dutt: Is it not a fact that the Department has been in charge of a Moslem Member for more than 8 or 10 years?

Mr. G. S. Bajpai: The Honourable Member has been long enough a Member of this House to know how long we have had a Moslem Member in charge of this Department.

Sir Abdulla-al-Māmūn Suhrawardy: And how long it has had a non-Moslem Secretary?

PAUCITY OF MUSLIMS IN THE DEPARTMENT OF EDUCATION, HEALTH AND LANDS.

1629. ***Dr. Ziauddin Ahmad** (on behalf of Mr. M. Maswood Ahmad):

(a) Is it a fact that after April, 1924, there had been 16 vacancies of Assistants in the Department of Education, Health and Lands for which 15 Hindus and only one Muslim were recruited, and that the Muslim being a passed hand was promoted from the Lower Division to the Upper Division in the Department and was therefore not a new entrant? Is it a fact that of the 15 Hindus, five have not, in the ordinary course, qualified for the Upper Division, and that three of these appeared two or three times in the qualifying examination but failed to get through, and that, in spite of their repeated failure, they have been exempted and promoted to the Upper Division?

(b) Is it a fact that there have been questions in the Legislature in previous years against this department regarding paucity of Muslims in the Department? Is it also a fact that the Anjuman-i-Islamia, Simla, represented to the Department in a previous year, pointing out the grievances of the Muslim employees, but the number of the Muslims and Christians including Anglo-Indians has considerably fallen while the number of Hindus and Sikhs has been considerably increased?

(c) Is it a fact that in July, 1931, this Department, in view of the very meagre representation of Muslims in the Central Service, Class II, asked the Public Service Commission to nominate a Muslim passed hand for a then Upper Division vacancy to which a Muslim was appointed?

(d) Is it a fact that this Assistant left the Department in October, 1932? Is it a fact that this Department did not ask the Public Service Commission to nominate a candidate and preferred to promote Lala Huma Nand, an unpassed hand, who could not qualify for the Upper Division although he appeared two or three times?

Mr. G. S. Bajpai: (a) Actually there have been 18 vacancies in the Assistant's grade of the Education, Health and Lands Department since 1924. Of these, 14 have been filled in accordance with existing orders by departmental promotion which, as Honourable Member is probably aware, is not regulated by communal considerations. It is not understood what Honourable Member means by saying that five of these men were not qualified in the ordinary course. One of them had secured a high place in the Indian Civil Service examination held in India and had been declared by the Public Service Commission to be duly qualified for appointment as Assistant. One was recruited on the recommendation of the Public Service Commission for the technical post of Librarian. The remaining three were promoted on the strength of service of proved merit in the Department. Only three were recruited direct and, of these one was a Muslim.

(b) There have been questions asked in the Legislature regarding the employment of Muslims in the Education, Health and Lands Department and a representation was also received from the Anjuman-i-Islamia, Simla. The suggestion that there is a paucity of Muslims in this Department is not correct: Muslims constitute 26.14 per cent. of the total clerical staff of this Department as against 26.97 per cent. in 1924. The decrease has been in the number of members of the Anglo-Indian and Domiciled European community owing to the retirement, on retrenchment terms, of four members of this Community. Honourable Member might be interested to know that not one single Muslim has been retrenched.

(c) and (d). Mirza Mahmood Beg, M.A., was recruited for the 1st Division in 1931 because this Department asked that of the three vacancies offered for direct recruitment in that year, one should be reserved for a Muslim. He left this Department in October, 1932, as he preferred teaching to clerical work. This vacancy was filled by the promotion of a clerk from the 2nd Division whose departmental work fully justified such promotion. A Muslim clerk would have been promoted to fill this vacancy, had he not declined because promotion would not have benefited him financially.

PAUCITY OF MUSLIMS IN THE DEPARTMENT OF EDUCATION, HEALTH AND LANDS.

1630. *Dr. Ziauddin Ahmad (on behalf of Mr. M. Maswood Ahmad): (a) Will Government kindly give reasons why their instructions regarding 30 per cent. representation of Muslims have been ignored in the Department of Education, Health and Lands?

(b) Are Government aware that the percentage of Muslims has been systematically and gradually reduced from 23.7 in 1924 to 18.9 in 1932?

(c) Are Government aware that non-Muslims who failed to qualify for the Upper Division test were promoted to that Division, and that no Muslim was similarly promoted?

(d) When Mirza Mahmood Beg left the Department in October, 1932, why was the Public Service Commission not, as before, asked to nominate a Muslim candidate in place of a Muslim, or a deserving Muslim promoted from the Lower Division to the Upper Division in the Department to adjust the communal inequality existing in the Department?

Mr. G. S. Bajpai: (a) Government are not aware of any instructions regarding 30 per cent. representation of Muslims.

(b) No. In 1924, the percentage of Muslims was 26.97. Now it is 26.14.

(c) As explained in reply to the Honourable Member's previous question on the same subject, departmental promotions are not made on communal grounds. There has been no irregular appointment of non-Muslims at the expense of Muslims. As I have explained in reply to parts (c) and (d) of his question No. 1629, promotion was offered to a Muslim, but was declined for financial reasons.

(d) The Public Service Commission were not consulted, because it was decided to fill the vacancy by departmental promotion. As regards the Honourable Member's question why a Muslim was not promoted, I would invite his attention to the answer which I have just given to part (c) of this question.

Dr. Ziauddin Ahmad: May I ask a supplementary question as to part (b) of the question, whether, in calculating the figures, *chaprassis* also are included or excluded?

Mr. G. S. Bajpai: The Honourable Member's question relates to First Division Assistants and Superintendents. Therefore it would be clear that *chaprassis*, who do not rank either with Superintendents or with First Division Assistants, are not included.

NON-ALLOTMENT OF A RENT-FREE QUARTER TO A MUSLIM CLERK IN THE OFFICE OF THE SUPERINTENDENT OF EDUCATION, DELHI.

1631. ***Dr. Ziauddin Ahmad** (on behalf of Mr. M. Maswood Ahmad): (a) Is it a fact that in 1921, when the Delhi and Ajmer-Merwara Education offices were combined under one Superintendent, it was found necessary to transfer one of the Ajmer-Merwara Education Department clerks to Delhi, to do the Ajmer-Merwara work in Delhi? Is it a fact that the first of these was Mr. Bhanwar Lal Dosi, who was afterwards succeeded by Mr. Kesri Mal Taparia? Is it a fact that the same practice is still being continued and only last year a clerk from Ajmer was transferred to do the Ajmer-Merwara work in Delhi?

(b) Is it a fact that as an inducement for this change of headquarters, a rent-free quarter close to the office was allotted in Delhi to the clerk and therefore the first two clerks occupied the rent-free quarters?

(c) Is it a fact that the present Ajmer-Merwara clerk, who is a Muslim, has not been given this quarter, but instead this rent-free quarter has been given to Superintendent of Education's stenographer who is drawing a three-figure salary—the highest in the office?

(d) Will Government kindly state the reasons for this departure?

Mr. G. S. Bajpai: (a) Both the clerks, Messrs. Bhanwar Lal Dosi and Kesri Mal Taparia of the office of the Superintendent of Education, Ajmer-Merwara, were originally transferred to Delhi. This plan had to be given up as it did not work satisfactorily and the two clerks were sent back to Ajmer in 1925. Since then one clerk from the Ajmer-Merwara Education Department has been stationed at Delhi.

(b) A rent-free quarter close to the office was allotted to the two clerks mentioned in the reply to part (a) and they occupied it jointly. The quarter was allotted to them as they were natives of Ajmer-Merwara and had suffered owing to their transfer to Delhi.

(c) The present Ajmer-Merwara clerk was transferred to Delhi on 13th July, 1931. At the time of his transfer, the quarter in question had been occupied by a clerk of the Delhi office for more than seven years. The Superintendent's stenographer was allotted this quarter only in July, 1932.

(d) Does not arise.

EDUCATIONAL ADMINISTRATION OF THE DELHI PROVINCE.

1632. ***Dr. Ziauddin Ahmad** (on behalf of Mr. M. Maswood Ahmad): Has the attention of Government been drawn to a series of articles in the *Alaman* and *General News*, both of Delhi, as also in the *Muslim Outlook*, of Lahore, criticising the educational administration of the Delhi Province

under its new Superintendent? If so, will Government kindly state what action, if any, has been taken?

Mr. G. S. Bajpai: Government have seen an anonymous letter, which was published in certain newspapers, if this is what the Honourable Member has in mind.

Dr. Ziauddin Ahmad: What about the latter part of the question: "If so, will Government kindly state what action, if any, has been taken?"

Mr. G. S. Bajpai: It is not the policy of the Government to take action on anonymous letters.

SPECIAL PAY GIVEN TO THE STENOGRAPHER OF THE SUPERINTENDENT OF EDUCATION, DELHI.

1633. ***Dr. Ziauddin Ahmad** (on behalf of Mr. M. Maswood Ahmad): (a) Is it a fact that in April, 1931, when a separate Superintendent of Education was appointed for Delhi, Ajmer-Merwara and Central India, the pay of his stenographer was fixed with reference to this combined charge of three Administrations and he was given the same grade of pay as the Head Clerk of that Office was drawing and the pay of the Head Clerk was fixed before 1921 when there was no combined charge, Delhi being the only charge? Is it a fact that subsequently, having regard to the combined charge of Delhi and Ajmer-Merwara, the Head Clerk of the Superintendent of Education's office was given a special pay from the Ajmer-Merwara budget on the ground that the pay originally fixed for the Head Clerk was for the Delhi Province work only?

(b) Is it a fact that a special pay of Rs. 25 p. m. has been sanctioned for supervising the clerical work of the Central India Education Department in Delhi? Is it a fact that this special pay is given to the stenographer? If so, why? Is it a fact that the stenographer is always on tour with the Superintendent of Education and this work is therefore done by the Head Clerk, whose pay was fixed for the Delhi Administration work only and who is getting a special pay of Rs. 25 *per mensem* for doing the similar work for Ajmer-Merwara? Will Government kindly state if in these days of financial stringency they have considered the question of doing away with the special pay of Rs. 25?

(c) Is it a fact that a Muslim graduate of the Delhi University, who was working as Programme Clerk in the Superintendent of Education's office and was well up in shorthand, and possessed a certificate of having acquired proficiency in shorthand from the Principal of the Government Commercial Classes, Delhi worked as stenographer to the Superintendent for over six months, but was reverted to his original post on Rs. 60—4—100 and a Hindu stenographer was brought in in the grade of Rs. 100—10—150? If so, why?

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

(b) A special pay of Rs. 25 *per mensem* was granted to a clerk in the office of the Honourable the Agent to the Governor General in Central India for the work of the Central India Education Department. As the Superintendent of Education has been appointed recently as Secretary to the Honourable the Agent to the Governor General in the Education

Department, all the work of that Department has been transferred to him and the special pay of Rs. 25 per mensem has been given to the Superintendent's stenographer, who supervises the entire clerical work of the Central India Branch. The question of entrusting the supervision of the clerks dealing with the Central India section to the Head Clerk of the Superintendent's office is being considered.

(c) The temporary Muslim clerk in the Superintendent's office who was given a trial as stenographer proved unsatisfactory. The Head Clerk of the Board of Secondary Education, who was appointed to the post, is, in addition to being an honours graduate, a fully qualified stenographer and has justified his selection. He has not gained much pecuniarily by the appointment as he was already in the grade of Rs. 90—10—140. The appointment was made purely on grounds of efficiency.

APPOINTMENT OF THE STENOGRAPHER OF THE SUPERINTENDENT OF EDUCATION, DELHI, AS AN EXAMINER OF THE BOARD OF SECONDARY EDUCATION, DELHI.

1634. ***Dr. Ziauddin Ahmad** (on behalf of Mr. M. Maswood Ahmad): Is it a fact that the stenographer of the Superintendent of Education, Delhi has been appointed an Examiner of the Board of Secondary Education, Delhi, of which the Superintendent of Education is Chairman, in two or three subjects? Will Government kindly state if there is any other clerk in the Delhi Education Office or Board's office who was appointed previously or has now been appointed as examiner? If there is no precedent, will Government kindly state the reasons for this preferential treatment?

Mr. G. S. Bajpai: Yes. The stenographer of the Superintendent of Education, Delhi, was selected as an Examiner under the Board of Secondary Education, not by the Superintendent, but by the Board before he was appointed stenographer. So far as Government are aware there is no objection to other clerks in the Superintendent's office or in any other office being selected as Examiners if they are considered qualified by the Board.

PERCENTAGE OF MUSLIM TEACHERS IN THE EDUCATION DEPARTMENT, DELHI AND IN VERNACULAR SCHOOLS, IN AJMER.

1635. ***Dr. Ziauddin Ahmad** (on behalf of Mr. M. Maswood Ahmad): Will Government kindly state the percentage of Muslim teachers in the Education Department in Delhi? Will Government also state the percentage of Muslim teachers in vernacular schools in Ajmer?

Mr. G. S. Bajpai: The percentage of Muslim teachers in Delhi is 37.8 and in vernacular schools in Ajmer-Merwara it is 15.9.

QUINQUENNIAL REPORT OF THE SUPERINTENDENT OF EDUCATION, DELHI.

1636. ***Dr. Ziauddin Ahmad** (on behalf of Mr. M. Maswood Ahmad): Is it a fact that a special officer (Headmaster, Government High School, Ajmer) was deputed to write the quinquennial report for the Superintendent of Education, Delhi? Will Government kindly state the total expenditure incurred on account of this, including the travelling allowance, pay of

temporary stenographer and peons attached to this special officer? Will Government kindly state if a special officer was engaged on a previous occasion when the Educational Commissioner with the Government of India was holding this combined charge and wrote such a report? If not, having in view the large amount of extra expenditure incurred by Government in appointing a separate Superintendent of Education, will Government kindly give reasons for this extra financial drain on the budget during these financial stringency days?

Mr. G. S. Bajpai: A special officer was engaged for the purpose of drafting the next quinquennial report on education for Delhi, Ajmer-Merwara and Central India as the Superintendent has, since his appointment, been entrusted with the duties of a number of full-time and part-time officers, whose appointments have since been abolished, and he cannot, therefore, spare the requisite time for this work. The cost of the special arrangements referred to by the Honourable Member was Rs. 2,150.

CLASSES FOR TRAINING IN ORIENTAL LANGUAGES IN THE SIDDIQIA HIGH SCHOOL, DELHI.

1637. ***Dr. Ziauddin Ahmad** (on behalf of Mr. M. Maswood Ahmad): Is it a fact that the present Superintendent of Education, Delhi, inspected the Siddiqia High School, Delhi? Is it a fact that this Siddiqia High School maintains classes for training in oriental languages (Arabic and Persian) in the school building? Is it a fact that these classes prepare students for the *Munshi Fazil* and other oriental language examinations of the Punjab University? Is it a fact that this school is maintained through the generosity of one single Muslim merchant who is interested in oriental languages? Is it a fact that while according recognition the Board of Secondary Education, Delhi, did not raise any objection to these classes? Are Government aware that while making his inspection, the Superintendent discouraged him to close these classes under the threat of withdrawing Government grant to the school? Are Government aware that this Muslim merchant preferred to suspend the high classes? Is it a fact that up to 1929 there was only one Muslim Anglo-Arabic High School in Delhi and that there were five high schools managed by Muslims of Delhi at the time the present Superintendent of Education took over charge and these five have now been reduced to four? Are Government aware that the attitude of the present Superintendent of Education is rather discouraging to the Muslims?

Mr. G. S. Bajpai: The answer to the first part of the question is in the affirmative. The classes in Arabic and Persian in the Siddiqia School, Delhi, are not recognised by the Education Department, but no objection has ever been raised by the Board of Secondary Education or by the Superintendent of Education, Delhi, to the retention of these classes, nor has the present Superintendent of Education ever discouraged the management of the school from continuing these classes. Government have no information as to whether these classes prepare students for the *Munshi Fazil* or any other oriental examination of the Punjab University. It is understood that this school is maintained largely through the generosity of a Muhammadan gentleman. The management have, on their own initiative, discontinued their High School classes, presumably on account of their unsatisfactory results secured in the High School and

School Leaving Certificate Examinations. As a result of this action, the number of Muslim High Schools in Delhi has decreased from five to four. Government have no reason to believe that the attitude of the present Superintendent of Education is discouraging towards Muslim education.

CLERKS AND ASSISTANT PROFESSORS OF THE GOVERNMENT COLLEGE, AJMER.

1638. ***Dr. Ziauddin Ahmad** (on behalf of Mr. M. Maswood Ahmad): Will Government kindly state the total strength including clerks and assistant professors of the Government College, Ajmer, communitywise, and the percentage of each community on the staff of this college at the time when the present Superintendent of Education took over charge? Will Government kindly give the same information about this college as it stood on 1st November, 1932, with reasons for the fall of percentage of the Muslims?

Mr. G. S. Bajpai: A statement giving the information desired by the Honourable Member is laid on the table. There has been a fall in the percentage of Muslims and the matter is receiving attention.

Statement showing the strength of the staff of the Government College, Ajmer, with percentage of each community.

Date.	Total number of appointments in the College.	Christians.		Hindus.		Muslims.		Remarks.
		No.	Percentage.	No.	Percentage.	No.	Percentage.	
7th April 1931 (when present Superintendent of Education, Delhi, Ajmer-Merwara and Central India assumed charge of office).	17	1	6	14	82	2	12	
1st November 1932 .	20	..	..	18	90	2	10	

STOPPAGE OF PUBLIC TRAFFIC AT DELHI JUMNA BRIDGE.

1639. ***Mr. S. C. Mitra:** (a) Is it a fact that orders were issued to stop public traffic at Delhi Jumna Bridge on 16th November, 1932, from 1 P.M., for the free passage of military officers and soldiers?

(b) Is it a fact that only a small batch of military people reached the Shahdra end of the bridge at 11 A.M., and the officer in charge of the military batch ordered the police to stop public traffic forthwith?

(c) Is it a fact that the police constable immediately phoned to the Headquarters and informed the official on duty that only a small batch of the military had arrived before time which was fixed and the rest was on its way between Ghaziabad and Delhi which was due there after a couple of hours (the fixed time of their arrival)?

(d) Is it a fact that all kinds of traffic were ordered to be stopped at once until the whole battery of artillery arrived and passed?

(e) Is it a fact that a large number of motor buses, cars, carts, tongas and pedestrians had to wait at both ends of the bridge till 2-30 P.M.?

(f) Is it a fact that during this long period of three and a half hours several cars which were occupied by Europeans other than military people were not stopped by the Police while no car occupied by Indians was allowed to pass, which caused resentment and trouble?

(g) If the replies to the above questions be in the affirmative, will Government be pleased to state why this distinction was allowed to be made and what action do Government propose to take to safeguard the interest of Indians? If not, why not?

The Honourable Mr. H. G. Haig: (a) Traffic was closed from 11-45 A.M. on the 16th November, 1932, to permit the passage of the Meerut Artillery Brigade.

(b) and (c). Nothing is known of the incidents referred to in these parts of the question.

(d) Yes. This was essential as it would have been dangerous to have permitted any traffic on the bridge while a large number of horses and field guns as well as a baggage train were crossing.

(e) No. Traffic was only held up until 1-30 P.M.

(f) No. The Brigade arrived at the east side of the bridge at 12 Noon; the Officer Commanding intimated that the crossing would not commence before 12-20; in the interval a certain amount of fast traffic was permitted to cross from east to west as well as a number of pedestrians. At 12-15 all traffic was completely stopped and the Brigade started crossing a few minutes later. When the Brigade started crossing there were actually some pedestrians still on the bridge near the west end. By 1-30 P.M. the entire Brigade had cleared the bridge. The whole crossing only occupied one hour and ten minutes.

No discrimination was made at any time. In fact no requests were made by either Indians or Europeans as the necessity for holding up the traffic was obvious to all.

(g) Does not arise.

PROSPECTS FOR INDIAN ASSISTANT STATION MASTERS ON THE NORTH WESTERN RAILWAY.

1640. ***Mr. Goswami M. R. Puri:** Are Government aware that there are no future prospects for Indian Assistant Station Masters on the North Western Railway? Is it a fact that the higher posts of Assistant Station Masters are given to junior and inexperienced guards? Is it a fact that although they have worked satisfactorily on big junctions like Delhi, Saharanpore, etc., yet they are not made permanent there? Is it correct that most of the chances of Train Controllers are given to other than Assistant Station Masters? Is it also a fact that men with 15 to 20 years' service are still in the lowest grade of Assistant Station Masters, while men with the same service as guards or in commercial line rise far higher? Are Government prepared to reserve class V or higher posts of Assistant Station Masters for Indians or introduce other openings such as B and C class guards, etc.?

Mr. P. B. Rau: With your permission, Sir, I propose to reply question Nos. 1640, 1641, 1643, 1644, 1645 and 1646 together.

Government have no information. I have sent a copy of these questions to the Agent, North Western Railway, for consideration of the points raised in them which are all within his competence to decide.

DISCHARGE OF STATION MASTERS AND ASSISTANT STATION MASTERS ON THE NORTH WESTERN RAILWAY WHO PASSED THE LOWER STANDARD OF MEDICAL TEST.

†1641. ***Mr. Goswami M. B. Puri:** Is it a fact that the Station Masters and Assistant Station Masters on passing the lower standard of medical test, who were up till now given posts in the commercial line on the same pay, are now-a-days discharged on the ground that no suitable posts are available? Are Government aware that when these men were recruited they were sound in health and sight and that it is due to hard night duties that they have lost it? Are Government prepared to reserve a certain number of posts in the commercial line for such failures?

SYSTEM OF MEDICAL EXAMINATION ON THE RAILWAYS.

1642. ***Mr. Goswami M. B. Puri:** Are Government aware that the present C system of medical examination in the Railways is considered by the staff as most difficult? What reasons have Government against the re-introduction of the Dott system as before? Is it a fact that Transportation staff have their specific duties of signals only? What objection have Government if they may only be tested in such lights? Why are they examined every third year? Will Government be pleased to place on the table a list of accidents due to short vision of the staff during 1932?

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

PROMOTION OF ASSISTANT STATION MASTERS ON THE NORTH WESTERN RAILWAY.

†1643. ***Mr. Goswami M. B. Puri:** Are Government aware that in accordance with Delhi Divisional Order No. 741, Case No. 687/E./4, dated 28th November, 1927, though the grade of Assistant Station Masters is Rs. 75 *per mensem* yet hundreds of such staff on the North Western Railway are blocked on Rs. 60 due to administrative inability for getting them qualified? Are Government prepared to grant them promotions from the due dates?

PROMOTION OF ASSISTANT STATION MASTERS ON THE NORTH WESTERN RAILWAY.

†1644. ***Mr. Goswami M. B. Puri:** Are Government aware that by the introduction of course T8 in the training school of the North Western Railway many senior Assistant Station Masters waiting for course T6 are deprived of their overdue promotions while new men and juniors are given promotions prematurely? Are Government prepared to grant the senior men promotion from due dates?

† For answer to this question, see answer to question No. 1640.

REDUCTION OF THE GRADE OF ASSISTANT STATION MASTERS ON CERTAIN JUNCTION STATIONS IN THE DELHI DIVISION OF THE NORTH WESTERN RAILWAY.

†1645. ***Mr. Goswami M. R. Puri:** Is it a fact that the grade of Assistant Station Masters on certain junctions in Delhi Division of the North Western Railway has been reduced due to retrenchment and reduction of work? If so, will Government state why the grades of Station Masters on such stations have not been reduced?

TRANSFERS OF ASSISTANT STATION MASTERS IN THE DELHI DIVISION OF THE NORTH WESTERN RAILWAY.

