

1st February, 1933

THE  
LEGISLATIVE ASSEMBLY DEBATES  
(Official Report)

Volume I, 1933

*(1st February to 21st February, 1933)*

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FIFTH SESSION  
OF THE  
FOURTH LEGISLATIVE ASSEMBLY,  
1933



SIMLA  
GOVERNMENT OF INDIA PRESS  
1933

# Legislative Assembly.

## *President :*

THE HONOURABLE SIR IBRAHIM RAHIMTOOLA, K.C.S.I., C.I.E. (Upto 7th March, 1933.)

THE HONOURABLE MR. R. K. SHANMUKHAM CHETTY. (From 14th March, 1933.)

## *Deputy President :*

MR. R. K. SHANMUKHAM CHETTY, M.L.A. (Upto 13th March, 1933.)

MR. ABDUL MATIN CHAUDHURY, M.L.A. (From 22nd March, 1933.)

## *Panel of Chairmen :*

MR. HARI SINGH GOUR, KT., M.L.A.

MR. ABDUR RAHIM, K.C.S.I., KT., M.L.A.

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

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

## *Secretary :*

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

## *Assistants of the Secretary :*

MR. MUHAMMAD RAFI, BAR.-AT-LAW.

MR. BAHADUR D. DUTT.

## *Marshal :*

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

## *Committee on Public Petitions :*

MR. R. K. SHANMUKHAM CHETTY, M.L.A., *Chairman*. (Upto to 13th March, 1933.)

MR. ABDUL MATIN CHAUDHURY, M.L.A., *Chairman*. (From 22nd March, 1933.)

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

MR. ABDULLA-AL-MAMÜN SUHRAWARDY, KT., M.L.A.

MR. B. SITARAMARAJU, M.L.A.

MR. C. S. RANGA IYER, M.L.A.

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THE

# LEGISLATIVE ASSEMBLY DEBATES

(OFFICIAL REPORT OF THE FIFTH SESSION OF THE FOURTH  
LEGISLATIVE ASSEMBLY.)

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VOLUME I—1933.

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## LEGISLATIVE ASSEMBLY.

*Wednesday, 1st February, 1933.*

### ADDRESS BY HIS EXCELLENCY THE VICEROY TO THE MEMBERS OF THE LEGISLATIVE ASSEMBLY.

**His Excellency the Viceroy:** Gentlemen, in greeting Honourable Members this morning at the commencement of this Session of the Legislative Assembly, I feel sure I am voicing their sentiments when I say how sorry I am that Sir Ibrahim Rahimtoolah, the Honourable President, has been prevented by illness from attending today's proceedings. Before giving my usual survey of the various matters of public concern upon which Honourable Members should receive information, I wish to express my thankfulness for the fact that during the past few months there has been a most satisfactory change in the political outlook throughout the whole of the country, brought about, as I think, by a feeling of confidence in the belief that I and my Government are striving with absolute sincerity to advance as rapidly as possible constitutional reforms and at the same time to secure peaceful conditions which are so essential in starting our new form of administration whereby Indians will be given the control of their administrative affairs.

It is not my purpose today to say a word on what I believe to be the reasons for this change. My object is to express my thanks to all those who are mainly responsible for bringing it about.

To the members of all the Services throughout this country I tender my grateful thanks for the devoted and loyal manner in which they have carried out their duties during the past two years, which has been a period of great stress and strain, during which we have been faced with an economic depression which has been unparalleled in our history.

My thanks are also very sincerely due to Honourable Members of our two Legislative Chambers for the helpful guidance and criticism they have given us in the discussions and decisions we have arrived at in regard to such Legislative measures as we have laid before them during the past months.

[H. E. the Viceroy.]

And, lastly, my thanks are very specially due to every class and interest in this country for the steadiness and fortitude with which they have all withstood the difficulties of the unprecedented economic depression which might well have caused considerable unrest among the vast population we have to care for.

The clouds of that depression are still over us, but I am full of hope that they will soon disappear, and that if we continue to co-operate together, each in our way towards better days, India will be amongst the first of the countries of the world to take advantage of an economic revival.

I do not propose to deal at any length with Foreign Affairs, since happily there is little information to give Honourable Members of the past six months except that India's relations with her neighbours have continued to be of the most satisfactory and friendly character. You will be glad to learn that our policy of peaceful penetration among the tribes of the North-West Frontier is producing excellent results, and I am informed that the administered districts of the North-West Frontier Province are enjoying unprecedented freedom from trans-border raids. I may also take this opportunity of acknowledging the friendly co-operation which we have received from the Afghan Government in dealing with the tribal problems on our common border. With regard to our other frontiers I must express my deep regret at the lamented death of His Highness the late Maharaja Sir Bhim Shumshere Jang Bahadur, Prime Minister and Commander-in-Chief of Nepal, whom I had the honour of entertaining in Calcutta little more than a year ago. This sad event has robbed Nepal of a distinguished statesman and India of a staunch friend, but we can find consolation in the fact that he has been succeeded by one whose qualities as statesman, soldier and friend give us all confidence that the association between our two countries will be as close and mutually helpful in the future as it has been in the past.

In September last I made a reference to the unsatisfactory economic position of the Indian agriculturist. There has been some further improvement in the situation since then, and such evidence as is available encourages the hope that the worst period of depression is over. The winter crops have been good in most parts of the country, and prices of agricultural produce, though still low, maintain an upward tendency. Meanwhile, wherever necessary, Local Governments continue to give relief by advancing loans and granting suspensions and remissions of land revenue cess. Of the special measures under consideration by certain Local Governments which I mentioned in my last address, the Central Provinces Debt Conciliation Bill is expected to be passed into law shortly. The report of the United Provinces Agricultural Debts Committee is now before the Local Government who are also endeavouring to find a formula for adjusting rent and revenue automatically with major fluctuations in prices without need for resort to courts.

The world-wide economic depression has inevitably had its repercussions on Indians overseas. In Ceylon and Malaya, Indian labour employed on the tea and rubber estates has felt the effect of the fall in the price of these commodities. Wages have had to be reduced, but my Government have endeavoured, successfully, with the co-operation of the Governments concerned, to prevent such reduction from adversely affecting the labourer's standard of living. For those who are unwilling to work on reduced

wages facilities for repatriation to their homes in India have been secured. Our Agents in both countries are watching the economic situation carefully with a view to safeguarding the interests of Indian labour. In South Africa also unemployment is common among Indians, especially in Natal, but our Agent there has made representations for relief to the Union Government which we have reason to believe have proved fruitful. The only other point which I need touch upon before passing from this subject is the appointment last October by the Union Government of the Commission to enquire into the occupation of proclaimed land by Indians in the Transvaal. The Commission, which is presided over by Mr. Justice Feetham of the Supreme Court of the Union, has started work, and my Government await its report with keen interest.

I followed with keen interest your proceedings during the last Session with regard to the Trade Agreement which had been made at Ottawa by my Government with His Majesty's Government in the United Kingdom, and it naturally afforded me the utmost satisfaction that the decision at which you arrived after prolonged consideration confirmed the action which my Government had taken in sending their representatives to the Imperial Economic Conference and in concluding a Trade Agreement. That your decision was a wise one I firmly believe, and I shall look forward with great interest to the results of the periodical examination which you have decided to impose on the working of the Agreement in order to test in the light of actual experience its effect upon Indian commerce and industry. I sincerely trust that this new departure in our tariff policy will be found to have justified itself and to have been of definite assistance towards that revival of commercial prosperity which we all so anxiously desire to see effected.

In my speech at the opening of the September Session I apprised Honourable Members of the notable success achieved by the Army authorities under the direction of His Excellency the Commander-in-Chief in reducing the cost of Defence; and I then indicated that the limits of retrenchment had almost, if not quite, been reached. Since then, as part of His Excellency's schemes for economy, we have been compelled to disband certain famous units, whose long and distinguished records of service must command our admiration and respect. It is with the deepest regret that I have seen the names of the Pioneer Regiments disappear from our Army List, but I have no doubt that the traditions that they have created will be worthily maintained by those of the *personnel* who are being transferred to other units of the Army.

Another measure that you will shortly have to consider is one that aims at reducing the cost of the Auxiliary Force. Our thanks are due to the units concerned for the spirit in which they have accepted the need for economy; and I think I can assure them that the measures we intend to introduce will not prejudice the efficiency of the Force as a whole.