†1646. ***Mr. Goswami M. R. Puri:** Is it a fact that in the Delhi Division of the North Western Railway many Hindu Assistant Station Masters have been working in cabins for many years while Muhammadans are shifted from cabins after two or three months? Will Government be pleased to place on the table a list of transfers made in 1931-32 with reasons?

ABSENCE OF WATER TAPS IN THE PAHARGANJ RAILWAY QUARTERS IN DELHI.

1647. ***Mr. Goswami M. R. Puri:** (a) Are Government aware that the staff living in Delhi Paharganj Railway Quarters are suffering much trouble without water taps inside their quarters? Is it a fact that this was sanctioned some four years back and officers assured the staff last year that this would be done on completion of the drainage scheme? Is that scheme completed? When can the staff expect the same? /

(b) Is it also a fact that these quarters, no sooner are they occupied by the Engineering staff, than they are fitted with taps and soon after such staff vacates them, the taps are withdrawn?

Mr. P. R. Rau: (a) and (b). Government have no information. The matter is one for the Agent to decide, and I am sending him a copy of the Honourable Member's question for consideration, if any action is needed.

APPEALS FROM THE RAILWAY STAFF RECEIVED IN THE RAILWAY BOARD.

1648. ***Mr. Goswami M. R. Puri:** Will Government be pleased to place on the table a statement showing the number of appeals from the Railway staff received in the Railway Board during the last three years and how they were disposed of? Is it a fact that nearly 99 per cent. of the appeals are returned to the respective Agents of Railways even in cases of dismissal discharge, and reductions? Are Government prepared to appoint an appeal section in every Divisional and Agents Office, composed of $\frac{1}{2}$ independently selected staff and $\frac{1}{2}$ officers?

Mr. P. R. Rau: As regards the first two parts of the question, I would refer the Honourable Member to the reply I gave to Mr. Lalchand Navalrai's question No. 1215 on the 14th November. As regards the last part, Government consider this suggestion impracticable.

†For answer to this question, see answer to question No. 1640.

WEEKLY REST SYSTEM OVER THE NORTH WESTERN RAILWAY.

1649. ***Mr. Goswami M. R. Puri**: Are Government aware that since the introduction of the weekly rest system over the North Western Railway, staffs' trouble is greatly increased? Is it a fact that formerly there was only one weekly change in duties while now there are three? Is it a fact that the staff has to perform double, under rest and lengthy duties in order to get rest? Is not this against the Geneva Convention and the amended Railway Act? Have Government considered the question of introducing the East Indian Railway system or totally stopping the weekly rest system?

Mr. P. R. Rau: Government have no detailed information, but understand that the rosters are in conformity with the provisions of the recent amendment to the Railways Act and do not differ considerably from those on the East Indian Railway. A copy of this question has however been sent to the Agent, North Western Railway, to consider whether any action is necessary.

INTER-TRANSFER OF STAFF ON STATE RAILWAYS.

1650. **Mr. Goswami M. R. Puri**: Are Government aware that innumerable staff on State Railways are anxious to go on to other State Railways, and is it a fact that many of them have applied for such transfers and exchanges, but have been disallowed? Do Government propose to issue a general circular inviting such applications and facilitate their sanction?

Mr. P. R. Rau: Government have no information as regards the first part of the question. They do not propose to invite applications for transfer between railways.

ISSUE OF LOCAL PASSES TO SUBORDINATE STAFF ON STATE RAILWAYS.

1651. ***Mr. Goswami M. R. Puri**: Is it not a fact that all the State Railways are owned by one Government? Do Government issue local passes to and from a State Railway to subordinate staff? If not, why not? Is an unlimited number of passes issued to subordinate staff? If not, why not? Is an unlimited number of passes issued to highly paid officers?

Mr. P. R. Rau: In India, the term State Railways is usually taken to mean Railways owned by the Government of India. These, though owned by one authority, are divided for administrative convenience into separate self-contained systems. Passes to employees of one system are generally granted over another system in accordance with the rules for interchange of free passes agreed to by the different railway administrations. The number of passes, admissible in a year has for long been limited, in the case of passes other than first class passes, for obvious reasons and it is proposed to lay down a limit in the case of first class pass holders also in the revised rules for the issue of passes on State-managed Railways, which it is proposed to introduce from the 1st January.

RETRENCHMENT OF RAILWAY EMPLOYEES.

1652. ***Mr. Goswami M. R. Puri**: Is it a fact that thousands of subordinate Railway employees have been retrenched due to fall of traffic

and decrease in work? Does it not affect the officers? If so, will Government please place on the table a statement showing the number of Officers and Inspectors retrenched and reduced?

Mr. P. R. Rau: During the economy campaign in 1931, about 40,000 subordinate employees of all sorts including labourers in workshops and in permanent-way gangs were discharged on all State-owned Railways. As regards superior officers, on State-managed Railways alone, about 134 posts have been abolished or held in abeyance and up to date about 47 officers have been discharged on account of retrenchment and many officiating officers reverted to their substantive subordinate posts. Government have no recent information about the number of officers retrenched on Company-managed Railways, or final figures as regards the number of inspectors retrenched on any railway. Full information is being collected and will be placed on the table in due course.

Dr. Ziauddin Ahmad: Is it not a fact that those officers who were retrenched were put on special duty and not really retrenched?

Mr. P. R. Rau: Those officers who have been retrenched have not been put on any special duty, Sir,

Dr. Ziauddin Ahmad: They are not definitely working in any department of the railways?

Mr. P. R. Rau: I presume the Honourable Member is referring to the fact that the number of posts abolished is larger than the number of officers retrenched. Against this you must set the fact that a large number of officers who were officiating have reverted to their substantive posts.

Dr. Ziauddin Ahmad: What I mean is this. Were those officers retrenched employed in other departments and not sent back?

Mr. P. R. Rau: I have already explained to the House that 47 officers have been discharged.

Dr. Ziauddin Ahmad: Is it a fact that they have been discharged in one place and reappointed in another place?

Mr. P. R. Rau: That is not correct.

RELEASE OF THE GARHWALI MILITARY PRISONERS.

1653. ***Mr. C. S. Ranga Iyer:** Will Government be pleased to state:

- (a) if they propose to release the Garhwali (military) prisoners;
- (b) how many of them are still in prison;
- (c) how many have been released; and
- (d) whether they propose to remit the term of those who have not been released, and, if not, why not?

Mr. G. R. F. Tottenham: I propose, Sir, to give a general answer to the different parts of this question.

Of the 17 persons who were convicted by General Court Martial in the case referred to, eight have already been released and the remaining nine, who were given longer sentences, are still in jail. The releases already ordered are the result of the normal practice, by which His Excellency the Commander-in-Chief reviews periodically the sentences of all persons convicted by courts martial; but with this difference that in the present case, His Excellency has directed that the sentences should come up to him for review earlier than is usual. Those who have already been released had served only about half their sentences.

The Honourable Member will, I am sure, realise that the offence for which these prisoners were convicted was a most serious one and that it was necessary in the interests of the discipline of the Army as a whole, to take that fact into consideration in awarding the sentences. The sentences themselves varied according to the degree of culpability of each accused: and what I have already said will, I hope, show that although there can be no question of releasing all the remaining prisoners together, His Excellency the Commander-in-Chief has given, and will continue to give, the case of individuals the most careful consideration.

DISPUTES OVER ARREAR PAYMENTS, ETC., BETWEEN THE CONTRACTORS AND THE KANGRA VALLEY RAILWAY ADMINISTRATION.

1654. ***Bhai Parma Nand**: Will Government please state:

- (a) whether, with reference to the reply given by them on the 7th November, 1932, to question No. 863, (c) and (d), it is a fact that the case of Contractor Balwant Singh, under reference to the High Court, Lahore, has since been decided in favour of the contractor;
- (b) whether in the case of Durrell and Company, that was pending in the Court of the Senior Sub-Judge, Dharamsala, the North Western Railway have submitted to refer the case to arbitration on the score of the decision of the High Court, Lahore, in the case of Balwant Singh, contractor; and
- (c) whether the North Western Railway Administration have considered the advisability of referring the third case to arbitration, so that they are saved the expenses of litigation?

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

(b) Yes.

(c) I understand it has been decided by the administration after careful consideration and on legal advice to fight the case if it is taken to court.

SCRUB JUNGLE BETWEEN THE BAIRD ROAD AND THE CANTONMENT ROAD, NEW DELHI.

1655. ***Mr. B. N. Misra**: (a) Are Government aware that there is a scrub jungle between the Baird Road and the Cantonment Road, New Delhi (near the Tonga Stand)? If so, have Government considered the desirability of taking steps to have the jungle removed at an early date? If not, why not? Are Government aware that the jungle is the abode of snakes, jackals, mosquitoes, flies, etc.?

(b) Are Government aware that the inhabitants of the locality are afraid of using the back doors of their houses during the day time even, not to speak of night time, on account of the refuses which are deposited there? Are Government aware that it is injurious to the health of the tenants of the locality from a sanitary point of view?

Mr. G. S. Bajpai: (a) and (b). The Honourable Member is perhaps referring to a small closed Muhammadan grave-yard measuring about 300 square yards. Government have not precisely investigated the nature and extent of its zoological population but have no reason to believe that it is so dangerous as the Honourable Member appears to think. There are also no visible signs of insanitation there. The policy of Government is not to interfere with areas devoted to the disposal of the dead.

INSOLVENCY OF THE EMPLOYEES OF THE IMPERIAL SECRETARIAT.

1656. ***Mr. B. N. Misra:** (a) Are Government aware that a number of their employees employed in the Imperial Secretariat have of late applied to be or have been declared insolvent? If so, will Government please place a statement on the table of the House showing the number of such employees in each department for the three years ending October, 1932, together with the amount shown against them as their assets and liabilities?

(b) Do Government consider insolvency a misconduct under the Government Servants' Conduct Rules? If so, will they please state what action, if any, they have already taken or propose to take in the matter to prevent a recurrence of such cases?

The Honourable Mr. H. G. Haig: (a) In all six clerks or assistants applied during this period to be declared insolvent or announced their intention of applying, and in addition three others were actually declared insolvent. Of the above, three are no longer in Government service.

(b) The attention of the Honourable Member is invited to rule 16 of the Government Servants' Conduct Rules.

SCHOOL FOR THE TRAINING OF GROUND AND MOTOR ENGINEERS IN INDIA.

1657. ***Mr. Arthur Moore:** Will Government please state whether it is proposed to start a school for the training of ground and motor engineers in India?

The Honourable Sir Frank Noyce: Proposals for the establishment of a school for the training of mechanics and ground engineers for civil aviation have been under examination, but no conclusions have been reached.

RATE WAR STARTED BY THE BRITISH INDIA STEAM NAVIGATION COMPANY.

1658. ***Dr. Ziauddin Ahmad:** (a) Are Government aware that the British India Steam Navigation Company reduced the Chittagong-Rangoon deck fare gradually to nil, even rewarding passengers with handkerchiefs and oranges soon after the establishment of the Bengal Steam Navigation Company in 1912 and that on the latter going into liquidation in 1911, the former doubled the fare and continued it till 1927? Is it a fact that on the establishment of Bengal Burma Steam Navigation Company the British India Steam Navigation Company again reduced its fare and

freight to less than half? Is it also a fact that when the Bengal Steam Navigation Company suspended services temporarily to repair their boat, the British India Steam Navigation Company raised the fare by Rs. 2? If not, what are the facts?

(b) Are Government prepared to take necessary steps to stop the rate war now started by the British India Steam Navigation Company?

The Honourable Sir Joseph Bhore: (a) As regards the competition between the British India Steam Navigation Company and the Bengal Steam Navigation Company in 1910-11 the Government of India are not in possession of authentic information on the subject. As to the reduction of rates by the British India Steam Navigation Company as against the Bengal Steam Navigation Company the attention of the Honourable Member is invited to the reply to part (b) of his question No. 987 asked in this House on the 8th November, 1932. The Government of India understand that the British India Steam Navigation Company raised their fares for deck passengers between Chittagong and Rangoon by Rs. 2 in July, 1932.

(b) The matter is at present engaging the attention of the Government of India.

RESOLUTION OF THE UNITED PROVINCES LEGISLATIVE COUNCIL RE FURTHER RETRENCHMENT IN THE CENTRALLY-MANAGED DEPARTMENTS.

1659. ***Dr. Ziauddin Ahmad:** (a) Is it a fact that the Provincial Legislative Council of the United Provinces passed a resolution asking the Government of India to carry on further retrenchments in centrally managed departments?

(b) What action do Government propose to take on the suggestion of the United Provinces Legislative Council?

(c) Will the 10 per cent. cut in salaries continue in the financial year 1933-34?

The Honourable Mr. H. G. Haig: (a) The Honourable Member presumably refers to a Resolution which I have seen reported in the Press in regard to the All-India Services.

(b) The Resolution has not yet been received by the Government of India.

(c) I am not able to add anything to the reply given by the Honourable the Finance Member to starred question No. 1478 asked by Mr. Goswami Puri on the 28th November, 1932.

Mr. F. E. James: May I ask whether Provincial Governments are free to restore the cuts in the Provincial Services in the event of an improvement in Provincial Finances, or are the Provincial Services and the Imperial Services to be taken together for the purpose of the restoration of cuts?

The Honourable Mr. H. G. Haig: That is a rather complicated question to address to the Home Department and, I am afraid, I could not attempt to answer it without notice.

Dr. Ziauddin Ahmad: May I ask whether there is any system under which Resolutions passed by Provincial Councils are regularly sent to the Government of India?

The Honourable Mr. H. G. Haig: I have no doubt that the Local Government will in due course forward a copy of the Resolution with their own recommendations.

Dr. Ziauddin Ahmad: During the time of the present Councils and the present Legislative Assembly?

The Honourable Mr. H. G. Haig: I hope so, Sir. The new constitution is not quite upon us yet.

CHARGES FOR METER RENT AND WATER CONSUMPTION IN PRIVATE HOUSES IN NEW DELHI.

1660. ***Kumar Gupteshwar Prasad Singh** (on behalf of Mr. Uppi Saheb Bahadur): (a) Is it a fact that in privately-owned houses in New Delhi a meter rent of Rs. 2 p. m. and a minimum charge of Rs. 3 p. m. (i.e., a total of Rs. 5 a month) are levied for water consumption?

(b) Is it a fact that the minimum charge of Rs. 8 p. m. (which according to the prescribed rate of 6 annas per 1,000 gallons, covers the cost of 8,000 gallons of water) is levied irrespective of the actual amount of consumption, i.e., even if the actual consumption be far below 8,000 gallons, say 8 gallons only?

(c) If the replies to parts (a) and (b) above are in the affirmative, do Government propose to consider the desirability of levying charges on the basis of the *actual* amount of consumption every month as is done in the case of electric charges?

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

(c) The question concerns the Municipality. Government understand that a minimum charge is necessary to enable the Committee to cover interest on capital and overhead charges.

CHARGES FOR METER RENT AND WATER CONSUMPTION IN PRIVATE HOUSES IN NEW DELHI.

1661. ***Kumar Gupteshwar Prasad Singh** (on behalf of Mr. Uppi Saheb Bahadur): (a) Is it a fact that a minimum charge of Rs. 5 p. m. (*viz.*, Rs. 3 on account of water consumption and Rs. 2 on account of meter rent) is levied in the case of privately-owned houses in New Delhi on account of water consumption?

(b) What are the water charges levied in the case of Government clerks' quarters in New Delhi? Is any meter rent charged and if so, what? Are the charges for water consumption made on the basis of *actual* consumption every month or some minimum amount is charged irrespective of the quantity consumed?

(c) If the replies to parts (a) and (b) above show that charges in the two cases referred to are made on different bases, what are the reasons for such differentiation, and do Government propose to make the system uniform in both the cases?

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

(b) A statement giving the required information is laid on the table. No rent for meters is charged as these belong to Government.

(c) It is proposed to meter all connections in clerks' quarters shortly. The system of charges according to consumption, subject to a prescribed minimum, will then apply to them. The only difference between Government and private quarters would then be that in the case of clerks' quarters the minimum charge would be lower. This is probably due to the fact that the charge for private residences has been made on the analogy of residences of Government Gazetted Officers. If any owners or occupants of private buildings feel aggrieved by this, it is open to them to make representations to the New Delhi Municipal Committee.

Statement showing water charges levied in case of Government Clerks' Quarters in New Delhi.

1. *Unorthodox Clerks' quarters (metered).* Rs. 1-8-0 per mensem per quarter.
This covers a net supply up to 4,000 gallons. Any consumption in excess is charged for at Rs. 6 a 1,000 gallons.
2. *Orthodox Clerks' quarters (unmetered) :—*

Class.	No. of taps allowed for each class.	Rate.	Remarks.
		Rs. a. p.	
A.	3	3 0 0 per mensem.	For every tap in excess of the fixed scale, a charge of Rs. 0-8-0 per mensem is levied.
B.	2	2 0 0 „	
C.	2	2 0 0 „	
D.	1	1 8 0 „	
E.	1	1 8 0 „	

RE-INSTATEMENT OF MR. DAULAT RAM, ACCOUNTANT OF THE HORTICULTURAL DIVISION, DELHI.

1982. ***Mr. S. G. Jog:** (a) Is it a fact that one Mr. Daulat Ram, Accountant of the Horticultural Division, was discharged by the Police in the Horticultural Division case in October, 1931, in the same circumstances as Mr. Edge who was involved in the Barakhamba case? If so, will Government please state why the former has not yet been reinstated in his appointment, although the latter was taken back immediately after his release by the Police?

(b) Do the circumstances of the two cases differ? If so, will Government please state how the two cases differ?

The Honourable Sir George Schuster: Enquiry is being made and a reply will be laid on the table in due course.

ABOLITION OF APPOINTMENTS IN THE POST OFFICES AND RAILWAY MAIL SERVICE AS A RETRENCHMENT MEASURE.

1663. ***Mr. S. C. Mitra:** (a) Will Government be pleased to furnish a statement showing the number of selection grade appointments in the grade of Rs. 160—250 and Rs. 250—350 and time-scale appointments that have been abolished as a retrenchment measure up till now in the Post Offices and Railway Mail Services in each circle as well as in each of the presidency towns of Calcutta, Bombay and Madras?

(b) Is it a fact that the number of selection grade posts which have been abolished is proportionately larger in the Bengal and Assam Circle?

(c) If so, will Government state the reasons?

Mr. T. Ryan: (a), (b) and (c). Government regret that the information required by the Honourable Member is not readily available. On account of the heavy fall in postal traffic within the last two years and the urgent need for economy, Heads of Postal Circles are taking steps to abolish all posts which are found to be in excess of actual requirements.

UNSTARRED QUESTIONS AND ANSWERS.

TRANSFER OF THE OFFICES OF THE SUPERINTENDENTS OF POST OFFICES OF HOOGHLY AND PRESIDENCY DIVISIONS FROM CALCUTTA TO CHINSURA AND BARRACKPORE, RESPECTIVELY.

227. **Mr. S. C. Mitra:** (a) Will Government be pleased to state whether it is a fact that the offices of the Superintendents of Post Offices of Hooghly and Presidency Divisions in the Bengal and Assam Circle were transferred to Chinsura and Barrackpore respectively from Calcutta on the grounds of economy?

(b) Is it a fact that now Government contemplate to retransfer the office of the Superintendent of Post Offices, Presidency Division, to Calcutta?

(c) If the reply to (b) be in the affirmative, will Government be pleased to state what is the reason for retransfer? What was the actual expenditure at the time of transfer of the office from Calcutta to Barrackpore and what will be the expenditure now? What amount will be expended on account of compensatory allowance, house rent allowance, etc., for the Superintendent, Head Clerk, Inspector and other staff, if the office is transferred to Calcutta and what is the present expenditure on those items?

Mr. T. Ryan: (a) Yes, but the reasons for the transfer were administrative; though some economies did result.

(b) and (c). Government have no information. The headquarters of each Divisional Superintendent of Post Offices are fixed by the Head of the Postal Circle concerned. A copy of the question is being sent to the Postmaster General, Bengal and Assam.

**CLERKS AND SIGNALLERS IN THE STRAND ROAD AND CORNWALLIS STREET
SUB-POST OFFICES, CALCUTTA.**

228. Mr. S. C. Mitra: (a) Will Government please furnish a statement showing (i) the number of clerks and signallers in the Strand Road combined town sub-post office and (ii) the number of clerks in the Cornwallis Street town sub-post office, Calcutta?

(b) Is it a fact that the Strand Road Post Office is more important than the Cornwallis Street Post Office and the former is in charge of a time-scale sub-postmaster while the latter is in charge of a selection grade sub-postmaster?

(c) Is it a fact that the Postal Enquiry Committee recommended that an office with five clerks should be placed under the charge of a selection grade official? If so, are Government prepared to sanction a selection grade post for the Strand Road Post Office? If not, why not?

Mr. T. Ryan: (a) (i) Five

(ii) Six.

(b) No, the Cornwallis Street town sub-post office is the more important. The scales of pay of the two sub-postmasters are as stated by the Honourable Member.

(c) The reply to the first part of this question is in the affirmative. As regards the second part, the matter will be decided on the receipt from the Postmaster General, Bengal and Assam, of definite recommendations which are being called for.

**OVERTIME ALLOWANCE FOR SORTING OF ENGLISH MAILS IN THE GENERAL
POST OFFICE, CALCUTTA.**

229. Mr. S. C. Mitra: (a) Is it a fact that inward English mails are sorted in the Calcutta General Post Office by drafting clerks from other departments without payment of any overtime allowance?

(b) Is it also a fact that the Assistant Postmaster in charge of the sorting gets overtime allowance, although he performs this duty within his duty hours, i.e., between 10-0 A.M. and 6-0 P.M. on week days?

(c) Will Government please state why overtime allowance is paid to the Assistant Postmaster, although it is denied to other clerks?

Mr. T. Ryan: (a) Yes. The Honourable Member's attention is invited to part (a) of his starred question No. 794 in this House on the 14th March, 1932, and to its reply which was laid on the table on the 5th September, 1932.

(b) and (c). Inquiries are being made and the result will be laid on the table in due course.

**ABOLITION OF APPOINTMENTS IN OFFICERS' RANK IN THE POSTS AND
TELEGRAPHS DEPARTMENT.**

230. Mr. S. C. Mitra: Will Government please furnish a statement showing:

(a) the total number of appointments in the officer's rank that existed in the Post and Telegraphs Department at the end of the year 1929 and the total amount of pay and allowances they carried; and

- (b) the total number of such appointments abolished up to 31st October, 1932, and the total amount of annual saving effected thereby?

Mr. T. Ryan: (a) The total number of posts of Officer's rank in 1929 was 574 and the total pay and allowances they carried was approximately Rs. 48,22,000 a year.

(b) The total number of such posts abolished is 65 and the total annual saving effected is about Rs. 5,48,000.

ABOLITION OF APPOINTMENTS OF SUPERINTENDENTS OF POST OFFICES AND RAILWAY MAIL SERVICE.

231. Mr. S. C. Mitra: (a) Will Government please furnish a statement showing, circle by circle, the number of appointments of Superintendents of Post Offices and Railway Mail Service abolished up to 31st October, 1932, and the total amount of annual saving effected thereby?

(b) What number of such appointments was recommended for abolition by the Post and Telegraphs Retrenchment Advisory Committee?

(c) Have Government given full effect to the recommendation? If not, why not?

Mr. T. Ryan: (a) The figures are as follows:

Name of Circle.	No. of posts abolished up to 31st October, 1932.	Average annual saving effected (excluding allowances attached).
Bengal and Assam	8	Rs. 40,940
Bihar and Orissa	2	12,582
Bombay	7	28,358
Burma	2	12,582
Central	2	12,582
Madras	6	32,006
Punjab and N.-W. F.	4	25,164
Sind and Baluchistan	1	6,291
United Provinces	3	18,873

(b) 33.

(c) The reply to the first part is in the affirmative. Two posts have, in addition, been abolished as the result of reorganisation of work in the Railway Mail Service. The latter part does not arise.

ABOLITION OF APPOINTMENTS OF TELEGRAPH MASTERS AND TELEGRAPHISTS,

232. Mr. S. C. Mitra: (a) Will Government please furnish a statement showing:

- (i) the total number of appointments of Telegraph Masters and Telegraphists, respectively, that existed up to the end of the year 1929;
- (ii) the number of appointments of Telegraph Masters and Telegraphists abolished or absorbed up to 31st October, 1932, and the total amount of annual saving effected thereby; and
- (iii) what number of such appointments was recommended for abolition or absorption by the Post and Telegraphs Retrenchment Advisory Committee and on what grounds?

(b) Have Government given full effect to the recommendation? If not, why not?

Mr. T. Ryan: (a) The information is given in the subjoined table:

(i) Total number of posts of Telegraph Masters and Telegraphists in 1929.	(ii) Total number abolished or absorbed up to October, 1932 and annual Saving.	(iii) Total number recommended for abolition or absorption by the Posts and Telegraphs Retrenchment Sub-Committee and grounds for recommendation.
Telegraph Masters . 326 Telegraphists . 2,830	Telegraph Masters. 48 Telegraphists 184 Annual Saving Rs. 53,600	Telegraph Masters . 140 Telegraphists . 228 The reasons are given in paragraphs 162 and 168 of the Committee's Report a copy of which is in the Library of the House.

(b) Partial effect has already been given to the recommendations of the Sub-Committee, and further orders are under issue.

APPOINTMENTS OF DEPUTY SUPERINTENDENTS, TELEGRAPHS.

233. Mr. S. C. Mitra: (a) Will Government please furnish a statement showing the total number of appointments of Deputy Superintendents Telegraphs, that existed at the end of the year 1929 and the total number of such appointments abolished up to 31st October, 1932?

(b) What is the approximate annual saving effected by the abolition?

Mr. T. Ryan: (a) and (b). The information is given in the subjoined table;

(1) Total number of posts of Deputy Superintendents, Telegraph Traffic, in 1929.	(2) Number of posts actually abolished up to October, 1932.	(3) Annual saving.
51	1	Rs. 5,065

ABOLITION OF APPOINTMENTS IN THE TELEGRAPH ENGINEERING BRANCH.

234. Mr. S. C. Mitra: Will Government please furnish a statement showing the total number of appointments in the Telegraph Engineering Branch abolished up to 31st October, 1932, and the total amount of annual saving effected thereby?

Mr. T. Ryan: The information is given in the subjoined table:

Total number of posts in the Telegraph Engineering Branch of the Indian Posts and Telegraphs Department abolished up to October, 1932.	Total amount of annual saving (average) effected.
328	<p style="text-align: center;">Rs.</p> <p style="text-align: center;">2,43,000</p>

APPOINTMENTS IN CERTAIN POSTAL CADRES.

235. Mr. S. C. Mitra: Will Government please state the total number of appointments in the following cadres that existed up to the end of the year 1929:

- (a) Higher selection grade of Rs. 250—350 in the Post Offices,
- (b) Higher selection grade of Rs. 250—350 in the Railway Mail Service,
- (c) Inspectors of Post Offices and Railway Mail Service including Investigating Inspectors,
- (d) Head Clerks to Superintendents,
- (e) Town Inspectors in Selection Grades,
- (f) Lower Selection Grade of Rs. 160—250 in the Post Office excluding appointments of Inspectors of Post Offices and Superintendents' Head Clerks,
- (g) Lower Selection Grade of Rs. 160—250 in the Railway Mail Service excluding appointments of Inspectors, Railway Mail Service and Superintendents' Head Clerks,
- (h) Postal Clerks in ordinary time-scale,
- (i) Postal Clerks in Lower Division.
- (j) Railway Mail Service Sorters in the ordinary time-scale, and
- (k) Railway Mail Service Sorters in Lower Division?

Mr. T. Ryan: I propose to deal with two questions Nos. 235 and 236 together.

Government regret that the information required for purposes of question No. 235 and part (a) of question No. 236 is not readily available. The position is that on account of the very heavy fall in both postal and telegraph traffic during the last two years and of the unsatisfactory state of the finances in the Posts and Telegraphs Department, Heads of Postal Circles have taken, and are continuing to take, steps towards securing all reasonable economies, and posts not only of the classes mentioned by the Honourable Member but also of other classes, which are found in excess of actual requirements, are being abolished, or reduced from a higher to a lower scale of pay.

The remaining parts of question No. 236 are replied to as follows:

(b) The Honourable Member's attention is invited to the reply given in this House to his starred question No. 206, on the 13th September, 1982, and to what I have just stated.

(c) No. The second part of the question does not arise,

(d) The Committee recommended that 83 per cent. of the clerical cadre should be converted into lower division posts. To give effect to this recommendation and in view of the pressing need for economy it has become necessary to adopt measures for the abolition of posts in the ordinary clerical time-scale or for their conversion into lower division posts.

(e) Yes.

ABOLITION OF APPOINTMENTS IN CERTAIN POSTAL CADRES.

† 236. **Mr. S. C. Mitra:** (a) Will Government please furnish a statement showing, circle by circle, the number of appointments abolished up to 31st October, 1982, and the approximate annual saving effected thereby in each of the following cadres:

- (i) Higher selection grade of Rs. 250—350 in the Post Offices,
- (ii) Higher selection grade of Rs. 250—350 in the Railway Mail Service;
- (iii) Inspectors of Post Offices and Railway Mail Service including Investigating Inspectors;
- (iv) Head Clerks to Superintendents of Post Offices and Railway Mail Service;
- (v) Town Inspectors in Selection Grade;
- (vi) Lower selection grade of Rs. 160—250 in the Post Office excluding Inspectors of Post Offices and Superintendents' Head Clerks;
- (vii) Lower selection grade in the Railway Mail Service excluding Inspectors, Railway Mail Service and Superintendents' Head Clerks;
- (viii) Postal Clerks in ordinary time-scale; and
- (ix) Railway Mail Service sorters in ordinary time-scale?

(b) Did the Post and Telegraphs Retrenchment Advisory Committee recommend any reduction of selection grade appointments in the Post Offices and Railway Mail Service? If not, what are the grounds for reduction of such appointments and what is the criterion that is being followed in effecting such reductions?

(c) Is it not a fact that the percentage of selection grade appointments in the Telegraph Branch is considerably higher than those in the Post Offices and Railway Mail Service? If so, will Government please state the reasons for such disparity?

(d) Did the Post and Telegraphs Retrenchment Advisory Committee recommend any reduction of time-scale clerical appointments in the Post Offices and Railway Mail Service? If not, what are the reasons for reduction in these appointments and what is the criterion that is being followed in effecting such reductions?

† For answer to this question, see answer to question No. 235.

(e) Are the reductions in the selection grade and time-scale appointments in the Post Offices and Railway Mail Service being effected in conformity with a strict standard of efficiency?

ABOLITION OF APPOINTMENTS IN CERTAIN POSTAL CADRES.

237. **Mr. S. O. Mitra:** (a) Will Government please furnish a statement showing, circle by circle, the figures up to 31st October, 1932, the number of posts abolished and the approximate annual saving effected in each of the following cadres :

- (i) Overseers,
- (ii) Postmen and Village Postmen,
- (iii) Mailpeons,
- (iv) Packers,
- (v) Vanpeons, and
- (vi) Messengers and Runners?

(b) Is there any time-test for regulating the number of the staff in the above cadres? If not, what standard is being followed in effecting the reductions?

Mr. T. Ryan: (a) Government regret that the information is not readily available.

(b) There are rough standards for regulating the number of some classes of staff referred to but no precise time test. On account of the heavy fall in postal traffic within the last two years and the urgent need for economy, Heads of Postal Circles are taking steps to reduce all posts which are found to be in excess of actual requirements.

DEPARTMENTAL SUB AND BRANCH POST OFFICES CONVERTED INTO EXTRA DEPARTMENTAL OFFICES.

238. **Mr. S. O. Mitra:** (a) Will Government please furnish a statement showing, circle by circle, the number of Departmental Sub and Branch Post Offices converted into extra Departmental Offices up to 31st October, 1932?

(b) What is the criterion followed in effecting such conversions?

Mr. T. Ryan: (a) The latest figures available are those for the period ending the 31st August, 1932, and are as follows:

	Sub Offices.	Branch Offices.
Bengal and Assam Circle	64	83
Bihar and Orissa Circle	43	60
Bombay Circle	22	53
Burma Circle	28	22
Central Circle	7	31
Madras Circle	18	43
Punjab and N.-W. F. Circle	50	66
Sind and Baluchistan Circle	1	5
United Provinces Circle	75	37

(b) There is no fixed criterion, but an extension of the system of employing Extra-Departmental Agents to hold charge of small post offices was recommended by the Posts and Telegraphs Sub-Committee of the Retrenchment Advisory Committee as likely to result in important economies and such an extension is now being carried out wherever conditions permit.

REDUCTION IN THE NUMBER OF RAILWAY MAIL SERVICE SETS.

239. Mr. S. O. Mitra: Will Government please furnish a statement showing the number of Railway Mail Service sets reduced up to 31st October, 1932, and the names of Railway Mail Service Divisions concerned in such reduction?

Mr. T. Ryan: Government are not in possession of the information for which the Honourable Member has asked. Under the general orders issued in July, 1930, the Head of each Postal Circle is authorised to re-examine the number of sets in each of the Railway Mail Service sections under his control, and to re-adjust them where necessary.

EXPIRY OF TEN PER CENT. EMERGENCY CUT.

240. Mr. S. O. Mitra: (a) Has the attention of Government been drawn to the report published in the *Hindustan Times*, dated the 16th October, 1932, from its special correspondent under the caption "Battle over 10 per cent. cut"?

(b) If the reply to part (a) be in the affirmative, will Government please state if there is any prospect of the emergency cuts on salaries being terminated on the expiry of March, 1932?

(c) If the reply to the above be in the negative, will the cuts be continued at the present rates or at revised rates?

(d) Is there any prospect of the lower-paid staff drawing below Rs. 40 per month in the Railways and Post and Telegraphs Departments being exempted from salary cuts as in other departments? If not, why not?

The Honourable Sir George Schuster: (a) Government have seen the article referred to.

(b), (c) and (d). I have nothing to add to the replies given to starred questions Nos. 143 and 1478.

REVISED SCALES OF PAY FOR FUTURE ENTRANTS.

241. Mr. S. O. Mitra: (a) Will Government please state if any decision has been arrived at in the matter of revised scales of pay for future entrants and the date from which they will be introduced?

(b) If the reply to the above be in the affirmative, will the scales of pay be revised both for the higher and subordinate services?

(c) Will present incumbents on promotion from lower to higher grades be put in the existing or revised scales of pay?

The Honourable Sir George Schuster: (a), (b) and (c). I would refer the Honourable Member to the reply given by me to starred question No. 1456 on the 28th November, 1932.

**STRICTURES PASSED BY A GUJRANWALA MAGISTRATE IN THE CASE OF CROWN
VERSUS HAVELI RAM.**

242. **Mr. S. C. Mitra:** (a) Has the attention of Government been drawn to the severe strictures passed by Ch. Partab Singh, First Class Magistrate, Gujranwala, on the conduct of Mian Ahmed Said, Superintendent of Post Offices and B. Mohammed Shafi, Clerk, Ladhewala Waraich in the judgment delivered by him in the case of Crown *vs.* Haveli Ram?

(b) If the reply to part (a) be in the affirmative, what action do Government propose to take against the above-named persons?

(c) What is the total amount of expenditure incurred by Government in connection with the case?

(d) Do Government propose to recover the whole of the amount expended in the case from Mian Ahmed Said? If not, why not?

Mr. T. Ryan: (a) Government have seen the observations to which they understand the question refers, but do not think they amount to "severe strictures".

(b) and (d). Certain enquiries are being made and Government have not yet decided whether any action is necessary.

(c) Government have no precise information.

STATEMENTS LAID ON THE TABLE

The Honourable Sir George Schuster (Finance Member): Sir, I beg to lay on the table the information promised in reply to unstarred questions Nos. 210 to 213 asked by Khan Bahadur Haji Wajihuddin on the 21st November, 1932.

**COMMUNAL COMPOSITION OF THE OFFICE OF THE ACCOUNTANT GENERAL,
UNITED PROVINCES.**

210. The communal composition so far as Muslims are concerned is not exactly as stated by the Honourable Member in his question. The following statement shows full details:

Total number of posts.	Posts held by Mussalmans.
5 Assistant Accounts Officers	<i>Nil.</i>
43 Permanent subordinate service Accountants including 4 senior Accountants of the All-India List. In addition there is one post sanctioned up to February 1933.	<i>Nil.</i>
387 Clerks (378 Permanent and 9 temporary)	42 permanent and 1 officiating
12 Typists (11 permanent and 1 temporary)	1 Permanent.
13 Record Clerks (11 permanent and 2 temporary)	2 Permanent and 1 temporary.

CONFIRMATION OF MUSLIM CLERKS IN THE OFFICE OF THE ACCOUNTANT GENERAL, UNITED PROVINCES.

211. (a) Yes; the number was 34, and it was reduced to 10, not 11.

(b) Yes; 55 clerks only have been confirmed.

(c) Nine out of ten temporary Muslim clerks and six of other minority communities have been confirmed.

(d) Of vacancies occurring since March, 1926, one-third have been either actually filled by members of the minority communities, or reserved for them. In view of the temporary suspension by Government of permanent promotions of persons not in Government service prior to the 16th July, 1931, members of the minority communities recruited subsequent to the 15th July, 1931, have not been confirmed, but have been appointed to officiate against permanent vacancies. The re-appointment of discharged clerks is made according to seniority subject to the condition that one out of every three vacancies is given to a member of the minority communities.

PROPOSED REMOVAL OF TWO MUSLIM TEMPORARY CLERKS IN THE UNITED PROVINCES ACCOUNTS OFFICE.

212. On the abolition of the machine system and the consequent discharge of the machinists, two of them (one Muslim and one Hindu) were retained as typists. The Auditor General has not issued any orders that 2 senior Muslim discharged clerks should replace two Muslim machinists. The discharged clerks and machinists will be re-employed as vacancies occur with due regard to seniority and communal proportions. One such discharged Muslim clerk who is senior to the discharged machinists has been reappointed recently.

SAFEGUARDING OF MUSLIM INTERESTS IN THE OFFICE OF THE ACCOUNTANT GENERAL, UNITED PROVINCES.

213. Instructions were issued on 9th November, 1929, which might have been construed in the sense suggested by the Honourable Member, but a circular letter, issued on 26th November, 1929, made it clear that only one-third of all future vacancies should go to members of minority communities, and the latter instructions were followed. Retrenchment of temporary clerks was made in accordance with the instructions issued by the Government of India on the subject. It is not a fact that all Muslim clerks recruited between 1926 and 1931 have been discharged. Three of such clerks have been made permanent recently and another Muslim clerk has been re-employed.

The abolition of certain permanent posts in consequence of the relaxation of audit affects the interests of all the communities proportionately.

There are eight vacancies due to the deputation of permanent men of both majority and minority communities to other offices. No officiating arrangements have yet been made owing to the small number of men on leave. They will be filled up as and when the necessity arises.

The Honourable Mr. H. G. Haig (Home Member): Sir, I lay on the table the information promised in reply to starred question No. 1118 asked by Mr. S. C. Mitra on the 14th November, 1932.

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

1118.* In most of the centrally administered areas, prisoners in jail are supplied with two sets of garments. Where they are provided with only one they are also given, in addition, a *langot* or a loin cloth. In the Ajmer Central Jail, prisoners are provided with one garment and in addition, one *langot* or *rumali* and one large towel.

Mr. G. S. Bajpai (Secretary, Department of Education, Health and Lands): Sir, I lay on the table the information promised in reply to starred question No. 1457 asked by Mr. Muhammad Yamin Khan on the 28th November, 1932.

1457.* (a) (i) The road, to which the Honourable Member refers, is a pucca road belonging to the Delhi Municipality whose surface has become overlaid with dust from building rubbish not filth which has been thrown on both sides of it. Its condition is not a menace to the health of the locality nor has the health officer suggested that it is. When the attention of the Chairman of the Municipality was drawn to its present state, he visited it and steps have been taken to improve its condition. The question of removing the mounds of earth which have accumulated in front of the Turkman Gate is also under consideration.

Mr. T. Ryan (Director General of Posts and Telegraphs): Sir, I lay on the table the information promised in reply to parts (b) to (d) of starred question No. 1246 asked by Mr. Bhuput Sing on the 16th November, 1932.

4
DELAY IN DELIVERING AN INSURED LETTER SENT BY ONE MR. SRI PRAKASH FROM THE KABIR CHOURA POST OFFICE OF BENARES TO SRI HARI SHANKAR BIDYARTHI, EDITOR OF *DAINIK PRATAP*.

1246.* (b) Yes.

(c) The article was detained in accordance with an order under Ordinance No. II of 1932.

(d) Does not arise.

DEATH OF SIR NARASIMHA SARMA.

The Honourable Sir Brojendra Mitter (Leader of the House): Sir, on the opening day of this Session, we had to mourn the death of Sir Ali Imam. Today, another loss claims our grief. Sir Narasimha Sarma, to whose demise I refer, was known to many Members of this House, in which he sat on these Benches, not many years ago, as a Member of the Governor General's Executive Council. Only last month, Sir, he was in Delhi, and those of us who met him then little thought that it was for the last time. After a varied career as teacher and lawyer, Sir Narasimha came into public prominence as an informed and independent spokesman on economic questions in the Old Imperial Legislative Council. At that time, his political views were those of the Indian National Congress which had derived inspiration and counsel from Sir Pherozshah Mehta and Sir Surendra Nath Banerjee. When that body passed under the influence of the left wing, Sir Narasimha, like many other distinguished Indians, severed his connection with it. But that signified no change of his own principles. He remained, ever afterwards, what he had always been, a progressive but practical and constructive politician. During his tenure of office as Member of the Executive Council, Government could always rely on him for independent but sane and helpful counsel. When he relinquished charge of that high post, he was appointed Chairman of the newly-created Railway Rates Advisory Committee for which his legal

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experience and judicial disposition eminently fitted him. His sudden death is a great loss to the Committee and to Government. It must also be a sad bereavement to relatives and friends whom his kindly and affectionate nature had greatly endeared him. On behalf of Government, Sir, I would ask you to convey to his family an expression of our sympathy and sorrow.

Mr. R. K. Shanmukham Chetty (Salem and Coimbatore *cum* North Arcot: Non-Muhammadan Rural): Sir, I wish to associate Members of the Nationalist Party with the tribute paid to the memory of the late Sir Narasimha Sarma.

Sir Abdur Rahim (Calcutta and Suburbs: Muhammadan Urban): Sir, I wish to associate myself and the Independent Party with whatever has fallen from the Honourable the Leader of the House in respect of the death of Sir Narasimha Sarma. Sir, I first came to know him when he came to Madras to practise in the High Court there. But he practised there for a very short time and devoted most of his time to politics. Sir, he was a prominent figure in the public life of the country and we all know that, as a Member of the Government of India, he rendered very great services to the country. Sir, I wish to associate my Party with the message of condolence that will be sent to his family.

Mr. Muhammad Yamin Khan (Agra Division: Muhammadan Rural): Sir, I knew Sir Narasimha Sarma since 1921 when I came and joined the first Legislative Assembly. I knew that Sir Narasimha was held in great esteem by the Members of both the Houses of the Legislature. I had the honour to sit with him in the other House as well in 1924-25. There I found that all the Members of the Council of State also held him in the same esteem as he was held in the Legislative Assembly. He was one of those Indians who came up as Executive Councillors after the introduction of the first Montagu-Chelmsford Reforms. He was one of the three Indians who were then appointed and he made his mark in the country. I am very sorry for his death, because he was a personal friend of mine. Sir, on behalf of my Party and myself, I associate myself with the motion that has been moved by the Honourable the Leader of the House.

Mr. Arthur Moore (Bengal: European): Sir, it was with great regret that I learnt of the death of Sir Narasimha Sarma, a very distinguished servant of his country. I remember him well as a courteous and gentle statesman; and in his old age in spite of his advancing years he went on serving his country and he died in harness. Sir, I support the motion moved.

Mr. B. Sitaramaraju (Ganjam *cum* Vizagapatam: Non-Muhammadan Rural): Sir, the late Sir Narasimha Sarma was a resident of the same place where I come from. He was a distinguished son of Andhradesa and I have known him both as a personal friend and one of the greatest men amongst our fellow countrymen. His career was a remarkable one. He started life as a very destitute student and struggled throughout his life against heavy odds with an ability which refused to recognise any

limitations and with a courage which would not be cowed down either by favours or frowns of the Government or the public. Whatever he considered right, he did. Sir, he started his life as a destitute student, then as a teacher on a few rupees a month struggling for the existence of life, and, later on, when his abilities came into play, he became a successful advocate first of the Bar to which I have the honour to belong and afterwards of the Bar of the High Court. Finally, as a politician and as an administrator, he showed remarkable abilities of head and heart. Sir, a few days ago, when I saw him off at the Delhi Railway Station, I did not realise that I was seeing him for the last time. His notable contribution to the Madras Legislative Council was during the debate of the State's Lands Act and, subsequently, he made a great mark in the Imperial Legislative Council particularly in relation to the economic topics and commercial subjects where he showed profound knowledge. Government recognised his abilities and appointed him as one of its Executive Councilors which duty he discharged with great ability and success. So much so that the *ex-Viceroy*, Lord Reading, found that his connection with the Government should not cease and he was appointed as the first President of the Rates Advisory Committee, which office he held until his death. Sir, I associate myself with the motion.

Mr. O. S. Ranga Iyer (Rohilkund and Kumaon Divisions: Non-Muhamadan Rural): Sir, my friend, Mr. Shanmukham Chetty, in my absence, has already associated my Party with what it feels in regard to the passing away of one of our great public men. Sir, I remember the day when Mr. Sarma as he then was, and myself were members of the Indian National Congress. It was the great Amritsar Congress over which the late Pandit Motilal Nehru presided when Sir Narasimha Sarma came to the platform to oppose the resolution which was then moved by the editor of *The Independent*, Mr. Syed Hussain, urging the recall of Lord Chelmsford as the Viceroy of India owing to certain ugly happenings in the Punjab. It was a big surging crowd before which he had to speak. I do not remember any single session of the Congress which had collected such a large number of delegates. That Congress was held in the neighbourhood of the Jallianwala Bagh. Mr. (then) Sarma came to the platform and faced—I should say took up arms—against a surging sea of opposition, on behalf of the Viceroy and explained to the delegates how the Viceroy should not be held responsible when he had to carry on the King's Government. That required some courage. In those days when it was very easy to become popular, it required some courage to come to the platform and face several hundreds, nay several thousands, of delegates and tell them what was most unpleasant to them. Such a man was destined to go very far. Courage was the great characteristic of the public life of Sir Narasimha Sarma. He loved to enjoy what Manu called "the immortality of censure". Such a public man cannot die, for his virtue must live and the spirit that animated him will animate those who emulate him—his great courage—a noble feature in the public life of a country. Sir, I express my sympathies for the bereaved family of Sir Narasimha Sarma.