I expect Honourable Members remember the several occasions on which I have emphasised the determination of my Government not to relax the measures in force against civil disobedience so long as the circumstances exist which make them necessary. I am glad to think that not only has that policy had the anticipated effect of reducing still further the proportions of the civil disobedience movement, but that it has commended itself to the judgment of an ever-increasing number of moderate men, who realise the harm done to the political and economic interests of the country by the disastrous policy pursued by the Congress. In order to prevent

[H. E. the Viceroy.]

a recrudescence of the civil disobedience movement, it was necessary for my Government to ask the Legislature to strengthen the general law by the inclusion of a considerable number of the provisions of the consolidated Ordinance, which expired at the end of December. It is an invidious task for a Legislature to enact special, even though temporary, measures of this character, and it cannot be expected that a Legislature will shoulder that responsibility unless it is convinced of the reality of the menace from which the country requires to be protected. The experience, however, of the last few years has made that menace too plain to be ignored, and not only the Central Legislature, but the Legislatures in all those Provinces where the civil disobedience movement has been most intense, have with no uncertain voice given to the Governments the powers whereby the forces of disorder can be kept in check and to the country the prospect of a steady return to peaceful conditions. The Acts which are now on the Statute Book will not be permanent, but will be in force during the difficult period of transition from the present to the new constitution, when there is a special risk of certain elements in the population trying to substitute the methods of revolution for those of constitutional and orderly progress. I trust that when the period for which these Acts will remain in force has expired, those, in whose hands the power will then rest, will find themselves able safely to discard them, and that the threat which direct action presents to the evolution of constitutional self-government will have been destroyed. I regret that there are not as yet any open signs of a recognition on the part of the leaders of the civil disobedience movement of the harm their policy has caused to the country. Though their efforts to revive enthusiasm meet with little success, they still remain pledged to that policy. I am firmly convinced, however, that the march of events will gradually carry them further and further away from the sterile methods of negation and obstruction, and that in spite of themselves they will find that they are caught up in the living forces of constructive politics which the near approach of the new constitution is releasing on all sides.

I must refer once more to the sinister terrorist movement in Bengal. Shortly after I last addressed the Assembly, two serious outrages occurred, the dastardly attack on the Railway Institute at Pahartali, near Chittagong, and the second attempt, fortunately again unsuccessful, against the life of Sir Alfred Watson, Editor of the *Statesman*. Since then there has been some improvement in the situation. The Bengal Legislative Council have given the Bengal Government all the powers for which they have asked, and have passed a special Act aimed at the suppression of terrorist outrages, and a further Act which enhances the punishments for offences in connection with fire-arms and explosives, and, it is hoped, will operate as a deterrent to those who, either to assist the terrorist movement or merely for gain, smuggle arms into the Presidency. The despatch of troops to the Province has also had a reassuring effect on the loyal population, and I believe has helped to convince the anarchical elements that Government are prepared to use all their powers to stamp out this evil. But it is not merely by arrests and police measures that the movement can be eradicated. The Members of this Assembly have recognised that much can be done, by influencing public opinion, to warn the youth of Bengal against allowing themselves to become entangled in murderous conspiracies, dangerous to their country and ruinous to themselves. And I hope I am not too sanguine in thinking that I can

signs that public opinion is ranging itself in a more practical way against the doctrines that lead these young men astray, and that there is a growing recognition that the success of these methods of terrorism would be fatal to the hopes of peaceful progress in the Province.

Honourable Members will doubtless have studied, with care and with interest, the reports as they appeared day by day in the Press of the proceedings of the Third Round Table Conference which concluded just before Christmas. As on the previous occasions my Government have made arrangements to bring out an Indian edition of the valuable reports which represent the labours of the Conference. I understand that copies are now available and have been supplied to all Members of the House.

Honourable Members will not expect me to review in any detail the work done by the Conference; but I may be permitted to pass on some of the general impressions it has left on my mind. From accounts reaching us a signal feature was the determination of all who participated in the deliberations, whether on the British or on the Indian side, to get to grips with the difficult problems with which they were confronted and hammer out practical solutions calculated to carry with them the greatest common measure of consent. I have been impressed by the workmanlike way in which one complicated subject after another was taken up and discussed, and the conclusions reached expeditiously recorded for future use and guidance.

My next impression is of the general goodwill which is so clearly seen to have animated the discussions. Even where differences of opinion have remained, mutual respect for views strongly felt has asserted an influence which is itself of good augury for the future.