Mr. K. Ahmed (Rajshahi Division: Muhammadan Rural): Sir, I rise to support the motion of the Honourable the Leader of the Independent Party on the mournful death of the late Sir Narasimha Sarma, who was a very able man in politics. He was an elected Member of the old

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Imperial Legislative Council and he had the confidence of the people of his country. He served the old Imperial Legislative Council for many years. He came from the district of Vizagapatam where he practised in the law Courts for many years after which he went to the High Court of Madras. Soon after that, he was appointed a Member of the Executive Council of His Excellency Lord Chelmsford. At that time there was a great commotion in the country about the Jallianwala Bagh. I think it was in the year 1919 when about 19 Members of the old Imperial Legislative Council, of which you, Sir, were also a Member, tendered their resignations to His Excellency Lord Chelmsford as a protest on that happening. Mr. Sarma (as he then was) considered that there must have been some blunder committed over that incident, and he was a right thinking man; he considered the question and he thought that one could get better things from the topmost officer, the topmost man in the Government; and instead of running him down along with the overwhelming agitation in the country, he came out and thought he would support his Government and get something better for the benefit of the country out of him, which he did. He came to the Executive Council and since then things gradually and slowly became better. Conditions improved and many of those 19 Members who tendered their resignation came back in the year 1921 and some of them joined the Assembly in the year 1924, the second reformed Assembly, and things were getting on all right.

Sir Narasimha Sarma was a great politician. He was in charge of the portfolio of Education, Health and Lands; for a short time he was also in charge of the Industries and Labour Department. I think it was in the year 1921 when I was taking a leading part on the question of labour and industry that I had many things to do with him, as will appear from the debates of the Assembly. The great leader who has served the country and the Government is a victim of cruel death that has swept him away from our midst. Only a short time ago—I think last year, the end of 1931 or thereabout—he was feeling unwell and he went to Switzerland, America and many other countries where he was advised to go for a change. He recouped his health and was feeling better when he came back to this country and I met him in Calcutta and found him much better; but he fell a victim again to the same disease and he had to postpone his official duties and go back to his own district of Vizagapatam and stay there for a short time. Cruel death came all on a sudden and snatched away a great patriot of the country. We are feeling today without him very poor. He was really a very good man, a sincere and broadminded man, slow but sure of achievement. I agree with the Leader of the House and I join hands with the other Leaders of Parties and my friends who have expressed their sorrow at the sad demise of Sir Narasimha Sarma. I support the motion that an expression of sorrow at the death of Sir Narasimha Sarma should be sent to his family.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The Chair wishes to associate itself with all that has fallen from Honourable Members in regard to the loss which the country has sustained by the demise of Sir Narasimha Sarma. The general elections of 1916 brought to the Imperial Legislative Council two new Members; they were Sir Narasimha Sarma and Mr. Sastri, two men who started their career in all-India matters at the headquarters of the Government of India and proved

very distinguished sons of their motherland. Mr. Sarma, as he then was, immediately took an active interest in the work of the Imperial Legislature and made a mark at the very first Session of the Council. After ably serving as a Member of the Executive Council of the Viceroy he devoted his energies in directions which did not keep him before the public eye, but none the less his services were of great value and importance to his country. Gentlemen, the Chair will carry out the wishes of the House and communicate to the relatives of the deceased the sympathy and sorrow of this House.

THE INDIAN TARIFF (OTTAWA TRADE AGREEMENT) AMENDMENT BILL.

PRESENTATION OF THE REPORT OF THE SELECT COMMITTEE.

The Honourable Sir Joseph Bhoré (Member for Commerce and Railways): Sir, I beg to present the Report of the Select Committee on the Bill further to amend the Indian Tariff Act, 1894, for certain purposes.

THE INDIAN MERCHANT SHIPPING (SECOND AMENDMENT) BILL.

The Honourable Sir Joseph Bhoré (Member for Commerce and Railways): Sir, I beg to move for leave to introduce a Bill further to amend the Indian Merchant Shipping Act, 1923, for certain purposes. This, I hope, is a non-contentious measure and I have nothing to add at this stage to the statement of objects and reasons.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That leave be granted to introduce a Bill further to amend the Indian Merchant Shipping Act, 1923, for certain purposes."

The motion was adopted.

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

THE AUXILIARY FORCE (AMENDMENT) BILL.

Mr. G. R. F. Tottenham (Army Secretary): Sir, I beg to move for leave to introduce a Bill further to amend the Auxiliary Force Act, 1920, for certain purposes.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That leave be granted to introduce a Bill further to amend the Auxiliary Force Act, 1920, for certain purposes."

The motion was adopted.

Mr. G. R. F. Tottenham: Sir, I introduce the Bill.

**THE BENGAL SUPPRESSION OF TERRORIST OUTRAGES
(SUPPLEMENTARY) BILL—contd.**

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Further
12 Noon. consideration of the motion for consideration of the Bill to
supplement the Bengal Suppression of Terrorist Outrages Act.

Mr. S. O. Sen (Bengal National Chamber of Commerce: Indian Commerce): I rise to a point of order.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): There are amendments which have to be moved

Mr. S. O. Sen: Before the amendments are taken, I rise to a point of order. On the last occasion you will remember, Sir, that the direction which you gave was to this effect:

"The Chair proposes to leave it to the Honourable the Law Member to consider in what form he proposes to re-draft the clause. As the clause stands at present, it does apply to section 107 of the Government of India Act and so far as it applies to that section, it is out of order."

Therefore, Sir, it is incumbent upon the Honourable the Law Member to put before this House an amended and re-drafted clause as directed by you. Instead of re-drafting the clause, he has merely submitted three alternative amendments. He must stick to one of them and he will have to re-draft the clause in the light of the amendments which he intends to propose. Your ruling will be found in Volume VI, No. 5, of the Official Debates of the 14th November at page 2046. You wanted the Honourable the Law Member to consider in what form he proposed to re-draft the clause. Therefore, the clause must be re-drafted and not that he should throw on us three alternative amendments to choose from. He must stick to one of the amendments and he must introduce that amendment in the body of the clause before the Bill can be taken up. That is my point.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The Honourable Member must realise that a clause can be re-drafted by means of amendments. Can it not be done?

Mr. S. O. Sen: Yes, certainly.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): That is exactly what the Honourable the Law Member proposes to do.

Mr. S. O. Sen: There are three alternatives. He must stick to one of them.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Quite so. The Honourable the Law Member proposes to give option to the House to accept such re-draft of the clause as may appeal to them. What is wrong in it? The Chair rules that the motion is quite in order, and when clause 5 comes up, it will be in the discretion of the House to decide in what manner they will amend the clause to meet the ruling given.

Mr. Amar Nath Dutt (Burdwan Division: Non-Muhammadian Rural): On a point of information, Sir. May I know whether we are considering the Bill as introduced and which we have been asked to consider or we are considering the amendments also along with the Bill.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): I do not know whether the Honourable Member was present when the ruling was given. If he had been present, he would have known that the Chair at the initial stage, when the point of order was raised, pointed out that the proper time for raising the point of order was when clause 5 was under the consideration of the House. It was suggested that much of the debate might be curtailed if the ruling was given then, and, as a special case, the Chair agreed with the consent of the House to give its ruling then. The ruling was given, and Government have now offered four alternatives to the House with a view to amend the clause. When the clause is reached, the House will decide in what form it should be amended to meet the ruling. The motion at present is for the consideration of the Bill. If the House rejects that motion, no points of order can arise.

(At this stage Diwan Bahadur Harbilas Sarda rose in his seat.)

Is it another point of order?

Diwan Bahadur Harbilas Sarda (Ajmer-Merwara: General): No, Sir; I want some explanation.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): I do not think we can pursue this subject any further. The point is perfectly clear, and the Chair has made it clear. As a special case, the ruling was given at a stage when it was not necessary to do so. When clause 5 comes up for consideration, all fresh points of order can be raised, but so far as the motion before the House is concerned, namely, to proceed with the consideration of the Bill, it is perfectly in order, and the House will have now to consider it. If the House rejects the motion for consideration no further trouble arises. If the House passes the motion and clause 5 is reached, Honourable Members will be entitled to raise points of order and the Chair will be glad to give any further information which may be necessary.

Mr. Amar Nath Dutt: Our objection is that the Bill exceeds our statutory power.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Order, order: The Honourable Member should have read the proceedings of the House when the point was dealt with. The Chair does not propose to hear anything further on the subject.

Pandit Satyendra Nath Sen (Presidency Division: Non-Muhammadian Rural): Are we now on the consideration motion, Sir?

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Yes, and the Chair calls upon Mr. Mitra to move his amendment.

Pandit Satyendra Nath Sen: I rise to a point of order, Sir. My point is that there can be no further consideration of the Bill as it is, i.e., without the amendment being incorporated into the Bill.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Order, order: The Chair has clearly explained the procedure.

Pandit Satyendra Nath Sen: I shall make my point clear, Sir.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The point has already been dealt with.

Pandit Satyendra Nath Sen: I have another point. This is a Bill which contains a clause which has been declared by the Chair as *ultra vires* of this Legislature. In obedience to the Chair's ruling, Government have agreed to propose an amendment in order to make up that defect. That amendment is not yet a part and parcel of the Bill. Suppose the motion for circulation by my friend, Mr. Mitra, or my motion which comes next is passed, then what is the thing that will be sent out for circulation?—This Bill without the amendment is an incomplete thing and is out of order, and the brain of the public will be taxed for nothing on a wrong thing. Then, again, suppose this motion or the next motion or some of the following motions are lost, and the Bill is taken up for consideration clause by clause. When clause 5 is taken up, if the amendment of the Government fails,—there may be some reactionary Members on this side who may take it into their head to oppose that motion, and if they vote against that motion—there may not be sufficient Members of Government present here then, and if the motion is lost, what will be the effect? Clause 5 will be passed. What will be the position then? A thing which is quite out of order will be passed.

Sir Muhammad Yakub (Rohilkund and Kumaon Divisions: Muhammadan Rural): That is impossible according to the ruling of the Chair.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The whole trouble arises because the House asked the Chair, in spite of the warning given to deal with the point of order on an inopportune occasion. If the point of order had not been dealt with then, these difficulties would not have arisen. With regard to the point the Honourable Member has made the Chair wishes to state that in the event of the House accepting the motion for circulation, care will be taken to circulate with the Bill the ruling of the Chair *in extenso*, so that those people who will be asked to express their opinion will know what the ruling of the Chair is and what amendment will have to be made in the Bill before it will be considered again by the House. The difficulty has arisen, because Honourable Members wished for a ruling on an inopportune occasion, and the best thing that can be done in these circumstances is that if the circulation motion is carried, the ruling of the Chair and the proposed amendments to meet it will also be circulated.

Mr. S. C. Mitra (Chittagong and Rajshahi Divisions: Non-Muhammadan Rural): Sir, I move:

"That the Bill be circulated for the purpose of eliciting opinion of the various High Courts in India by the end of December, 1932."

I move this motion not with any intention of dilatoriness, because ever the Government first intended to take up this measure in the winter Session, and this is only an emergency Session for the purpose of two very important Bills. Before the next winter Session, the House will be in a position to ascertain the views of the various High Courts whose right is being attempted to be curtailed by this piece of legislation. The Honourable the Home Member made it perfectly clear in his speech what was the purpose of this Bill. I quote his exact words. He said:

"We propose that just as the Bengal Act has removed the jurisdiction of the lower Courts, so we should remove the jurisdiction in this matter of the High Courts."

He has not tried to take shelter under any legal phraseology, but he made it perfectly clear. Later on, he says:

"The last provision is contained in clause 5 of the Bill and provides for exclusion of interference of Courts with the proceedings in the Courts of Special Magistrates. In other words, the High Court will not have power to entertain applications in revision."

Though latterly the Honourable the Leader of the House (the Law Member) explained that the High Court's jurisdiction would not be interfered with at least under section 107. But the Honourable the Home Member made it perfectly clear that his purpose in bringing up this legislation was to oust the jurisdiction of the High Court in every possible way.

I do not like to go into details about the terrorist crimes and thus cloud the issue. It is accepted by all in this House that terrorism should be put a stop to by whatever means possible. Times without number we have said that there will be nobody found in this House to support any policy in which opinion is forced on people at the point of the bayonet. The further point that has also been agreed to is that a speedy trial is desirable. We do not join issue on that point also. But the object of this Bill is to curtail appeals and the power of supervision of the High Court

The Honourable Sir Brojendra Mitter (Law Member): Not appeals.

Mr. S. C. Mitra: The Honourable the Law Member does not agree, but I should like to read the three clauses of the Bill which are the only effective clauses. The first clause is clause 3 where it is said that appeals will lie in the city of Calcutta to the High Court against a sentence of a Special Magistrate, and anywhere else in Bengal where the sentence is more than two years transportation, or that of imprisonment for more than four years, an appeal will lie to the High Court. Clause 4 deals with section 19 of the Bengal Act. Section 19 says:

"Except as provided in this Chapter, no proceeding or order purporting to be taken or made under this Chapter shall be called in question by any Court and no civil or criminal proceedings shall be instituted against any person for anything in good faith done or intended to be done under this Chapter."

On a previous occasion I said that this section was worse than martial law, because a bill of indemnity was also included in the clause itself. The third effective clause is clause 5 which says that except as provided in the Act all suits in civil and criminal Courts and appeals are barred. Under all these three clauses, there is nothing against speedy trial. The

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man who has been found to be a terrorist has been tried and judgment of the Court has been given. When the man is already clapped in jail, what is the necessity for the Government to deny him the chances of an appeal? I do not say that the terrorist should not be dealt with drastically and speedily. But, in the hurry of the thing, a non-terrorist may be included and I ask, why he should not have a chance of getting out of the clutches of such drastic laws by an appeal to the Sessions Judge or the High Court.

Since the advent of British rule in India, Indians have highly valued the British Courts of justice. I think if a choice be given between the so-called constitutional programme that is being hatched in London by the R. T. C. and the separation of judicial and executive functions, I think there will be more people preferring the complete separation of the judiciary from the executive control to the so-called progress in reforms. It is not only the agitators that have been fighting for the freedom of the judiciary; it is not only the Indian National Congress that has fought for it for the last 40 years or more; but Liberals and Moderates have all along clamoured for the reform, because British justice is being made fruitless on account of the control of the executive over the judiciary.

I do not propose to argue the constitutional point that has been accepted from the time of Montesquex, the great political philosopher of France, who said that the three functions of judicial, legislative and the executive should be separate and independent. Unfortunately in India we had no Legislature in the beginning of British rule, and even now there is only a nominal Legislature which is neither separate nor independent of the executive. But we had our Supreme Courts then. They maintained zealously the independence of the Courts of law against executive vagaries. Government also accepted times without number that the separation was essentially necessary, but they pleaded financial stringency. As regards financial considerations, this is what Professor Gilchrist says:

"One reason is financial, but to that I pay no heed, as ways and means can be found if the Government make up its mind to change the system. Financial considerations have never stood, and will never stand in the way of remedy to abuses, provided the abuses are regarded as of sufficient enormity to divert public funds from other channels. In matters of this kind, financially speaking, usually where there is a will there is also a way. Were it a mere matter of finance, the question could at least be solved gradually."

So he goes on. We all know after the acceptance of the principle of separation of judicial and executive functions, we have had this splendid Imperial City costing crores of rupees, we have had schemes like the Back Bay Scheme, Strategic Railways, Meerut Conspiracy Case, and so on to waste public fund. We can do all that, but financial reasons come in the way of carrying out the separation of judicial and executive functions. The little liberty that the judiciary have is a general power of supervision by the High Court. I do not like to enter into other issues, but this Bill is called the Suppression of Terrorists Bill. I have carefully read the sections of the Bengal Bill, but no word is said there about the terrorists. I say that the clauses are framed so loosely and so widely that it may cause trouble to any kind of people. We all accept that terrorism should be put a stop to, but in that connection let not innocent men suffer. Let them have, even after a speedy trial by a Special Court, the rights of appeal to the Sessions Court and the High Courts. That is all we want. Much

has been made about the fact that the High Court of Bombay have held that the powers under section 107 of general supervision will not be interfered with, but the decision of the Bombay High Court is not binding on other Presidency High Courts.

The Honourable Sir Brojendra Mitter: The Calcutta High Court has held the same.

Mr. S. C. Mitra: That might not be the interpretation of other High Courts.

The Honourable Sir Brojendra Mitter: May I point out to the Honourable Member that we are dealing with the Calcutta High Court only and not with other High Courts?

Mr. S. C. Mitra: I am dealing with the general principle as other High Courts might have also to deal with this question under the Ordinances as was evidenced in the Bombay case. As regards the Bombay case, I should like to put before the House the opinion of an *ex-Advocate General* of Madras, Mr. Venkatarama Sastri.

Speaking of the Bombay decision, he says:

"The schedule to the Government of India Act did not include section 107 of the Act among the sections which the Indian Legislature was authorised to repeal or alter. The result was that Ordinances, just like any other law of the Indian Legislature, could not touch the power of the High Court under section 107."

Later on he says:

"The Chief Justice, in language at once emphatic and restrained, stated that 'it would be very unfortunate if the High Court had no power to correct any irregularity or illegality into which any of these Special Tribunals may fall' and 'he was glad to arrive at the conclusion that the High Court had the power'. Confirmation of this same view comes from the Sind Commissioner's Court. While holding that they had no jurisdiction to interfere and are expressing no opinion on the cases before them by way of confirmation or approval, they said 'Extraordinary and extensive powers have been conferred on a large body of Magistrates, and our experience leads us to suppose that powers of this kind cannot safely be exercised without some sort of supervision. Judges are human and are of diverse temperaments. Different temperaments react differently to the facts of particular cases. In ordinary times the tendency of the High Court is to act as a bulwark of people's rights against executive excesses. But where a state of emergency is declared and Ordinances are passed to meet its requirements and for the peace and good government of the country, one attitude is to be cautious and to feel that there might be grave public risk in interfering with the action of one who is conversant with the local needs of law and order; another attitude of mind is to realise the hardships inflicted and the need for relieving them in order to obviate the risks and dangers arising from non-interference even in extreme cases'."

Then he says:

"Orders to report oneself thrice a day or to report oneself at times and places practically impossible so as to make the person inevitably incur penalties are cases for interference rather than for cautious non-interference. They may justly be described as gross misuse of the power conferred by the Ordinances in a wholly unintended manner."

I should like to show how these drastic provisions are likely to be abused and why this House should be very cautious before they agree to curtail the powers of appeal to the High Court. The Honourable the Home Member, in one of his speeches, referred to the Pahartali and other cases. They are not strictly relevant to this matter; but what are the laws that

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have been applied now to Chittagong? Under section 15, a collective fine has been imposed on all Hindu population to the extent of Rs. 80,000 in spite of all protests, and Government did not see their way to mitigate the cruel enforcement of these laws in any way. I do not see how a man becomes an offender by the mere fact that he says his prayers facing towards the East and not facing to the West. One can understand the criminality of a tribe, but here the discrimination is made between two sets of people living in the same town differing only in their professions of religious faith. That is how this law is administered. If anybody is to be punished in the town of Chittagong, it is the military and the police for whom Government have already incurred an expenditure to the extent of 15 lakhs of rupees in the last few months. It is the inefficient police, who have failed to find out the culprits, who ought to be fined; instead of that, everybody who calls himself a Hindu, be he a boy or an old man, male or female, rich or poor, has been punished by this law. This is the logic Government has come to. It is exactly for this reason, namely, that the judiciary is under the control of the executive, that the powers of the High Court should be jealously guarded and maintained by this House.

The same kind of punishment is meted out in different parts of the country and there is a lurking suspicion that executive orders are being given as to how people should be punished. No one is free. I do not know for certain, but the apprehension is general that the judiciary in this country are controlled by the executive and the only way to ensure justice is that the independence of the Courts of Justice should be maintained and the power of the High Courts should not be curtailed in anyway. Sir, I move that the Bill be circulated for the opinion of the chartered High Courts.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Amendment moved:

"That the Bill be circulated for the purpose of eliciting opinion of the various High Courts in India by the end of December, 1932."

Mr. S. C. Sen: Sir, the motion is that the opinions should be obtained before the 31st December, 1932. We are now today on the 12th of December. The Calcutta High Court, which is most concerned in this matter, will close, I believe, on the 21st of December and will remain closed up to the 3rd of January. So, what practical result would be obtained by the circulation of this Bill to the Calcutta High Court, I do not know. But, Sir, I wish to say something on the merits of this Bill. Sir, we know that there is a terrorist movement in Bengal. We know that the Government have been trying to cope with this movement for the last 27 years. We also know that Government have taken various steps to eradicate this evil. But with what success? Sir, the position now is . . .

Mr. President (The Honourable Sir Ibrahim Rahimtoola): I should like to draw the attention of Honourable Members to the fact that as there are other amendments for circulation, the best procedure will be to have all these amendments before the House and to discuss them together. I would, therefore, call upon Pandit Satyendra Nath Sen to move his amendment, and I will call Mr. S. C. Sen to address the House again at the proper time.

Pandit Satyendra Nath Sen: Sir, I move:

"That the Bill be circulated for the purpose of eliciting opinion thereon by the 31st of January, 1933."

Sir, my friend, Mr. Mitra, has moved his motion for eliciting the opinion of the High Courts only. What I want is that not only the High Courts, but also other Courts as well as Bar Libraries, etc., should be consulted, because this is an extraordinary Bill inasmuch as it seeks to suspend and supplement the ordinary law materially.

Sir, at first sight I thought that this little Bill would be disposed of in five minutes' time, because no right-thinking man would have any sympathy with terrorism. But, Sir, the more I dive into the matter, the more I feel that I am out of my depth. Sir, clauses have been put in a mystic form like the Delphic oracle in explaining which there was a material discrepancy between the statements of the Honourable the Home Member and of the Honourable the Law Member. Sir, the Honourable the Home Member said that "we should remove the jurisdiction, in this matter, of the High Court", while the Honourable the Law Member said that "the powers of superintendence of the High Courts under section 107 of the Government of India Act will remain unaffected". Now, in obedience to the ruling of the Chair, the Government are now prepared to move an amendment. That will take some of the poison out of the objectionable clauses, but still much of the poison remains, and if these objectionable portions are deleted, I would not insist on my motion for circulation.

Sir, from my orthodox culture, I am opposed to terrorism, but I am opposed to terrorism not only when it comes from the people, but also when it comes from the Government, because although we are anxious to stamp out terrorism from the country, that does not imply that the accused persons will not be given a fair trial. Sir, the Government smell terrorism everywhere in Bengal. In fact they hold that every Bengali boy is a potential terrorist or "a lurking assassin" in the language of the Honourable the Home Member. Now, the Government have so long been indulging in terrorism in deeds only and now they want to commit acts of terrorism in trials also, because this Bill implies a denial of justice to accused persons. Sir, what will be the effects of these clauses 4 and 5? They seek to bar the jurisdiction of even the highest Court of justice; appeals and revisions obtainable under ordinary law are sought to be dispensed with; the *Habeas Corpus*, which ensures one of the elementary rights of a British subject, is to be made inactive. And why all this—only for the purpose of giving us speedy trial? Sir, the speed of British law or rather the absence of speed of British law and, I may say, of British justice, which moves at a snail's pace, is a notorious thing. Sir, in some cases we feel that substantial justice, dispensed expeditiously, as it used to be dispensed in the days of old by the Kazis under Muhammadan rule, is a desideratum. Sir, in some civil cases the finality is reached after some decades. Some of the political prosecutions also are allowed to drag on for years, and no attempt is made to improve the condition in those cases. Now that it suits the purpose of Government, they have come forward to favour us with speedy trial which may not be synonymous with speedy justice. And, in effecting this speedy trial, whom are they going to rely upon? On the District Magistrate, a term, which, for the purposes of this Bill, includes the S. P. and the D. S. P. Sir, we

[Pandit Satyendra Nath Sen.] .

have reasons to believe that the Act will be misapplied in Bengal. It does not behove us, therefore, to give ditto to the Act as a matter of form and to strengthen it by a supplementary Bill equally severe in its character. Sir, the Bengal Act arms the Government with unlimited powers. They can now take possession of our immoveable property, they can take possession of our moveable property, they have the power to regulate our means of transport, and so on and so forth. And who is to apply this law? Sometimes a half-educated S. P. who is practically the *de facto* District Officer in the mufassil. Sir, although this Bill is very small in size, I think it is much more severe than the big Ordinance Bill which was passed, in this House the other day—not as the result of a fair fight as the Honourable the Home Member put it, but as the result of an unfair fight, because we all know our position and strength in this House. Sir, the Government of Bengal are following a wrong course of treatment. That treatment will only heal up the wound superficially, leaving the sore within as it is, or it may even worsen the condition; it may lead to sinus. We should, therefore, study and examine the case more carefully and determine the best remedy for it.

The Honourable the Home Member quoted the other day some passages from some revolutionary literature. But is there any guarantee that those documents are genuine? The activities of the C. I. D. and the police are a notorious thing in this country. The Honourable Member certainly relied on those two bodies and who does not know what those two bodies are up to. Sir, I shall cite only a simple case which appeared in the *Hindustan Times* of the 9th September this year. This is a report from Lahore:

"In the Kanari Bazar Dacoity Case, Mohinder Singh, son of Bawa Jhanda Singh, a Magistrate, made serious allegations of beating and threats against the police, because of his non-compliance with the alleged police request to give evidence of the nature desired by them. He alleged that the police wanted him to depose that he provided Sardar Dilawar Singh, Municipal Commissioner, who also was arrested and discharged in the same connection, with a revolver for the purpose of the dacoity, threats being held out that his father and uncle might lose their jobs due to his recalcitrance."

Mr. K. Ahmed (Rajshahi Division: Muhammadan Rural): This is the Bengal Suppression of Terrorist Outrages Bill.

Pandit Satyendra Nath Sen: This only illustrates the activities of the police on which the Honourable the Home Member apparently relied in respect of those passages.

Mr. K. Ahmed:—But this is 800 miles away from Bengal.

Pandit Satyendra Nath Sen: But the C. I. D. people are everywhere. Sir, in his speech on the last occasion, the Honourable the Home Member made the most of the Pahartali outrage, but he studiously avoided any special reference to the Chittagong riots. The Pahartali outrage was no doubt a very lamentable occurrence, but I think it was attended with very few casualties. (A Voice: "There was one death.")

The Honourable Mr. H. G. Haig (Home Member): Is death not a casualty in the opinion of the Honourable Member?

An Honourable Member: An old European lady died.

Pandit Satyendra Nath Sen: I stand corrected that there was a casualty.

The Honourable Mr. H. G. Haig: No, Sir, there were a great number of casualties. About 10 people were injured and one killed.

Pandit Satyendra Nath Sen: Very well, I stand corrected. But in the case of Chittagong the violence was perpetrated on the entire Hindu community and I think those acts of violence and terrorism were responsible for these revolutionary views. (*A Voice:* "Were there any casualties?") Certainly, there were. I will give you some illustrations and show how terrorism was perpetrated. Here is an extract from the report of the non-official inquiry into Chittagong riots. Let us see what it says:

"The night of Sunday, the 30th August, was a night of terror in Chittagong. The principal feature of the terror was that the assailants were alleged to be members of the police force, the armed police, Gurkhas and Europeans. They particularly attacked the houses of those who had incurred the displeasure of the local authorities, including political suspects, pleaders who are engaged in the defence of persons accused in the Chittagong Armoury Raid Case, and the men employed in at least one well-known printing press."

Sir, be it said to the credit of the cultured Muhammadans of Chittagong that they had no sympathy with this outrage. The report goes on to say:

"Mr. Nur Ahmed (a respectable Muhammadan citizen and the Chairman of the local Municipality) himself spoke to the District Magistrate about the seriousness of the situation. Referring to subsequent events, he told us: 'During the occurrence I noticed European sergeants smiling and very glad.'"

Then the report goes on to say:

"According to shop-keeper Umesh Chandra Pal's evidence, a Sahib (European) was telling the looters: 'Take away quickly; there is not very much time.' Even when the police were shown people openly carrying away stolen goods, they refused to assist in their recovery. On the contrary, there is evidence that the police helped them to escape."

Sir, even the ladies were not spared by these police hooligans. The report goes on to say:

"The most pitiful evidence came from the daughter of Sreejut Bipin Behari Sen, whose house had been raided also about mid-night. After the first search of the house, the police took away her two brothers. Three Gurkhas returned again, forced her father to open the door and entered the house on the pretence of a further search. While one or more of the Gurkhas prevented the father from coming to her aid, other Gurkhas attacked her and subjected her to a brutal and cowardly assault. (*I want to know whether this is a casualty or not?*) When she attempted to cry out, they gagged her. Her father too was struck, when he made a desperate attempt to protect her; when he was overpowered and his nose began to bleed, the Gurkhas renewed their assault on her."

The Honourable Mr. H. G. Haig: What is the authority for this?

Pandit Satyendra Nath Sen: This is the report of a non-official and impartial body.

The Honourable Mr. H. G. Haig: Has any complaint been made in Court?

Pandit Satyendra Nath Sen: It has not yet been contradicted by anybody, I believe.

The Honourable Mr. H. G. Haig: It has not yet been put before a Court.

Pandit Satyendra Nath Sen: Sir, I will not quote any more passages from this report. I would only like to remind the Honourable the Home Member that terrorism begets terrorism. This may not be very pleasing to the ears of the Government, but if experience has got any value, they should accept the view that terrorism is not the proper remedy for stamping out terrorism. If this was the conduct of Government, no wonder some misguided youths would go wrong, and it is their own mistakes that make the matters worse. Sir, they want to legalise those acts of violence by the passing of these lawless laws.

And what do they do next? They have gagged the Press which is practically the mouth of the public and the disastrous consequence comes as a matter of course. If the mouth is gagged, the excitement must find its expression in other ways. When the heart is full with feeling, it must be allowed to be emptied, otherwise the whole system will be deranged. Chittagong is regarded by the Government as the hotbed of terrorism. Even without this Act, it was possible for Government to carry on a vendetta on the entire Hindu population; and, by way of adding insult to injury, they have imposed a collective punitive-tax of Rs. 80,000 on the Hindu population.

I would tell my Muhammadan friends that this terrorism on the part of Government has a tendency to spread to Muhammadans also. It was only the other day that my Honourable friend, Mr. Abdul Matin Chaudhury, read out a telegram from Chittagong and my friend, Mr. Mitra, also read out the same telegram from Chittagong which says that highhandedness was committed on some Muhammadan families. I should, therefore, request my Muhammadan friends also to combine with the Hindus to see that no terrorism is perpetrated by Government as it is also our duty to see that no terrorism is perpetrated by the people. The next objective of the Government is Midnapore; and what form of terrorism is not being perpetrated there in the name of law? One Phanindra Nath Das was beaten almost to death; the belongings of poor villagers are being snatched away, and even the chastity of females is being violated in a most brutal and vindictive manner. When these things were being narrated the other day by my friend, Mr. Mitra, one of the Nominated Members, Captain Lal Chand, interjected by saying "Is a no-rent campaign going on there?" The Honourable Member evidently wanted to suggest that rent or tax can and should be collected even by violating female modesty

The Honourable Mr. H. G. Haig: May I ask, Sir, whether a discussion of the civil disobedience campaign in Midnapore is relevant to a Bill dealing with the suppression of terrorist crime?

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The Honourable Member is in order for the reason that he is illustrating what the result of these powers will be in regard to the areas where terrorism prevails. (Opposition Cheers.)

Pandit Satyendra Nath Sen: I am thankful to the Chair. That is exactly my point.

Mr. Arthur Moore (Bengal: European): May I ask whether the Honourable Member is in order in bringing a charge against an Honourable Member who is not in his seat

An Honourable Member: He should be in his seat.

Mr. Arthur Moore: the charge being that he said that a no-rent campaign should be dealt with by outrages against females, and that that is the proper method of dealing with it? I am quite sure that if my Honourable friend, who is not in his seat now, were here, he would repudiate the suggestion that he ever made such a statement.

An Honourable Member: Are you holding a power of attorney for him?

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The Honourable Member should remember, as the Chair has repeatedly pointed out, that when an Honourable Member accepts a seat in this House, it is his duty to be present here when important discussions are going on. (Opposition Cheers.) The Honourable Member, not being present here, will be able to publish a contradiction to it in the Press if he wishes to do so. There appears to be no point of order involved, unless the Honourable Member wishes to explain further what the point of order is.

Mr. Arthur Moore: May I point out that the implication or gloss that bring such a monstrous suggestion against any Member of this House.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The Honourable Member is not bringing any charge against that Member, as far as the Chair has followed him. The Honourable Member says that certain statements were made by another Honourable Member on a previous occasion on the floor of this House in the course of discussion, and he puts his own interpretation on the implications of that speech. (Opposition Cheers.)

Mr. Arthur Moore: May I point out that the implication or gloss that he has put on the Honourable Member's statement is to make an outrageous charge against that Honourable Member?

Mr. President (The Honourable Sir Ibrahim Rahimtoola): But how is that a point of order?

Mr. Arthur Moore: I should have thought that it was out of order to bring such a charge against any Member of this House.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The Honourable Member has not, as far as the Chair has followed him, brought any charge; he has merely stated that this was the implication of what the Honourable Member had said.

Sir Abdulla-al-Mámún Suhrawardy (Burdwan and Presidency Divisions: Muhammadan Rural): That amounts to a charge.

An Honourable Member: No, no.

Mr. Arthur Moore: May I point out that the Honourable Member has said that the meaning of my Honourable friend, Captain Lal Chand's interruption was that he believed that the proper way to deal with a no-rent agitation was by outraging the modesty of females?

Mr. President (The Honourable Sir Ibrahim Rahimtoola): No; as far as the Chair has followed him, the Honourable Member never said anything of the kind.

Mr. Arthur Moore: May I ask the Honourable Member to make that clear?

Mr. President (The Honourable Sir Ibrahim Rahimtoola): If he wishes to do so, the Chair will raise no objection.

Sir Abdulla-al-Mámin Suhrawardy: On a point of information, Sir. Will the Honourable Member, who is absent and against whom this insinuation is made, be permitted by the Chair to make a personal explanation when he happens to be here?

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The Honourable Member ought to be aware that the Chair has never refused any Honourable Member, who wishes to make a personal explanation, an opportunity to do so.

Sir Abdulla-al-Mámin Suhrawardy: At a later stage, I mean, will he be permitted?

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The Chair will consider when the Honourable Member himself attends the House and offers to make a personal explanation.

Pandit Satyendra Nath Sen: It is superfluous to make any further remarks on the matter and I leave it at that. The Government are now pursuing a general policy of beating everywhere. By quoting the figures of the civil disobedience prisoners, they now want to prove that the civil disobedience movement is on the wane; but is that the real situation? The real situation is as was given out by Mr. Leonard Matters the other day in London while speaking at a conference on India, namely, that the number of civil disobedience prisoners has decreased because the present policy which is being followed in India is "Do not arrest, but beat". This is particularly true of Bengal. I might remind Honourable Members that one Ajit Bhattacharya, who was beaten to death last year, was an innocent boy who was at the time seeking his admission into the College. Not even a sigh was spent over it by Government. Some months ago, one Anil Kumar Das also died at Dacca under mysterious circumstances. I think, if the Government will not revise their policy of terrorism, if they do not mend their manners, there will be no real improvement in the situation. As I have already said, Government are prejudiced against

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Bengal, and, therefore, it will not be safe to entrust the people to the sole charge and disposal of a Special Magistrate who is subservient to Government. The Special Magistrate knows the policy of the Government very well, namely, "no conviction, no promotion", and if a Magistrate has the courage of his conviction, if he wants to act according to his own conscience, he will be harassed and perhaps even his promotion will be stopped. We would not have indeed insisted on having very many appeals if the executive and judiciary were separated, but that is a condition which is not yet within sight. Therefore, we should see that justice is done to the accused persons.

This Bill is open to another very serious objection. In the original Bengal Act, there are half a dozen provisos. Suppose any one of them is violated. Who is there to revise the proceedings? Of course, the High

Court is there, but is it possible for a poor villager to move the High Court at every step? I have already made it clear, and I repeat that if these objectionable clauses, namely, clauses 4 and 5, be deleted, I will not press for circulation, but as Government do not seem to be in a mood to delete those portions, I will move my motion for circulation, but before I resume my seat, I would ask one thing on a point of information. Is there any precedent for circulating a Bill together with any of the amendments, and is the Secretary or anybody else in this House empowered to do so by any rule to that effect?

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Amendment moved:

"That the Bill be circulated for the purpose of eliciting opinion thereon by the 31st January, 1933."

Mr. A. Das (Benares and Gorakhpur Divisions: Non-Muhammadian Rural): Sir, when I gave my amendment on this Bill, we did not know that any alternative proposals would be put by the Honourable the Law Member. As I read the Bill at that time, I thought. . . .

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Does the Honourable Member wish to move his amendment?

Mr. A. Das: I withdraw certain

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The Honourable Member will get a chance to speak on the whole question, if he wishes to do so. At present the Chair desires to know whether the Honourable Member wishes to move the amendment that stands in his name?

Mr. A. Das: No, Sir, I do not wish to move my amendment.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The original motion and the two amendments, one moved by Mr. Mitra and the other moved by Mr. Sen, are now before the House.

Mr. S. O. Sen: As I said before, I consider that these amendments for circulation will be of no use. If they are circulated in different parts of the country, even then I do not know if that will be of much assistance, because what have we got here? Only four provisions, two of which must be admitted, and the other two may be controverted. The original Bengal Act is not before us, and, therefore, no opinion can be had on the provisions of the Act. Under these circumstances, when we are going to have two provisions which are really in favour of the accused, namely, their right to appeal to the High Court, I do not see that any object will be gained by the motion for circulation. As I said before, we do not deny the existence of a movement in this country which the Government call as the terrorist movement, although I know that the word "terrorist" has not been defined anywhere except by the Bengal Government in certain rules which they framed under the powers conferred upon them by the Ordinance itself. We also agree that the terrorist movement is a menace to the country and should be extirpated or suppressed, and we also agree that the Government should have such powers to deal with the movement as it considers necessary, expedient and proper, but at the same time we also want to see that the powers which the Government get and which they have got so long for the last 27 years should be exercised properly.

[Mr. S. C. Sen.]^a

Sir, the terrorist movement is not new to us. It made its appearance for the first time in Bengal in the year 1906, shortly after what is known as the Partition of Bengal. It was understood then that the Partition of Bengal, although ostensibly made for the purpose of administrative convenience, was really brought about for the purpose of curbing the political power of the Bengal Hindus, for the purpose of suppressing their political activities and also for the purpose of

An Honourable Member: Are we discussing the Partition of Bengal?

Mr. S. C. Sen: Yes, we are, and also for the purpose of creating differences between the Hindus and Muslims of Bengal. The Rowlatt Committee held that in Bengal it was frequently asserted and sometimes believed that Government were setting the Muhammadans against the Hindus, and this belief was, to a certain extent, confirmed in the minds of the Hindu population by the attitude which the then Lieut.-Governor of the new Province took by his theory of "my favourite wife". Those who are acquainted with the disturbances during the Partition of Bengal knew what that expression meant, and people knew how and why the activities of the terrorist movement came into existence. It was felt that there was not the same impartial judgment and the same impartial justice administered to the different communities in Bengal as was expected under Her Majesty Queen Victoria's Proclamation. Let us see what steps Government have taken during all these 25 years for suppressing this terrorist movement.

A 1906, as I said, the terrorist movement or rather the terrorists first appeared. It was dealt with under Regulation III of 1818 at first. That was not the first time that I came to know of the existence of such a Regulation, because, if I remember rightly, that Regulation was used by Lord Dufferin when Prince Dalip Singh wanted to come out to India and he was arrested at Aden under that Regulation. That was the first time we heard of the existence of such a Regulation, and, subsequently, about 30 years later, we came to know of its existence. In 1908, however, the Government enacted three Acts for the purpose of suppressing this movement,—the Explosive Substances Act, the Newspaper Incitement to Violence Act, and the Criminal Law Amendment Act which is still in existence with the exception of one Chapter. In 1910, they enacted the Indian Press Act, which is still serving as a precedent for the recent Press laws of the country as amended the other day by the Ordinance Bill. In 1911, the Seditious Meetings Act was also passed for the purpose of suppressing this identical movement, but the movement did not die. Then it continued to be dealt with under these Acts in conjunction with Regulation III of 1818. Then the Great War came, and, along with it, the Defence of India Act was passed and certain rules were framed thereunder. The rules were applied for the purpose of suppressing this movement, but how that was done is beyond my comprehension, because, as I read the Defence of India Act, it related to foreigners and others and also to matters connected with the Military. For the information of this House, I will read rule 3, which says:

"Where, in the opinion of the Local Government, there are reasonable grounds for believing that any person has acted, is acting, or is about to act in a manner

prejudicial to the public safety or the defence of India, the Local Government may, by order in writing, direct that such person—

- (a) shall not enter, reside or remain in any area specified in the order;
- (b) shall reside or remain in any area in British India so specified;
- (c) shall conduct himself in such manner or abstain from such acts or take such order with any property in his possession or under his control as may be specified in such order."

There is no direction that he can be restrained and kept in jail for an indefinite period. Rule 12A of the rules under which the Rowlatt Commissioners said that these persons were dealt with provides thus:

"Any officer of Government, authorised in this behalf by a general or special order of the Local Government, may arrest without warrant any person against whom a reasonable suspicion exists that he has acted, is acting, or is about to act with intent to assist the King's enemies in a manner prejudicial to the public safety or the defence of British India,".....

Then certain consequences will follow.

Were these persons, who were arrested under these rules, concerned with any activities to assist the King's enemies? However, Sir, that is a long story. 1,029 persons were arrested between June 1916 and June 1918.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Order, order. The Chair would like to know the object with which the Honourable Member is tracing the whole history of the terrorist movement in Bengal. The Honourable Member is perfectly in order, but the Chair wishes to know what is the object of the Honourable Member in reciting the whole history of the terrorist movement, tracing it from its inception up to this day? Is it the Honourable Member's intention to urge that no matter, what Bills are passed by the Legislature, the terrorist movement will remain, or is it his intention to point out that instead of passing such Bills there are other ways and means by which the terrorist movement could be controlled? If that is the Honourable Member's position, would it not be better, instead of reading out in great detail all that has happened in the past, to come to that point and say in general terms that various measures taken in the past have proved of no avail, and that he has some constructive suggestions to put forward before this House in lieu of the passage of this Bill?

Mr. S. C. Sen: My object is to show that from stage to stage the Government took more and more drastic powers, but that the movement is still where it was in 1906 . . .

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Quite so. I have followed the Honourable Member's speech. He need not go into such great detail, but can argue it in the general way.

Mr. S. C. Sen: Because it was necessary in this case to show that what the Government did in 1916 was absolutely *ultra vires* and illegal, that they did not always administer the provisions of the law in a proper or legitimate way. Then, Sir, came the Rowlatt Bill. The Rowlatt Committee made certain recommendations and the Act was passed. If we compare the provisions of that Act with those of the present legislation, the House will see in what respect the present legislation goes much further, is more drastic, and more brutal, than even what the Rowlatt

[Mr. S. C. Sen.]

Committee had recommended. I do not wish to enter into the details of these matters, but I say, after the Rowlatt Act was passed, as there were no outrages, in 1920-21 all these repressive legislations were annulled. In 1924, there was an Ordinance in which certain provisions of the Rowlatt Act were accepted, but the judicial character of the provisions contained in the Rowlatt Act were given the go by.

Mr. K. Ahmed: You are supporting the amendment.

Mr. S. C. Sen: In 1925, the Bengal Criminal Law Amendment Act was passed, not by the Legislative Council which rejected the Bill, but it was certified by the Viceroy, and no explanation was given as to why there was a departure from the Rowlatt Act. Under that Act, 187 persons were arrested. In 1930, that Act expired, it was not extended, but one portion of it was re-enacted. Immediately after that, in fifteen days, an Ordinance was passed embodying the provisions of that Act, and, subsequently, the Act of 1930 was passed. This Act also contained provisions similar to those in the Act of 1925, and about 991 persons were arrested under that Act. As regards the provisions of that Act, the Government of Bengal, in their Police Administration Report for the year 1931, say this:

"From April, 1930, up to the end of the year, 991 persons were arrested under the Ordinance and the Bengal Criminal Law Amendment Act, of whom 818 were interned and 173 released.

The year 1931 was one of continuous anxiety. The terrorists had extended their organisations enormously among the Hindu bhadralok youths who had been so inflamed by the press and platform campaign waged by the Congress against Government and the British, and encouraged to break laws by the civil disobedience movement and, excited by the terrorist outrages of 1930, that it became increasingly difficult to check terrorism with the special powers conferred by the Bengal Criminal Law Amendment Act, 1930."

My object in saying all this was that from time to time further drastic powers were asked for by Government and were given to Government. The Government not being satisfied with the provisions of the Act of 1930, an Ordinance was passed in 1931 extending the operation of that Act and, subsequently, in 1932, another Act was passed which extended the operation of the Criminal Law Amendment Act which was passed in 1930. That was also not considered sufficient. The Bengal Government, in their report, say: (I am reading it because the Bengal Government have recommended that it should be read):

"The Governor in Council has read with great interest and strongly recommends for perusal by the public the informative survey of the history of terrorist crime in Bengal since 1907, which is set out in Part VII of Mr. Farmer's report. During 1931 terrorist crimes and activities were a source of continuous anxiety and no less than 67 outrages were committed together with 9 murders including those of Messrs. Peddie, Garlick and Stevens of the I. C. S. and Khan Bahadur Ahsanullah, Inspector of Police. The seriousness of the position led to the promulgation in October of Bengal Ordinance IX of 1931, which extended the scope of the Bengal Criminal Law Amendment Act, 1930, so as to permit of action being taken against members and helpers of terrorists' associations. To deal with the situation in Chittagong, where a considerable and very active body of absconders of the Raid Case remained at large, Ordinance XI of 1931 was promulgated on 1st December which gave wider powers to the executive and also provided for more speedy trials of cases connected with the revolutionary conspiracy. To implement the Ordinance, a body of regular troops and increased police forces were drafted into the district."

Sir, not only was this done, but even the Government are doubtful of the efficacy of these methods. On page 28 of the report, the Government say :

"The continuance of outrages proved that the powers conferred by the Bengal Criminal Law Amendment Act, 1930, were insufficient. On the 29th October, the Bengal Ordinance IX of 1931 was promulgated by which the scope of the Act was widened, so that action could also be taken against all members and helpers of terrorist associations, thus conferring powers similar to those which were used with success against the terrorists in 1916. Whether these powers will have the effect of stamping out terrorism, at least temporarily, has yet to be seen."

Over and above this, the Bengal Government under the rule making powers made certain rules and, as has been pointed out by one of the previous speakers, they have inflicted a mass fine on the inhabitants of Chittagong for the terrorist outrages. I will now give the House a copy of the Notification issued by the Government of Bengal.

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

Mr. S. C. Sen: About 15 or 20 minutes.

Mr. President: I will wait till the Honourable Member concludes.

Mr. S. C. Sen: One of the rules runs as follows :

"The District Magistrate, if, in his opinion, it is necessary for the purpose of preventing communication with absconders or attacks on the persons or property of His Majesty's subjects or securing the safety of His Majesty's forces or police, may, by an order in writing, direct the inhabitants, any class or section of the inhabitants, of any area specified in the order, to remain for a specified period not exceeding one month within the houses or homesteads in which they normally reside."

A more monstrous rule I have not ever come across. Imagine a provision which directs the inhabitants or any section of the inhabitants to remain in their houses and not to go out of their houses for a period of one month. We do not think we have heard of such extraordinary orders as are now sought to be enforced. They are not to go out of their houses even for marketing or for obtaining food supply. They are, as it were, kept in jail in their own houses. Now, I shall give the Notification regarding the infliction of fine. It says :

"Whereas the events of the last two years referred to below, the judicial decisions of criminal courts and information in the possession of Government show that the outrage at the Assam-Bengal Railway Institute at Pahartali, near Chittagong, on the night of the 24th September, 1932, was committed by members of a terrorist organisation, styling itself the 'Indian Republican Army, Chittagong Branch,' and that this organisation is recruited from the Hindu bhadralok community of Chittagong town and district and is responsible for the raid on the Armoury at Chittagong, the murder of Inspector Tarini Mukherjee at Chandpur, the murder of Khan Bahadur Ahsanullah at Chittagong and the murder of Captain Cameron at Dhalghat; and whereas it can be confidently inferred from the known facts that the preliminary arrangements for the attack on the Railway Institute could not have been made and the plan itself executed without the knowledge of a great many people ordinarily resident in the locality;

And whereas it appears further that without the connivance of the local inhabitants it would not have been possible for as many as 12 persons to assemble and carry out the raid without detection, or to escape; and that many inhabitants of Chittagong town and neighbourhood should be able to throw light on the occurrence and its perpetrators but have so far failed to communicate their knowledge or their suspicions to the authorities, in response to the communiqué issued by the Government of Bengal on the 29th September, 1932; ,

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Now, therefore, as there are good grounds for the belief that persons concerned in the commission of the above offences and other acts prejudicial to the public security and to the maintenance of law and order are being harboured and assisted by the Hindu inhabitants of Chittagong town and neighbourhood, the Governor in Council, in exercise of the powers conferred upon him by sub-section (1) of section 27 of the Special Powers Ordinance, 1932 (X of 1932), hereby imposes a collective fine of Rs. 80,000 on (1) the inhabitants of Chittagong who are owners or occupiers of holdings within the area of the Chittagong municipality which are assessed to municipal taxes and (2) the inhabitants of Pahartali railway colony, and the villages of Patya, Anwara, Kanungopara, Soroatali, Sakpura, Kattali and Gomdandi, subject to any order which may be passed exempting any person or class or section of such inhabitants from the liability to pay any portion of the fine.

2. It is further notified that in order to allow those inhabitants of the areas concerned who have recently formed watch and ward committees for the purpose of assisting the authorities in obtaining information about the movements of terrorists an opportunity of proving their good intentions, realisation of the fine will be postponed until December 1st, 1932. If in the interval information is forthcoming leading to the arrest of all or some of the perpetrators of the outrage of September 24th last, the local Government will, on receiving the recommendations of the local officers, make such adjustment in the amount of the fine and such further exemptions in any area or in the case of any individual as the circumstances may justify."

What logic is this? A more ridiculous argument cannot be conceived. My friend, the Honourable Mr. Bajpai, is not here. If he were here, I would have given it to him to keep it in the Delhi University as a piece of logic to be used as a specimen by the students of logic. Let us take one passage from the Notification:

"And whereas it appears further that without the connivance of the local inhabitants it would not have been possible for as many as 12 persons to assemble and carry out the raid without detection or to escape"

What logic or what convincing argument, Sir, I cannot understand. It was a Navami day, a dark night. It says 12 persons came and, therefore, the whole community must be supposed to have been awake. The whole place is occupied by the lower classes of mistries in the workshops. Let us take another clause out of the Notification:

"and that many inhabitants of Chittagong town and neighbourhood should be able to throw light on the occurrence and its perpetrators, but have so far failed to communicate their knowledge or their suspicions to the authorities, in response to the communiqué issued by the Government of Bengal on the 28th September, 1932."

The occurrences took place at 9 o'clock in the night and it was a dark night. But the conclusion is come to that many inhabitants of Chittagong should be able to throw light on the occurrence and their perpetrators. The logic here is invincible and I am sorry that a Government order should contain such absurdities. It does not stop here, but goes on to state that there are good grounds for the belief that the persons concerned in the commission of the above offences and other acts prejudicial to the public security and to the maintenance of law and order are being harboured and assisted by the Hindu inhabitants of Chittagong and the neighbourhood. The "good grounds" are contained in the recitals mentioned in the Notification and I leave the House to judge whether any sane person, upon the facts stated, could come to the conclusion which the Government of Bengal did and upon such conclusion to inflict a mass or collective fine of Rs. 80,000 upon the Hindu inhabitants of Chittagong. Sir, under what logic or what sane argument such a deduction can be made, I do not know. Probably my Honourable friend, the Home Member, who is probably aware of this Notification as it appeared in the Gazette

of the 27th October and he came back from Calcutta on the 23rd October, might have had a hand in this matter. However, the fact remains that the entire Hindu inhabitants of Chittagong and its neighbourhood are to be fined, because 12 persons came there, committed the raid, and could not be detected. Therefore, the Hindu inhabitants of that town must be conniving at their actions and must be harbouring them! Sir, it should be remembered that in Chittagong 18 persons per hundred are Hindus and 82 persons per hundred are Moslems, and I am informed that specially in this part of the town, which is occupied by Europeans, Anglo-Indians and other Railway employees, probably the whole lower class population is Moslem or Sikhs.

Sir, I have shown to what length the Government have gone for the purpose of suppressing this movement. They have substituted terrorism of the worst kind for another kind of terrorism, and I say it is of the worst kind, because it is being perpetrated by Government in the name of law and order and especially at this time when the people are suffering from acute distress on account of the economic depression all round. Sir, I have shown up to now that from time to time repressive measures, and, what I would call progressively repressive measures, have been added to the Statute-book for the purpose of stamping out this terrorism, which, I may say, everybody wants that it should be stamped out, but with no success. Sir, the net result of this progressive repression in Bengal has converted the abnormal into the normal. An attempt has been throughout made by Government from 1906 upwards to oust the judiciary. Sir, in enacting these enactments, the Government have substantially introduced martial law, which is the negation of all law, but why should they not do so in a straightforward manner? Instead of coming before the Legislature for further powers, it would have been more honest for them to declare martial law in the province of Bengal or the district of Chittagong. That would have been more honest and more straightforward course, and not only that,—the merit of that straightforward course is that the confidence of the people in the administration of justice would have been unaffected, whereas, by ousting the jurisdiction of the judiciary, you have made your position in this country, so far as the administration of justice is concerned, a precarious one. Sir, Government do not realise that the confidence of the people in British justice is the greatest asset—much more valuable than the sword and the bayonet.

I was reading the other day an old Volume of the *Friend of India* with which my friend, the Honourable Mr. Moore's paper is associated. In that Volume, I find that the missionaries of Serampore, who were then conducting that paper, were considering the reason why British rule in this country had been made permanent, so that, even at that time they were considering whether it was the hand of Providence or otherwise. They dismissed the case for the hand of Providence, but they said that it was the just laws and the just administration of the laws that made the foundations of British rule in this country permanent. Such were also the words of Lord Minto even in 1908, when, in connection with the Bill to prevent incitement to violence, he repeated the same thing and he said that the British Raj in this country was built upon the foundation of just laws and he hoped that that would continue to be so. Sir, I appeal to the Honourable the Home Member to consider for himself whether the laws that are now being pressed by him in this Legislative Assembly or even in the Legislative Council of Bengal can be termed as just laws. Sir, the Executive have practically ousted the jurisdiction of the High Court and the

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truth blurted out of the mouth of the Honourable the Home Member. When introducing this Bill, the Home Member stated this:

"We propose that just as the Bengal Act has removed the jurisdiction of the lower Courts, so we should remove the jurisdiction in this matter of the High Court."

Then he goes on:

"The object of establishing these Courts of Special Magistrates is to provide a speedy form of trial for terrorist offences. If the accused are able at every stage of the proceedings to make applications in revision to the High Court," etc,

then, Sir, the following words which spontaneously came out are very very important and show what degree, if I may say so, of respect or contempt he has for the High Court:

"applications which, I have no doubt, would eventually not be entertained, but which would still serve their purpose of delaying"

the proceedings.

Now I have not heard of such an expression of opinion by even the worst enemies of the British Raj. Here the Honourable Member takes it for granted that the High Court of Bengal has been reduced to such a condition, has had such a fall at the present moment, that the Honourable the Home Member, as representing the Executive Government, can confidently assert that these petitions by the accused will not be entertained by the High Court.

The Honourable Mr. H. G. Haig: Sir, on a point of personal explanation, may I make it clear that my argument was that these would be frivolous applications, put in for the purpose of delaying the proceedings, and naturally, if they were frivolous applications, eventually they would be rejected by the High Court. That was my argument.

Mr. S. C. Sen: Sir, if I had repeated these words in public, I would at once be convicted by the High Court of contempt of Court. This belated explanation of the Honourable the Home Member cannot convince any body. Then there is another argument that, as these provisions are to be administered by Special Magistrates, who are also judicial officers in a sense, therefore the argument, which we have advanced, namely, that there is a departure from the judicial element in executive action, does not apply. But who are these Magistrates? They are either the District Magistrate, who is the executive head of the district or other Subordinate Magistrates who are under the District Magistrate. It is notorious,—however much it may be denied in this House—that these Magistrates deal with cases as the Superintendent of Police of the District want them to do, and I can say for the edification of my friends that just before I left Calcutta I heard from a very reliable source that the Deputy Commissioner of Police, Northern Division, called upon one of the Presidency Magistrates, Calcutta, to explain his conduct as to why he had acquitted certain persons. That is how the law is administered even in the Presidency Town of Calcutta, not to speak of the mufassil towns.

Sir Abdulla-al-Mámin Suhrawardy: What is the name of the Deputy Commissioner?

The Honourable Sir Brojendra Mitter (Law Member): Who is the Presidency Magistrate?

Mr. S. O. Sen: I am not prepared to give his name. I may tell you this that the Presidency Magistrate is a Muslim. That much information I can give to my friend, Sir Abdulla Suhrawardy.

Sir Abdulla-al-Mámún Suhrawardy: Will you kindly tell me if the Deputy Commissioner is not a Hindu?

Mr. S. O. Sen: He is a European gentleman. In the northern part, there is no Hindu gentleman who is holding the position of the Deputy Commissioner of Police.

Mr. G. S. Dutt (Bengal: Nominated Official): Should the Honourable Member be allowed to cast unfounded aspersions on the character of a whole body of public servants such as the First Class Magistrates in Bengal by describing them all as mere creatures of the District Magistrates?

Mr. S. O. Sen: The other day, the Law Member said in this House that the rule of law was one of the fundamental principles of British administration. What are the Government doing now? They are substituting the rule of the police for the rule of law. Even from the time of Sir Henry Adamson, attempts were being made or it was considered necessary to separate the Executive from the Judicial and in Bengal particularly a committee under Justice Greaves was appointed to consider this question. That was about 15 years ago. That Committee made a unanimous recommendation that the Judiciary and the Executive should be separated, but, Sir, nothing has so far been done. The cry that there is no money is still there, although we find that only the other day over two lakhs of rupees was sanctioned by the Bengal Government for the police force in Chittagong, who have shown themselves inefficient and unreliable, because they could not detect 12 persons in Chittagong for whom they have been engaged for the last two years.

If they had separated the Judicial from the Executive, most of our opposition to these reactionary enactments would not have been called for. I would ask the Honourable the Home Member to ascertain whether the service men other than the police are not equally discontented or they are not more discontented than the agitators regarding the action taken by the Government in connection with these repressive laws. Sir, as I said before, it now looks as if martial law has been proclaimed in Bengal without the straightforwardness of Government in declaring such laws. I for one would thousand times prefer that Sir Philip Chetwode's officers should govern and administer the laws in Bengal rather the officers of Mr. Prentice, for I know the army officers are gentlemen.

The Honourable Mr. H. G. Haig: What does the Honourable Member mean? Is this a reflection on the whole of the Civil Service and the police? Is the Honourable Member asserting that the members of the Civil Service and the police are not gentlemen?

Mr. S. O. Sen: I have said nothing, Sir, about the Civil Service. I have said the officers under Mr. Prentice . . .

The Honourable Mr. H. G. Haig: They are District Magistrates and Commissioners.

Mr. S. O. Sen: District Magistrates are covenanted officers and appointed by the King and they hold appointments under covenants. (Several Honourable Members: "But they are under the Honourable

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Member.") They are not. Sir, the other day, my friend, the Honourable the Home Member, in introducing the Bill, made the following observations :

"In order to extirpate it, effort is required from many directions. There is a whole chain of executive and judicial processes, of which the provisions of this Bill represent a small, though essential, link. Effort, I admit, is also required in other directions,—to stop recruitment of terrorists, by improving public opinion and by endeavouring to cure some of the conditions—economic and educational,—which have fostered the growth of the movement."

I admit, Sir, that these efforts should be made in this direction. But how are they to be made? How is it possible under the present circumstances for the public to come forward and make efforts like these? Sir, we know of the several instances which have been cited here which go to show that every attempt has been made by Government which goes to lead astray public opinion, which makes public opinion impossible to be ranked on the side of Government and by these actions Government are practically throwing into the arms of the terrorists the people who have hitherto supported the Government measures. The fine on the whole Hindu inhabitants of Chittagong is an example to that effect. It cannot be said that all these persons, the whole Hindu inhabitants, are guilty; most of them are innocent persons and yet they have to pay this heavy fine. Now, what would their feelings be towards the Government? Will the feeling be one of sympathy towards the British Government for taking money from them or will it be otherwise? Another result of it would be that some of the younger generations would certainly associate themselves with the ranks of the terrorists rather than be subject to the most terrible repressive laws enacted by Government. Sir, my friend, Pandit Sen, referred to the Chittagong raid and I understand the Honourable the Home Member asked him what authority he had for the various incidents which Pandit Sen narrated here. I ask the Honourable the Home Member whether he is in a position to deny all these charges? Had not the Government appointed Mr. Nelson, the Commissioner of the Division, to inquire into this matter, and whether Mr. Nelson has not submitted a report? Did the Government have the courage to publish that report? No, Sir, for the simple reason that if that report was published, it would have shown that all the allegations made by the Pandit had been thoroughly and absolutely supported. I challenge the Honourable the Home Member to produce that report in this House and to show from that report that the statements made by Pandit Sen were wrong. It is also said by Government that this raid of the Hindu houses at Chittagong was committed by the Mussalmans of that part of the country. I deny that entirely. That the Government have made that charge is clear from the administration report which I was reading and for the edification of my Muslim friends

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The Chair asked the Honourable Member how much time he was likely to take and he said fifteen or twenty minutes: he has taken twenty-five minutes already and still the Honourable Member's trend of speech shows that he will be considerably longer. The Chair does not wish to ask him to curtail his remarks but if he had given a correct idea of the length of time he was going to take the Chair would have been able to regulate adjournment for Lunch.

Mr. S. C. Sen: I am very sorry, Sir, but . . .

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Are you going to be very long?

Mr. S. C. Sen: Yes, Sir. I shall be a little long.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Before adjourning the House for Lunch, I should like to inform Honourable Members that they are aware that the Honourable the Leader of the House intimated that he would request the Chair to suspend the Standing Orders and take up the consideration of the Ottawa Select Committee's Report earlier than the interval required by the Standing Orders. The Chair has given the matter its best consideration and has decided to exercise the powers vesting in it under Standing Order 44, to suspend the Standing Orders and to call upon the Honourable the Commerce Member to move his motion on the Select Committee's report as soon as the consideration of the present Bill is concluded. As soon as the consideration of this Bill is concluded, the next motion before the House will be the consideration of the Select Committee's report on the Ottawa Tariff Bill. The Chair wishes to make it clear for the information of Honourable Members, that under the Standing Orders two clear days' notice is required for any amendments which any Honourable Member may wish to move. The Chair will dispense with the two days' notice and will allow Honourable Members to give notice even up to the time when the motion for consideration of the Select Committee's Report is before the House.

The Assembly then adjourned for Lunch till Three of the Clock.

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

Mr. S. C. Sen: Sir, I was referring to the Chittagong raids and I was referring to the reports made by the Government of Bengal in their Annual Reports. For the edification of my Muslim friends, I refer to page 31 of the Report on the Police Administration in the Bengal Presidency. I need not read the whole paragraph, but I will read only such portions as I consider necessary :

"This attack on an officer who had been in the district for many years and was well-known and respected roused deep indignation among the Muhammadans not only in Chittagong, but throughout East Bengal, and was immediately followed by an attack on Hindu property in Chittagong which was soon quelled however by the authorities."

The whole thing is a tissue of lies. I know it for a fact, and I have it on very reliable authority that the raid on Chittagong was engineered by the authorities there including the District Magistrate himself, and all the riff raffs of Chittagong were called in for the purpose of helping in the raid. The Muhammadan community as a whole, the respectable portion of it, did not join in it . . .

Khan Bahadur Abul Hasnat Muhammad Abdul Hye (Bengal: Nominated Official): Which raid do you refer to? Is it the Chittagong Armoury raid, or any other raid?

Mr. S. C. Sen: . . . and the Government had not the courage to say explicitly who the raiders were, but they left it to be inferred that the Muslim population of Chittagong were the culprits. The Honourable the Home Member, with reference to some of the incidents referred to by Pandit Satyendra Nath Sen, inquired whether proceedings had not been taken. He forgets, Sir, that in most of the cases when people who suffered applied for sanction to prosecute the officers concerned, such sanction was invariably refused. I can tell for the information of the Honourable the Home Member that when the police entered one of the schools, they did not spare even boys of ten years of age. The guardians of the boys and the teachers who were assaulted most mercilessly applied for sanction to prosecute, but sanction was refused

Mr. F. E. James (Madras: European): Which school was that?

Mr. S. C. Sen: You can get it from the Report. There was a raid on a school.

The Honourable Mr. H. G. Haig: My inquiry related to an incident described by Pandit Sen in which it was alleged that a woman had been violated. Does my friend suggest that sanction for prosecution was refused?

Mr. S. C. Sen: No, Sir; I do not know of that incident, but I know of several instances where sanction was refused, and the case I mention is one of those instances. I may also mention that moveable properties which were looted were found in the houses of various persons. People, whose moveable properties were looted, went to the District Magistrate and asked for search warrants, and that was refused. I need not remind my friend that in the Dacca case a student, Ajit Bhattacharjee, was killed at the hands of the police, and his uncle applied for sanction to prosecute. The Magistrate wrote about half a dozen foolscap sheets and said that no sanction could be granted. The reasons for such a decision were more than I could say. In the Presidency College raid, I think the Home Member will remember, the son of a highly respectable person, a Judge of the High Court, was brutally assaulted, and I can say that His Excellency Sir Stanley Jackson himself assured that gentleman that full justice would be done in the matter. What was done, may I know? I happen to know something about that case, because my firm was consulted in the matter. These are some of the instances, I do not wish to multiply them here or to take the time of the House. These instances show that Government, for the sake of false prestige, are denying justice to the oppressed people alienating public opinion and public sympathy. ("Hear, hear" from the Nationalist Benches.) That is my grievance. I am not against the Government in any step which they think fit to take to suppress terrorism, but I say that these incidents show that Government look more to the prestige of the police force than to justice. Now, for the last 27 years, we have got this one method of dealing with the terrorist movement. Is it not time to cry halt and to take stock of the whole situation and see how far this terrorist movement has been suppressed by these methods? Is it not time for the Government to appoint a Committee, as they did on the last occasion, when Justice Rowlatt was brought out and to find out the causes which

are spreading the movement beyond control, instead of sticking to their only stick, namely, drastic legislation and repression? The Government should remember that terrorism is an act of despair. People, who go about, with a deadly poison in one hand and a pistol in the other, and face immediate death, naturally resort to such a thing out of sheer desperation, because they feel that there is no remedy for the treatment meted out to their country, to them, or their kinsmen or to their families or to the general Hindu public at large. Why is this desperation? Why can't a remedy be found? If any remedy can be found for the removal of this desperation, I am sure that terrorism will go out of this country. Nobody would voluntarily court death; everybody loves his own life more than anything else. I appeal to Government to consider carefully why such an act is being done by youngmen and women, people highly cultured, people who would be ornaments in any society or in any country in the world. Why should they court death in this manner, I mean poison in one hand and pistol in the other? The Government must remember that an act of punishment on an innocent person recoils on them, and that fifty persons are converted against Government by one act of injustice. That was shown during the last civil disobedience movement. This movement would not have been spread to such an extent in 1930 if the *lathi* charges and other repressive acts had not been resorted to by Government. I ask the Government why they cannot think of other methods for the purpose of suppressing the movement. Why cannot they take steps to get the general Hindu public of Bengal, who, I must remind the Honourable the Home Member, supported the British rule in this country at most critical times and who went with the British troops to Peshawar and other places in support of the British administration, to co-operate with them—the Government should consider why they should range themselves against law and order and range themselves against the British Government. It is time that the Government considered the matter carefully and seriously and not launch upon further repressive measures which can only estrange the people. If the Honourable Member would require any suggestion to be made in this matter, I would ask him first and foremost to give up the false idea of prestige and to deal out justice between man and man and between the police and the people. Secondly, they should separate the Judicial from the Executive functions, and make the High Court all powerful in matters judicial; and, thirdly, so far as Bengal is concerned, I am constrained to say, remove Mr. Prentice from the administration of the Government of Bengal.

Mr. Muhammad Anwar-ul-Azim (Chittagong Division: Muhammadan Rural): I hope the House will excuse me if my feeble voice does not reach all parts of the House, because I have got an attack of catarrh in my nose. I have listened with a very great amount of interest to what was going on on the floor of the House with regard to the various measures which have been passed and introduced for remedying the terrorist movement in my part of the country. I think it sometimes requires a great deal of courage to call a spade a spade because it entails a great moral responsibility and concomitant risk, but a just and conscientious man would never call a spade—a club or a diamond. I really wish that some of the previous speakers who have taken part in this debate had been more logical and accurate—am I audible, Mr. President?—with regard to facts and also had checked their tirade proclivities which are at once aroused as soon as they are in a position to catch.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Honourable Member may come to the Front Bench and speak from there to avoid the strain.

Mr. Muhammad Anwar-ul-Asim: Thank you, Sir. (The Honourable Member then came to the Front Bench.) Once they are in a position to catch the eye of the President, they forget for the time being the whole world and do not care to respect those so much vaunted things as logic, consistency, etc.

As regards the situation in Chittagong, I think nobody in this House is in a better position than myself to tell the House what has happened there and what has been happening there since 1930. I represent that constituency, I have got a vast stake, by the grace of God, in that part of the country, and I am naturally anxious as a citizen of that place, that my people should live in peace and harmony and not be disturbed by anybody, either the Government or the Congress. I do not think it would be right for me to go in detail with regard to the situation which arose on the eve of the Moslem Conference in Chittagong in April, 1930, which sat on the 18th April. On the previous night, there was a huge raid over three important places in that district. Several people were killed, and the key positions which connect my part of Bengal with the other parts by train were taken off. If the Moslem delegates had not crossed that area an hour earlier, I am afraid at least about 40 brilliant first class Bengal Moslems would have lost their lives. There have been insinuations, clumsy insinuations, against my people. It has been suggested by certain friends in their wisdom that my people are responsible for the raid in 1930. A darker calumny there can never be, because the Government of Bengal, especially at that time, were more or less a partisan administration. In fact, I make bold to say, and I hope the Honourable the Home Member will excuse me, that in 1930 and even up to now you will not find among the C. I. D. officers a single Moslem, and if anybody suggests that the Moslems of Chittagong had anything to do with that raid or any other subsequent happenings, I am certain he does them a very great injustice, because my learned friend, Mr. S. C. Sen, has waxed eloquent with regard to the imposition of fines. Certainly that is a special matter, but when my learned friend quoted the percentage of his people and my people, I think my people were 82 per cent. of the whole area. If you have a curfew order, under which people could not get out from their houses, or have got to reach their houses by sunset or could not get out of their houses before the sun was up, in a place where we are 80 per cent. one can easily imagine who are the sufferers. I can assure you that both in the town and in the rural areas we were very great sufferers. Our trade has gone, practically the whole thing is at a standstill on account of the terrorist activities. So, it will not be right for Mr. Sen to say that his people are the only sufferers, but if a toll was taken and right conclusion was arrived at, it would be found that we Muslims have lost lakhs and lakhs. Furthermore, there was an insinuation that the executive of Chittagong sided with the Moslems, and that was an indirect cause of keeping the terrorist movement alive in that part of the country. We have seen recently that there were house searches in the town of Chittagong and the Moslems have not escaped from that. This matter was strongly agitated by the Muslim Members of the Bengal Legislative Council and what I feel is that that was manœuvred by interested persons to give the

Mussalmans a bad name and bring them within the category of barbarous offenders, which they are not.

Now, with regard to my esteemed friend, Professor Sen, he has also insinuated that the raid on the Pahartali Institute was perhaps the doing of the Mussalmans. I am really surprised to hear that a gentleman of Pandit Sen's intelligence should come to that level of insinuation. The plain fact is that the Assam Bengal Railway Institute is situated near Pahartali station. Pahartali is about four miles West of the Chittagong town connected by a first class motor road and the place, where this road meets the station on its immediate left, is the Assam Bengal Railway works and immediately to the East of that works are the quarters of officers and along with those officers' quarters on the hill top are the quarters of the clerks in the valley, and on the immediate West of this Institute is the Assam Bengal Railway school, and to the immediate North and West are the residences of the clerks, mostly up-country and Sikhs, and immediate to the North are little elevations of hills. It will not be right for anybody to suggest that it will not be possible to commit mischief. They could easily come from the West, East and North and on the South side there being huge workshops. If my friend, Mr. Sen, has suggested that it was not in the range of practical possibility of mischief, he must be wrong. It was quite possible for them to do so. The Mussalman *buati* is about quarter of a mile on the sea coast which is to the North-West of the Institute and the inhabitants are mostly illiterate weavers. I am a law-abiding citizen and you must have noticed, Mr. President, that I do not take any partisan view on any matter, but I think great mischief is done by over exaggerating the real facts here on the floor of the Assembly and printing and broadcasting it in the world. If it were possible by any law or regulations to curb some of our proclivities here, I think that would be a first class solution of the trouble, better than even having autonomy in the provinces.

Several speakers before me have suggested what were right remedies for eradicating this movement. Mr. Abdul Matin Chaudhury and my esteemed friend, Mr. S. C. Mitra, have said that only full fledged Dominion Status will vanish this trouble like dew. Since I joined the Bar in 1920, I have had opportunities of working in District Boards, Municipalities, Universities and a hundred things like that in public life and, as a practising lawyer, I feel myself humbly that it will not meet the requirements of the case. The wave of unrest, which has been created, the wave of misunderstanding, which is allowed to germinate, is sufficient even to shake any established Government, and my suggestion to the Government of India would be to try to scotch this serpent and then you will find the situation very much easier. It requires a great amount of courage to scotch this serpent, but I can assure you, once you allow it to germinate, it will become a big giant and it will practically shake the whole fabric of society and civilisation.

You will remember, Mr. President, that during the last part of Mr. Sen's tirade, or rather address, he has tried to bring in the homily of Mr. B. C. Chatterjee, Leader of the Independent Party in the Bengal Legislative Council. While the Bengal Municipal Bill was being discussed, Mr. Chatterjee addressed the officials and the Europeans and said: "We helped you in 1757. Why don't you trust us now?" That is a wrong view to take, because 1757 is past history. Let us live in this country peacefully. If we go on raking the sordid past, I am afraid we will turn this wonderful

[Mr. Muhammad Anwar-ul-Azim.]

land of ours into a desert. Several friends like Mr. Mitra and Pandit Sen have tried to show that the executive of the Government of Bengal is in a high mood and they are not respecting law and order. As a matter of fact, I have tried to defend some of the Ordinance accused while in Chittagong and my impression is this, that both the District Magistrate who is an experienced and sagacious man, and the Commissioner are not the people who will do this sort of thing. I know the police also. I am certain they will be the last persons in this world to budge an inch against law and order. They will never do it. It is absolutely unthinkable. It has been said by certain friends that the old District Magistrate of Chittagong was a party in the riot which arose after the death of Khan Bahadur Asanullah. Khan Bahadur Asanullah was a distinguished officer. He was murdered by a young man while he was watching a football match in the polo ground. As a matter of fact, I was at that time in Simla and immediately after I went down, I came to know about the riot which followed the death of Asanullah and it was not the result of any premeditated plan, but might have been the action of riff raffs who are everywhere in India.

With regard to the matter of fine, Mr. President, I have just mentioned that we Mussalmans were the greatest sufferers, in a hundred and one ways, and why there should be such a hue and cry for justly excluding us from this fine? The latest information, the latest communiqué is this that perhaps by that contribution certain parts of the Municipality and of the District Board of Chittagong will be improved, because the Government communiqué is very clear. I am very sorry that Mr. Sen, in his experienced wisdom, thought it proper to mention that certain Government officers told him something. In the absence of a name, I am certain nobody in any part of this House will pay any heed to that, Sir, because it is always possible to hit one back from behind. If I am standing here, and if anybody were to put his knife into me, that won't be fair. So if there was really a suggestion by anybody in Calcutta, I am certain Mr. Sen would have had the courage of his conviction and named him and he should not have taken shelter under any such pretext. So, in that view of the matter, I am certain, without meaning any disrespect to my Honourable friend, that perhaps he was not properly informed or he must have confused the whole idea; and, of course, the Government are sufficiently strong here to defend their officers. Bitter attacks have been launched upon Government officers both executive and judicial, but may I not pertinently ask my friends this question? They are all not taken from Ireland or England, most of them are your own people, and what good will it serve if you besmear sand on them? Is it consistent with your cry for Indianisation of services? Lastly, the very wrong insinuation was made that since 1906 the Government have been backing a certain class of people. I reply, certainly not. I most emphatically deny that insinuation, because what is the history? Of course, as you know, in 1906—the date of the genesis of terrorism in Bengal—perhaps Lord Curzon in his wisdom thought that certain results would be achieved by the Partition of Bengal. But the Bellicose Government of Lord Hardinge, yielded to their request and the Partition was reversed. But why bother about that? That is past history. Lastly, Sir, with regard to the clauses of the Bill, I have to say this much that perhaps there may be a certain force with regard to the contention of my friends to my right that at one stage when an accused had been sentenced to a certain term of punishment and he had not a chance of appealing to the High Court; but we have the authority of no less a

person than the Honourable the Law Member and if he assures us that that kind of thing will be stopped, and the accused's rights will be well met, then I do not think we can demur to that. So, to sum up, I think this is a highly desirable piece of legislation, and I trust that all of us, not excepting my Honourable friends, Mr. S. C. Sen, Pandit Sen and Mr. Mitra, will give our blessings and good wishes for the speedy passage of this Bill through the House.

Mr. B. V. Jadhav (Bombay Central Division: Non-Muhammadan Rural): Sir, I rise to support the amendment that the Bill be circulated for eliciting opinions of the High Courts moved by my friend, Mr. S. C. Mitra. Sir, my point is, that as the Honourable the Law Member explained that the jurisdiction of the chartered High Courts cannot be ousted by any legislation passed by this House, but that the High Courts that have been established under an Act of this House do not get any such privileged position and the Acts of this House will be binding upon such High Courts and their power of hearing appeals and revisions can be taken away from them by legislation passed in this House.

The Honourable Sir Brojendra Mitter: Sir, I have explained before that no such High Court is affected by this Bill.

Mr. B. V. Jadhav: Besides the chartered High Courts?

The Honourable Sir Brojendra Mitter: The only High Court affected is the Calcutta High Court.

Sir Muhammad Yakub (Rohilkund and Kumaon Divisions: Muhammadan Rural): Is not this Bill confined to Bengal alone?

Mr. B. V. Jadhav: Certainly, but then it might at any time be extended to other provinces. If it be confined to Bengal alone, the question to be asked is, why this Bill is being brought in this Assembly and why it should not be passed by the Bengal Legislature?

The Honourable Sir Brojendra Mitter: Because they cannot do it.

Mr. B. V. Jadhav: Sir, I am rather afraid that at any future date its provisions might be extended to other Presidencies as well. (*Sir Muhammad Yakub*: "All the Presidency High Courts are chartered High Courts.") (Further interruptions). I am not giving way, and I would ask my Honourable friends to allow me to go on.

Sir, whenever the Government would require any such legislation, they may come before this House and may repeat the provisions of this present legislation and say, "such legislation has already been accepted by this very House on a previous occasion and, therefore, it ought to be accepted on this occasion also". Therefore, we have to be very careful as to what sort of legislation is allowed to be passed; and, therefore, I take this early opportunity of offering my opposition to this Bill here just now; and, although the present Bill is confined only to Bengal, I say that it ought to be circulated for eliciting the opinions of the High Courts. The High Courts' jurisdiction and powers of revision are going to be affected, although in the present case in Bengal in the first instance, but still I say the High Courts as a whole should present their opinions, and when these are before this Honourable House, they will furnish a very good guide for us to act, and, therefore, I press that the Bill ought to be circulated.

[Mr. B. V. Jadhav.]

Then, as regards the provisions of this Bill, although Government do not recognize the science of Homœopathy, still in the grappling with other ills than bodily ills, they do take advantage of the principles established by Hahnemann. (*An Honourable Member*: "Curing terrorism by terrorism.") I am coming to that. Sir, these are very stirring times and many people's minds are fixed upon securing more rights under the present constitution and under the future constitution.

In the Congress or outside the Congress, there are two schools of thought. One thinks that greater power can be won by means of violence. Mahatma Gandhi and his followers are the supporters of the opposite school and they preach non-violence. To the Government both schools are equally disagreeable. I do not think they make any difference between the two. The violent section is now dubbed the terrorists, because Government think that their idea or their mode of operation is to strike terror among Government officers and others so that the administration of the country would be thrown into confusion. Government equally are against the non-violent section of the politicians and they have very lately passed the Ordinance Bill to put them down. This Bill is for the violent section and, in both the cases, the idea is to strike terror, terror among the partizans of violence and also terror among the partizans of non-violence. So, the Government have in their mind only one sort of remedy. They want to strike terror and whenever they have to act in an emergency where legislation is not at hand, they proclaim martial law. I shall give the instance which occurred in my own province. At Sholapur, there was a riot and the Government of those days at once thought that it was necessary to proclaim martial law and as long as the provisions of the martial law were in force, the same steps to strike terror were adopted as are now taken in the district of Chittagong and other places. But let me tell the House that the proclamation of the martial law and the working of it at Sholapur, although it was for a very few days only, have undermined the trust of the people of that part of the country in the fairness and justice of the British Raj and they have come to look upon the Raj as being very violent and very cruel. (*A Voice*: "Everything is fair in love and war.") But it is no war. Warring against one's subjects is no war. I am not talking of love. To shoot defenceless subjects indiscriminately is no war at all. If it is anything, it is butchery. (*A Voice*: "What about the killing of police men?") That is butchery too. I condemn both. So, I feel, Sir, that this homœopathic remedy may not be of much effect. Terrorism is not to be put down by terrorism. It may go down for a time, and people may work more underground, but the spirit will be there and Government will not be able to command the love and affection of the people by these methods. With these words, Sir, I support the amendment.

Mr. N. N. Anklesaria (Bombay Northern Division: Non-Muhammadan Rural): I am sorry, Sir, I cannot support my Honourable friend, Mr. Mitra, in his present motion. I should have very much liked to support him if I could do so with reason and propriety. Sir, this Bill seeks to remove from the way of the Bengal Council an insuperable difficulty in its design to enact a piece of legislation which, in the circumstances of the case, has been admitted by all reasonable persons to be very necessary. I believe the Bengal Council is more competent to

pronounce an opinion on the present matter than my Honourable friend, Mr. Jadhav, and his supporters. That being the case, it is incumbent on my Honourable friends who have moved the amendments and my Honourable friends who have supported them to adduce some solid reasons in support of their statements. What are the reasons which have been adduced so far? It is said that it is necessary to obtain the opinions of the High Courts, especially the opinion of the High Court of Bengal. Now, Sir, I ask what is the High Court of Bengal going to say on the present matter? The Bill practically consists of three clauses, clauses 3, 4 and 5. As regards clause 3, which gives a right of appeal to the accused person, there can possibly be no objection to it from anybody in this House and no opinion of the High Court would be required on it. As regards clauses 4 and 5, is the High Court going to say that they are *ultra vires* of this Legislature? Can you ever expect the High Court to pronounce an opinion on a piece of legislation which they themselves will have to administer if this Bill becomes an Act? Sir, my experience is that more often than not the High Courts would refuse to put themselves in this awkward position and would refuse to pronounce any opinion on a Bill like the present one before it becomes a law and before a specific case has been brought before them for adjudication. Sir, the second ground adduced is that the law has been abused and the law sought to be enacted in the present Bill is also liable to be abused. I say, Sir, that that is not a ground for holding up this piece of legislation for the time it is sought to be held up by these amendments. That is a ground for rejecting the whole Bill, not for circulating it. I, therefore, oppose the amendments.

Mr. Nabakumar Sing Dudhuria (Calcutta Suburbs: Non-Muhammadan Urban): Sir, I rise to oppose this motion. The Bengal Suppression of Terrorist Outrages Act—the main legislation—was passed by the Bengal Council sometime ago. There the main principles—the essentials—of this legislation have all been accepted in the presence of Honourable Members, some of whom were of the Honourable the Mover's ways of thinking. The Bengal Council was the proper venue where such a motion should have been brought. And I should not wonder that a similarly-worded motion had already been moved in the Bengal Council and was lost. This House is not the proper place to consider such a proposition at this stage of this legislation. This House is not to re-do a thing that has already been done up, as I presume all the objections that my Honourable friend has set forth were all taken in the Bengal Council. This Supplementary Bill has come up before us to consider a couple of formal matters, because if this Legislature will not adjudge upon them forthwith, the law already made on the subject would remain defective, and complications would arise in the administration of that law. So, to my mind, my Honourable friend's motion intends only delaying of the passing of this salutary legislation. I say advisedly *salutary*, as there can be no two opinions that such a measure is insistently demanded at the present moment in the province of Bengal. Like a cancer terrorism has been eating into the vitals of the Bengal administration. Security, peace, good-will—those essential factors of good government—have all disappeared before terrorism. In Bengal, the terrorists have rendered the administration literally impossible. All sorts of Bengal public servants, high and low, have got either nervous or unnerved. Law-abiding people too cannot make themselves heard and felt anywhere in

[Mr. Nabakumar Sing Dudhoria.]

Bengal for fear of the terrorists. In some places, military has been posted to infuse courage into the dropping spirits of the officials. But that is not all and sufficient. Stringent legislation like the main Act is necessary to cope with the unheard of and unnatural situation that has come into being. All sorts of legislative safeguards, which have hitherto served as loopholes or hindrances, have to be temporarily suspended and abrogated till present conditions have improved. My Honourable friend should not, therefore, strain at a gnat when he has already swallowed a camel. The big pill has already been swallowed by his compeers in the Bengal Legislative Council. My Honourable friend should not refuse to swallow the smaller pill here in this House. I should, therefore, strongly advise my Honourable friend to withdraw his motion and let this legislation get through smoothly. (Cheers.)

Mr. B. N. Misra (Orissa Division: Non-Muhammadan): Sir, perhaps Honourable Members may think that I need not speak, because I do not know much about

An Honourable Member: Louder please.

Mr. B. N. Misra: Bengal and that I am not interested in it, because I do not come from Bengal. I have read just cursorily something about this. When I go through the Bill, I find in clause 3:

"An appeal under sub-section (1) shall be presented within thirty days from the date of the sentence, etc., etc."

In the Criminal Procedure Code, if I remember rightly, 60 days is allowed for an appeal and 90 days for revision.

An Honourable Member: Quite the reverse.

Mr. B. N. Misra: This is because our people have to come from vast distances and perhaps the people affected or their relations may not have time to travel these long distances and prefer an appeal since they live in out-of-way places and I think if they have to walk, it will take a long time. So this thirty days is, I think, too short a period. This Criminal Procedure Code has been in existence for so many years and people have got accustomed to this period of sixty days for appeal owing to the difficulties of conveyance and other things. We have to consider very carefully this curtailing from sixty to thirty days. It will be extremely difficult for the relations of these men who may be hanged or sentenced to transportation, to come: they may not know at all. From what we know of this terrorist movement, it is not a public movement; and it may not be known to their friends and relatives. In some cases these people are away from their homes and their parents and relations may not know that these so-called crimes have been perpetrated by them and they do not know why or how or what happened or they may come as *amicus curiae* to prefer an appeal or assist in the conduct of the case; but if the period is curtailed to thirty days, how it will be possible for these people to know? These people may have been misled: they may be students in Calcutta and, while reading there in the colleges, somehow or other they may have been caught in this movement or become anarchists. But on nobody's forehead is written that he is an

anarchist. A boy might have been misled or he might have been a good student: but if he is taken for an anarchist, then he comes under this Bill or law

Sir Muhammad Yakub: He will not come under this law.

Mr. B. N. Misra: Oh, yes. He will come under this Bengal Suppression of Terrorist Outrages (Supplementary) Bill. As I say, there is no caste or class written on their foreheads, Muhammadan or Hindu, to show that he is such and such a person or an anarchist. Can anybody point out that he is such and such an anarchist merely by looking at him? This is a new definition. You have to spot him: you have to find out whether he is an anarchist or not. I am just now reminded of what happened some 10 or 12 years ago. There was some Sitaramaraju who was doing havoc in Madras—not our Mr. Sitaramaraju who sits in front of me—I am not talking of him: but some 10 or 15 years ago, what happened was this: there was a man called Sitaramaraju and probably there was some misunderstanding between this man and his Police Inspector—this man was a police constable and probably he had a beautiful wife and the Police Inspector cast evil eyes on her and then he appealed to all the authorities to help him; but the authorities never helped him or listened to him and, therefore, the man became convinced that there was no truth or justice in the British Government and, therefore, he became a declared anarchist on account of the folly of the Government and their officers. Some people become anarchists, because they do not get justice and then they come prepared to shoot a man and kill him. That is what we read in the papers. So there must be something wrong for which these people take recourse to this. Instead of the Government employing some C. I. D. officers to find out such acts of folly and stupidity which drive these men to anarchism, they simply want to shoot men and kill them. This Government, being a wise and powerful and big Government, ought to try and find out why these few people—after all they are only a few hundreds or less—go and do this sort of thing. They do not try to find

4 P.M. out as to why these people become anarchists. If the Government are really sincere about the matter, such a powerful Government as this Government can very easily find out the causes which lead young men to become anarchists. Instead of trying to find out the real causes, they simply catch hold of some and hang them by calling them anarchists. They do not care to find out the defects and shortcomings of their own subordinate officers like District Magistrates, Police-Superintendents and others. Therefore, I feel that the thirty days provided here for preferring an appeal is too small a period. Poor people who suffer at the hands of the police cannot command aeroplanes or special trains. They naturally take a long time to collect the papers and get copies of the documents. You cannot prefer an appeal without getting a copy of the judgment, and I think the Limitation Act provides that time for obtaining a copy of order must be excluded. If you give 80 days' time, I think the High Court will have no powers, because you will be taking away the beneficial powers given under the Limitation Act for obtaining copies and other things. The man concerned may not have money or he may have other difficulties. So the period of 80 days provided here for preferring an appeal is too small and it should be extended.

Then, Sir, in clause 5 of this Bill, it is stated that "Notwithstanding the provisions of the Code, or of any other law for the time being in

[Mr. B. N. Misra.]

force, or of anything having the force of law" and so on. I cannot understand how "anything having the force of law" have the force of law. (Laughter.) It must be made clear by the Honourable the Law Member. I cannot understand how a thing can have the force of law. It is for the Law Member to explain as to what he means by the expression "or of anything having the force of law", how a thing can have the force of law, I cannot understand. (Laughter.) After all, the anarchist movement is not such a movement as the movement of the Law Member and the Home Member (Laughter), and, therefore, I cannot understand what is meant by a thing having the force of law. As I was saying in the beginning that 90 days are allowed for revision in appeal cases . . .

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The Honourable Member is repeating himself,

Mr. B. N. Misra: I am merely pointing out the difficulties of the people who will be affected by this measure. Government merely catch hold of some people and hang them; they merely give a dog a bad name and hang it; similarly they catch a man and call him an anarchist.

An Honourable Member: How many times have you given this reference?

Mr. B. N. Misra: I think my friends are somewhat impatient, and so I shall not be very long,

An Honourable Member: No, no.

Sir Muhammad Yakub: It is a pleasure to listen to you.

Mr. B. N. Misra: Sir, I support the motion of my friend, Mr. Mitra, for circulation.

Major Nawab Ahmad Nawaz Khan (Nominated Non-Official): Sir, as I like the people of Bengal and their province, so I have great sympathy for them. I am really sorry to find that the terrorists are sucking the blood of the Bengalis, and destroying the prosperity and peace in Bengal. I am surprised to see that while some Honourable Members admit that they are against the terrorist movement, yet they generally try to oppose any measure which is brought forward in this House to check the terrorist activities. I cannot understand this kind of mentality. I come from a province where plain speaking is considered to be much better than hypocrisy. I would have appreciated the force of the arguments of my Honourable friends if they had stood up and said that the terrorist movement was a very good thing and that it was useful politically in the interests of India, and then they could have advanced any arguments against any measure brought before this House; but I cannot understand how when in one moment they say that they are opposed to the terrorist movement but, in another moment, many of them directly support that movement by putting forward lots of amendments in order to make the Bill ineffective or by providing so many loopholes under many excuses and generally in the name of curtailing the powers of the

High Court, and sometimes complaining about the police and so make the mask of their arguments so thin that any sensible man can understand what is behind the mind of those who resort to putting forward these amendments and many other objections. No reasonable man in this House can believe that our able Law Member is against the powers of the High Court

An Honourable Member: Of Calcutta.

Major Nawab Ahmad Nawaz Khan: not only of Calcutta, but of any High Court. He is an eminent lawyer. He has been brought up in that atmosphere. Therefore, it is hardly fair for people with lesser experience and having much less legal knowledge, with much less patriotism to say that the Law Member is for the curtailment of the powers of the High Courts, or that he is doing a lot of injustice to the Bengalees or he is going to ruin his province.

An Honourable Member He is a Bengal man.

Major Nawab Ahmad Nawaz Khan: That fact is too well known to every body here. The difference only is this. He holds a position of responsibility for maintaining law and order. He treats everything equally whether the law and order is broken by a Hindu, or by a Muslim, or a Sikh or anybody else. But those, who have not got the responsibility at all and have got a different atmosphere in which to move, have to please their constituencies, they have to look to their future votes in the elections. They have to show to the public how gallantly they have fought against the Government for them. I do not blame them for it, because that is the only proper channel for them to show their work to the public. But, after all, we have a greater duty than that. If we go on directly or indirectly supporting the terrorist movement, what would be the result? Do the Honourable Members think that any Government will leave the country into the hands of the terrorists? No Government on earth can or will do that. It is wrong to think so, if one thinks why all the previous measures have not been very successful against the terrorists. The cause of their failure was because those measures were weak, and if the present measure does not succeed, it means it is not quite sufficiently strong. If the opposition becomes stronger, the Government have to become stronger still. If Honourable Members ask that this Bill should be given up, let them suggest a better and stronger measure for eradicating this evil, but it is no use saying, be lenient, be lenient, be lenient. We have seen the results of that policy in Lord Irwin's time. He went to the extreme limits of leniency, but terrorism did not stop. It grew more and more. It is no pleasure to tease somebody or ruin some class of His Majesty's subjects that the Home Member or the Law Member brings up such a measure as this. It has been forced on them. It is not a pleasure for the doctor to cut out a limb of his patient. He does it only when according to the medical science he feels that he must cut out the limb in order to save the life of the man. We have to make the executive strong enough to stop the terrorist activities.

I see one point always stressed by the lawyers about the powers of the High Courts. I must tell them that the maintenance of law and order does not only depend upon the High Court; it depends much more upon the executive, and the two arms of the executive are the military and the police. For instance, if a judge passes an order, it will have to be enforced by the executive. You may have 3,000 first class good judges of High Courts, but

[Major Nawab Ahmad Nawaz Khan.]

will they go to every town and every village and every street to enforce their orders? Sir, the Government is just like a human machinery. You do not like a good brain without a good stomach.

An Honourable Member: Cut off the head.

Major Nawab Ahmad Nawaz Khan: Those persons who do not wish to see a strong Government—let them commit suicide, so much the better. Truly speaking, it is not the Government that are bringing this measure; it is the terrorists themselves who are courting such measures. If terrorism becomes more strong, then Government will be compelled to bring in stronger measures to combat that. (*An Honourable Member:* "What can you think of stronger than this?") (*Another Honourable Member:* "Martial Law.") Whatever that may be, it depends upon the necessity and the occasion, and the judgment of that rests with the Government and not with irresponsible people. Sir, the present measure is a very useful one for eradicating the evil of terrorism from the province of Bengal. Therefore, I wish to support the Bill and oppose the amendments.

Mr. O. S. Ranga Iyer (Rohilkund and Kumaon Divisions: Non-Muhamadan Rural): I do not propose to go at this stage into the labyrinthine intricacies of legal arguments. The Honourable gentleman who just concluded his speech made a reference to a responsible Government and to an "irresponsible", he did not say, Opposition, but that is perhaps what he meant. All we are concerned with here is to put up a fight, as I believe every Opposition in every Parliament is entitled to put up a fight, against the invasion by Government of certain legal rights which have been enjoyed hitherto. I do not for a moment deny that the more spacious discussion on the wider issues have taken place in the Provincial Council, but the responsibility for widening the field of discussion here rests entirely with the Honourable the Mover of this Bill himself who need not unnecessarily have dragged us over a wider range. He could have confined himself to the legal issue and left the terrorists alone. No one on this side of the House is in sympathy with terror. Everybody wants to extirpate terror, but when you want to extirpate terror, you need not at the same time attempt the extirpation of certain of the legal proceedings which have been in practice hitherto. But that controversy would rage at a later stage when clause 5 of the Bill is taken up which excludes the interference of Courts with proceedings under the Local Act. I do not believe the Honourable gentlemen who have moved the amendments in regard to circulation, whether by referring it to the High Courts, as my Honourable friend, Mr. Mitra, wanted, or circulating it in the sense in which my Honourable friend, Mr. Sen, wanted—I do not believe that they would press those amendments to a division, for after the observations made by Mr. S. C. Sen, it is pretty clear that such a pressing of the amendments to a division would become superfluous. We admit that clause 3 of the Bill is a salutary one. Nobody on this side of the House has objected to clause 3. As pointed out in the Notes on Clauses, this clause now supplements certain provisions by providing for appeal to the High Court in all cases in the Presidency-town of Calcutta where there is no Court of Session, and for appeals in the mufassil in the more serious cases. But our controversy would be when clause 5 of the Bill is taken up, which I believe will be pressed to a division. With these few words I conclude my observations.

Some Honourable Members: Let the question be now put.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): I accept the closure. The question is that the question be now put.

The motion was adopted.

The Honourable Mr. H. G. Haig: Sir, I need not delay the House by arguing at any length the question of the amendments that have been put forward for circulation of the Bill. I have the great advantage of having support for my view from both sides of the House. My Honourable friend, Mr. Anklesaria, argued very effectively that there was no necessity and no advantage in circulating this Bill to High Courts and it has been admitted frankly on the other side by my Honourable friend, Mr. Sen, and just now by the Honourable the Deputy Leader of the Nationalist Party that in fact it would serve no useful purpose. The powers which the Bengal Suppression of Terrorist Outrages Act is replacing come to an end at the end of this year and, therefore, the supplementary powers which we require for the Bengal Suppression of Terrorist Outrages Act are required by the end of this year. It is quite obvious that no motion for circulation would meet those conditions, and that the further discussion of this Bill would have to be prolonged far into the next Session. |

It is also unnecessary for me, I think, to deal with certain suggestions that were made at an earlier stage of the debate which, I must confess I did not quite understand, that this measure curtailed or interfered with the right of appeal. As my Honourable friend, Mr. Ranga Iyer, has just now pointed out to the House, the measure on the contrary provides an appeal which otherwise would not be possible, namely, an appeal to the High Court. I must, however, say something about the speech delivered this morning by Pandit Satyendra Nath Sen. I think that the Honourable Member endeavoured both to minimise the activities of the terrorists and to suggest that the Government were responsible for such activities as did take place. His first saying was that Government smell terrorism everywhere. Well, Sir, I think the Honourable Member must be deficient not only in the sense of smell, but in all the five senses if he is not aware of the long catalogue of outrages which have characterised the terrorist movement. It is no question of the Government's smelling terrorism, but terrorism obtrudes itself upon the attention of every reasonable person. Apparently, however, it does not obtrude itself on the attention of the Honourable Member. So indifferent is he to the activities of the terrorists that he was actually under the impression that the shocking outrage at Pahartali involved no casualty. I have looked up the facts. Actually on that occasion one woman was killed, ten persons were seriously injured, three of them being women and seven men, and three others were slightly injured. And yet that outrage had apparently escaped the notice of the Honourable Member. He assured us at the beginning of his speech that he had no sympathy with terrorism. I think, Sir, it needs no assurance to show us that he has no sympathy with the victims of terrorism. Then, Sir, his second statement was that terrorism begets terrorism and by that he apparently intended to indicate that it was only the actions of Government which drove the terrorists to these outrages. That, Sir, appears to me to be an amazing inversion of the facts and I should like to illustrate that by an example, which he himself gave, the chain of incidents that happened at Chittagong. The first was a very daring and effective raid which was made in April, 1930, by a large band of revolutionaries on the armoury at Chittagong. It was made at

[Mr. H. G. Haig.]

a time when the Government of Bengal had recently allowed part of their special powers against the terrorists to lapse. It was made within a month of the lapsing of those powers. Surely the Honourable Member does not suggest that this was done in retaliation for action taken by the Government. And then we come on, in August, 1931, to certain deplorable events on which the Honourable Member has laid great stress. There were certain excesses committed. That has been admitted by the Government and the Government have no wish to condone them. But, again, what led up to that? It is well known that a very popular Police Inspector, Inspector Asanullah, was brutally murdered at a football match and that was too much for the discipline of some of the officers of Government. Then, in September, 1932, came this Pahartali outrage. Does the Honourable Member really suggest that that was in retaliation for what happened at Chittagong over a year before in August, 1931? Once the facts are examined, the theory breaks down completely.

Now, Sir, I pass on to the observations of my Honourable friend, Mr. Sen. He gave us a long history of the terrorist movement and the lesson he sought to draw was that the length of that movement proved that our methods had not been successful and that we must seek new methods. My answer is this. Those methods have at any rate kept the terrorist movement within bounds and there have been times when it has practically ceased. As I read the history of that movement, what has happened is that whenever the precautions have been relaxed, the movement has revived. That was markedly the case in the years immediately preceding that outrage in Chittagong which I just mentioned in 1930, from which point the present revival of the terrorist movement may be dated. For some two or three years before that, the action of Government had been steadily and deliberately relaxed and, just when that policy was very nearly completed, came this big revival of the terrorist movement. That, Sir, may suggest to the House that we cannot afford to relax our precautions. And, after all, what other remedy is there? The Honourable Member attempted to suggest something. He said, "why not have an inquiry, why not have another Rowlatt Committee?" But, Sir, the work of inquiry has already been done by that very Rowlatt Committee. That was precisely why the Rowlatt Committee was appointed. They went most elaborately into the causes and the mentality, as well as the remedies for that terrorist movement, and actually our present policy is based on the recommendations of the Rowlatt Committee. The Honourable Member finally was driven to state what I cannot help looking upon as very insignificant and inadequate causes to account for this terrorist movement. He suggested three things, I think, the removal of which might bring it to an end or bring about an improvement. One was that Government should not consider its prestige. Does the Honourable Member really consider it a matter of prestige that Government should take action when its officers are murdered? Then the second was that we should separate the Executive and the Judicial. Well, I find it difficult to believe that the terrorists are interested in such matters as the separation of the judicial and the executive functions. Their minds move on much wider lines. They think, if I may say so, far more vigorously than the Honourable Member who puts forward these suggestions. They have a wider ambition. They are not going to be satisfied with the separation of the Judicial from the Executive. In the third place, I think my Honourable

friend suggested that if a particular officer of Government were not in his place, the terrorists would be placated. Well, Sir, the reputation of Mr. Prentice requires no defence. But I would suggest to my Honourable friend that those again are not the kind of causes of this terrorist movement. We have to go far deeper than that. These men are, in fact, devoted to their cause, wrongly devoted to their cause no doubt, but they are, as far as I can judge, deeply devoted to their cause, and it is a matter of great difficulty, and I am afraid it will be question of a very long period before we can root out this terrorist movement and this terrorist mentality. Now, the Bengal Council, who knew the facts, passed this Bill by a large majority. We are not really sitting in judgment on what they did. We are merely discussing a small measure which supplements theirs. Sir, this terrorism is a poisonous growth which must be rooted out, and we are bound to give the Government of Bengal all the assistance they require in rooting it out. (Loud Applause.)

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That the Bill be circulated for the purpose of eliciting opinion thereon by the 31st of January, 1933."

The motion was negatived.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That the Bill be circulated for the purpose of eliciting opinion of the various High Courts in India by the end of December, 1932."

The motion was negatived.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That the Bill to supplement the Bengal Suppression of Terrorist Outrages Act, 1932, be taken into consideration."

The motion was adopted.

Clauses 2 and 3 were added to the Bill.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That clause 4 do stand part of the Bill."

Mr. Sen.

Mr. S. O. Sen: Sir, I move:

"That clause 4 of the Bill be omitted."

The Bengal Government have adopted section 19 of the Bengal Act. Now, if their adoption is valid and within their power, I do not see why we should interfere with that. If, however, that is beyond their power,

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I do not see why we should validate the same. Now, what is the power conferred by section 19:

"Except as provided in this Chapter, no proceeding or order purporting to be taken or made under this Chapter shall be called in question by a Court and no civil or criminal proceedings shall be instituted against any person for any act in good faith done or intended to be done under this Chapter."

Sir, this provision gives an indemnity to the Government officials mentioned in the Act from all consequences of their action whether they may be excesses or *ultra vires*. The Honourable the Home Member, when introducing the Ordinance Bill, I think, admitted that there were certain cases of excesses, and with regard to the catalogue of excesses which were put forward before him by some of the speakers on that occasion, he told the House that he also had treasured extracts from other sources to show that excesses had been committed by the people also. I fully admit that, Sir, but the excesses committed by the people are to be punished and were punished, but what about the excesses committed by his own Department, by the police or by other Government officials? Has any action been taken against them, or is there any possibility of any action being taken against them? I admit, there have been excesses committed by the people, and such excesses have been or are liable to be punished, but what about the punishment of officials who, as the Honourable the Home Member himself admitted, had also committed excesses? That is the point which goes to the root of this clause. If you have a clause like this on the Statute, it is a sort of a premium for the subordinate officials to go wrong. They know that they cannot be hauled up; they cannot be punished in a Court of law and, therefore, they act with a sense of irresponsibility which is very peculiar in this country. My friend, Mr. Mitra, quoted the other day certain excesses committed by the punitive police at Midnapore. I do not think the Honourable the Home Member was cognizant of those excesses nor could he deny them. All the same, I would ask him what steps have Government taken in connection with those excesses? Were those men punished? No. The Government keep their mind open and never look at these things. If you have a clause like this, it is bound to re-act on the Government themselves. Moreover, a provision like this was in the Ordinance and, since then, certain safeguards have been added to the Bengal Act. What about those safeguards? If they are not acted upon and if they are disregarded by the executive, what would happen? Nobody can take action against the police and those persons who wilfully safeguards have been put forward. The proviso to section 4 of the Bengal Act disregard these safeguards? Sir, I will mention the clauses in which such Act was not in the Ordinance:

"Provided also that the land or building—

- (a) shall not be so utilised as to wound the religious feelings of the owner or of the persons who were in occupation when possession was taken; and
- (b) shall not, as far as practicable, be so utilized as to interfere with access to any place of worship situated in or contiguous to the land or building."

Supposing this safeguard, which was put by the Bengal Council, was disregarded by the District Magistrate or by his subordinates, what would happen then? May I ask the Honourable the Home Member if there is any remedy for the owner to ventilate his grievance and, if so, where?

Section 19 debars his taking any action. Then, again, Sir, I would refer the Honourable the Home Member to the proviso to section 11:

"Provided that before passing any order under this section, the District Magistrate shall satisfy himself that such order is not of a harassing or humiliating nature or incompatible with the ability or position in life of the person concerned."

That is a very important proviso. We have known of cases during the Partition days when respectable zamindars were made special constables. Even now, if I remember aright, some of the respectable pleaders of Noakhali were appointed special constables for the purpose of accompanying a postal peon from door to door. That was the order given by the District Magistrate of Comilla and, if I remember aright, similar orders were passed also on certain respective inhabitants in some other parts of the country. To avoid all those difficulties, this clause has been added. Now, supposing the District Magistrate is to disregard this clause, where is the man to go to? Of course, under the Criminal Procedure Code, when a person is appointed a special constable, the man can go before the High Court and that was done during the Partition days. But now you are debarring the High Court also from taking any cognizance of such a matter as this. How is that to be remedied? I appeal to the Honourable the Home Member to consider this matter and then to say what remedy that man has. He will say: the District Magistrate cannot do all these things. I know the Civil Service is considered to be infallible—next to God it is infallible—but we do not believe that. Then, Sir, section 14 also provides for safeguards. There it is said:

"If any person disobeys or neglects to comply with an order made, direction given, or condition prescribed, in accordance with the provisions of this Chapter, the authority, which made the order, gave the direction or prescribed the condition, may take or cause to be taken such action as it thinks necessary to give effect thereto, but shall not in any case inflict more harm than is necessary for such purpose."

Supposing more harm is done, what would be the remedy? Of course, it is a very debatable point whether more harm has been done or not, but there is such a thing also in the Indian Penal Code as regards private defence by a person and it is there stated that he shall not use more force than is necessary. Here also he cannot do more harm than is necessary. I know of cases in Calcutta where, because the inmates of the house were sleeping, the police got on to the top and broke all the sashes that they could find. Sir, what is the remedy which the Home Member suggests, should be given to the man if these safeguards are not complied with? Then, Sir, I come to clause 15, the proviso of which is very important. It says:

"The Local Government may exempt any person or class or section of such inhabitants from liability to pay any portion of such fine:

Provided that such exemption shall not be based upon communal or racial considerations."

This clause is very very important. Supposing that is done, what is the remedy? I would ask the Honourable the Home Member to tell me if there is any remedy open to me to protest against that order? None whatever. I will also ask the Home Member in all seriousness whether he considers that such a section should be on the Statute-book at all? Sir, the Honourable the Home Member's objection to the interference by Civil

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Courts is, as stated by him at the time when he introduced the Bill, as follows:

"The next provision, clause 4, extends the effect of section 19 of the local Act. The Bengal Council, in passing their Act, felt it necessary to provide that orders made under the emergency powers which are conferred by the first part of the Act should not be called in question by any Court, and I think it is obvious that if these powers are to be effective, they cannot be made subject to injunctions of the Courts."

I do not know in what sense the word "injunctions" has been used by the Home Member. Does he mean the legal injunction, an injunction issued by a Court to restrain a public officer from doing certain things which under this Act he is authorised to do? If that is so, I do not think that his apprehension has any value whatever. These are all executive actions provided for in this section and, as pointed out by the Honourable the Law Member, the other day, from the judgment of Sir Lawrence Jenkins, no Court can interfere with executive actions of an executive officer. Sir, under these circumstances, I submit, that a provision like this is contrary to morality, contrary to law and contrary to commonsense. I move my amendment.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Amendment moved:

"That clause 4 of the Bill be omitted."

The Honourable Sir Brojendra Mitter: Sir, my Honourable friend, Mr. Sen, addressed this House as if clause 19 of the Bengal Act were before this House, and all his arguments were addressed to that point. I shall show presently that his argument would lead to an anomaly. Section 19 we cannot touch, because it has been passed by the Bengal Council . . .

Mr. S. C. Sen: But we can refuse to validate.

The Honourable Sir Brojendra Mitter: What is the effect of section 19? The effect is that if any cause of action arises in the districts, then, by virtue of section 19, there is no remedy. I put it baldly like that.

Mr. S. C. Sen: I fully appreciate that.

The Honourable Sir Brojendra Mitter: If all the cases, which my friend cited, arose in the districts, then, as it is, there is no remedy. My friend asks, if the safeguards under section 4 or 11 or 15 were disregarded, what answer has the Home Member? What remedy is there? After the passing of the Bengal Act, if the acts were done in good faith, there is no remedy so far as the districts are concerned. We are not doing anything here to shut out remedy which is otherwise available. What we are at present doing is this: we are extending section 19 to the town of Calcutta: that is all: Section 19 bars the jurisdiction of Civil Courts. It is an indemnity section providing that no proceeding or action shall lie against an officer acting in good faith. My friend all the time ignored those significant words in section 19—the action must be in good faith. If the action be not in good faith, the protection under section 19 is not available. If the protection, which section 19 gives to the officers in the districts, be not extended to officers in the Presidency-town of Calcutta, then, if the cause of action arose in Calcutta, a suit or proceeding would lie in the High Court. The Local

Council had no jurisdiction to deal with the matter; and that is stated in the Statement of Objects and Reasons:

"Section 19 of the Local Act (Bar of jurisdiction in certain matters) cannot affect the jurisdiction of the High Court. This clause of the Bill extends the bar of jurisdiction to the High Court also."

To my friend's illustrations as regards the disregard of safeguards or excesses by the police and so on, my short answer is this, that if the act is not done in good faith there is no protection. All remedies under the ordinary law are available to the aggrieved person. If the act is done in good faith, section 19 gives protection in the districts; and clause 4 purports to extend that protection to officers in Calcutta. Sir, I oppose the amendment.

Pandit Satyendra Nath Sen: Sir, perhaps being a layman I failed to catch the exact import of this mystic clause. It has now been made clear by the Honourable the Law Member that this Bill provides some remedy so far as Calcutta is concerned: for the district there is absolutely no remedy. In other words, they rest entirely on the mercy of the police. When we remember that there are reactionary papers in this country, like the *Statesman* conducted by my Honourable friend, Mr. Arthur Moore, we have reasons to believe that the police may be encouraged in acts of violence in some cases. I shall only present this House with . . .

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Has the Honourable Member realised what the issue before the House is?

Pandit Satyendra Nath Sen: Yes, Sir.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): What is it?

Pandit Satyendra Nath Sen: I find that these are meant to be executive acts . . .

Mr. President (The Honourable Sir Ibrahim Rahimtoola): That is what the Chair thought: the Honourable Member has not realised the real issue before the House. The Bengal Council has given indemnity for acts throughout the whole of Bengal. This clause proposes to extend that indemnity to the town of Calcutta. That is the issue, and if the Honourable Member has anything to say on that issue, objecting to its extension to Calcutta, or anything of that kind, he would be relevant, not otherwise.

Pandit Satyendra Nath Sen: Yes; my point is that these acts are extended to Calcutta also . . .

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Proposed to be extended.

Pandit Satyendra Nath Sen: . . . and so far as Calcutta is concerned, these acts are to be regarded as executive acts and there is no remedy. We have read about the divine right of kings, but we have not yet heard about the divine right of the police or of the Magistrate. This amounts to saying that the police can do no wrong. In the circumstances, I think the original Act is most atrocious and what this clause wants to do is to extend that Act to Calcutta also. Therefore, I want to omit this clause.

Mr. S. C. Mitra: Sir, Mr. Sen in his very lucid speech gave all the arguments for the deletion of this clause. In reply to him all that I could understand the Law Member to say is that because the Government of India think that the Local Government had no power to enact such a law for the City of Calcutta, it is required to have it passed by this House. Now, putting his argument at the highest, it is said because some law for which we have heard no explanation has been enacted for the rest of the province—why, such a law may be immoral, there may not be any justification for it to be extended to the City of Calcutta

The Honourable Sir Brojendra Mitter: I emphasised good faith.

Mr. S. C. Mitra: My argument is that Mr. Sen narrated several cases, provision for which has been made in the Bengal Act itself. If those things are not adhered to or not followed by officers, what are the remedies of the aggrieved party? To that question I think the Honourable the Law Member has not replied. He merely said that if a man does anything in good faith, he is justified to do any kind of wrong; he can forfeit a man's property; he can search or detain a man wrongly; he need not follow the rules embodied by Government in their own laws; he can ride rough shod over everything, provided there is the one element of good faith; and that is the reason why we said earlier in this debate that this law was even worse than martial law. There is a law of indemnity passed later on and officers know that they run a risk before the law of indemnity is passed where the whole question may be discussed. Here, before we enact a law, we tack it with indemnity clauses thus making all the people reckless. They have only to say that they did it in good faith, and then the jurisdiction of the Courts, both civil and criminal, is ousted

The Honourable Sir Brojendra Mitter: Mere assertion of good faith will not do; it must be good faith.

Mr. S. C. Mitra: My difficulty is this. The Courts will hold, this being an executive order under the law, they have no jurisdiction. If they enter into the merits of the case, then only the question of good faith will arise. As a matter of practice, the Courts will be unwilling, under the provisions of this Bill, even to entertain any such application whether it is in the nature of a civil or criminal remedy. That is the reason why, though we cannot go into the merits of the Act passed by the Bengal Council, we should not, with our eyes open, extend it to the City of Calcutta, even though it has no justification on its own strength. For these reasons I support Mr. Sen's amendment.

The Honourable Mr. H. G. Haig: My Honourable colleague, the Law Member, has clearly explained the practical effect of this provision, and I do not think I need add anything to what he said. I would merely say this with reference to what my friend, Mr. Sen, has said. He gave, as an illustration of his argument, the proviso to section 11:

"Provided that before passing any order under this section, the District Magistrate shall satisfy himself that such order is not of a harassing or humiliating nature"

That, I think, affords a good example of a case in which one cannot really, if these provisions are to be effective at all, allow a Civil Court to hold an inquiry which might extend over six weeks or two months as to whether a proposed order was of a humiliating nature or not, because in the meantime the executive will be paralysed. It seems to me, Sir, it will be impossible in the case of executive orders of this character which are, I would remind the House, intended to meet very special conditions and only applied in particular areas where the terrorist movement is particularly active, it is, to my mind, impossible in the case of executive orders of this kind, to allow references and long arguments before Civil Courts.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The question which I have now to put is:

"That clause 4 of the Bill be omitted."

The motion was negatived.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That clause 4 do stand part of the Bill."

The motion was adopted.

Clause 4 was added to the Bill.

The Assembly then adjourned till Eleven of the Clock on Wednesday, the 14th December, 1932.

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