My last and strongest impression is of work well done and another milestone behind us on the road of constitutional advance. There is no tarrying on that road. Steadily and surely the march to Federation proceeds.

Since their return from England I have taken the opportunity to meet individual delegates in order to place myself in direct touch with their views. From remarks they have made to me it is clear that the personal contacts they established at home with members of the British delegation have left them in no doubt of the evident intention of His Majesty's Government to press on to a conclusion the great work to which they have set their hand. There is one passage in the speech of the Secretary of State at the conclusion of the Conference to which I would particularly refer. You will remember that some pressure was put on the Secretary of State by members of the Indian delegation to enter a definite date in the Bill at which time the Federation should come into being. The Secretary of State explained the grave difficulties in the way of that suggestion, but gave two pledges, the importance of which has, I feel sure, not been lost on public opinion in this country. In the first place the Secretary of State declared that it is not the intention of His Majesty's Government to inaugurate any kind of provincial autonomy under conditions which might leave Federation to follow on as a mere contingency in the future. In the second place, speaking not only for the British Government, but for the British delegation as a whole, he stated that between now and the passage of the Bill His Majesty's Government would do everything within their power to remove any obstacles that may at present stand in the way of the Federation coming into being at as early a date as possible. These assurances were given as a declaration publicly made of the course His Majesty's Government have set themselves to follow.

[H. E. the Viceroy.]

Let us then pause for a moment and take stock of the position. The series of three Round Table Conferences has completed the period of preparation. It now lies with His Majesty's Government to place their proposals before Parliament. The broad lines of their programme are already known to you. They intend without loss of time to embody their scheme of constitutional reform in what is commonly described as a White Paper for presentation to Parliament. The White Paper, though not itself a Bill, will contain the definite proposals of His Majesty's Government. The public memory is sometimes short, so I take the liberty of reminding Honourable Members of the reasons given for the procedure contemplated. As the Secretary of State has said, it has been the intention of successive Governments that a Joint Select Committee of both Houses of Parliament should be called upon at some stage to examine the proposals for constitutional reform. In recommending to Parliament that this important task shall be performed before any Bill is introduced, His Majesty's Government (and here I am quoting the words used by the Secretary of State last year) hope to facilitate Indian co-operation and ensure its effective influence in what is probably the most important stage in the shaping of the constitutional reform and at a time before irrevocable decisions are taken by Parliament. The procedure Parliament will follow, once the White Paper has been presented, is of course a matter for Parliament itself to decide; but I have no doubt that the Secretary of State will shortly make clear the exact intentions of His Majesty's Government as regards the lines of future procedure and I am confident that places will be found for some representatives of the Indian Legislature among the persons to be called into consultation with the Joint Select Committee. In the meantime I disclose no secrets when I say that the present is a period of considerable official activity both in the India Office and here in the departments of my Government in completing material required for inclusion in the White Paper. I can understand the impatience of those who wish to see the White Paper and study its contents. It may be expected to give a complete picture of the constitution His Majesty's Government have in mind, both for the form of government in the Provinces, and for the Federal Government at the Centre proclaiming in its shape and composition the essential unity of this great country. Pardon me if I remind Honourable Members that the preparation of a document of such transcending importance requires the closest care and attention and that this brief interval, I can give Honourable Members the assurance that it is only a brief interval, after the conclusion of the Conference is essential to enable the task to be well and truly done. ;

There is one step of vital importance in connection with the new constitution with which all of you, gentlemen, as Members of the Indian Legislature, will be directly concerned. I allude to the setting up of a Reserve Bank. I need not repeat the statements of the Secretary of State in his reported speeches at the Conference on this matter, but you will appreciate from them that it will be necessary to pass a Reserve Bank Bill during the months which will now intervene before the inauguration of the new constitution. I trust that we shall find ourselves in accord with you on all the main conditions necessary for the creation of a sound and independent Bank, and I hope that it will be possible to make known to you before the end of this Session the programme for procedure in this matter.

As regards finance, I have some matters of interest to bring to your attention. So far as the Budgetary position is concerned I do not propose to anticipate the statement to be made in four weeks time by the Finance Member. But, as you know, important transactions have been proceeding recently as regards the public debt, and I think it may be appropriate if I take this occasion to tell you something of my Government's plans and expectations in this field. In all that we are doing now we have one paramount object in view, and that is to prepare the position for the Indian Government under the new constitution so that the financial foundations may be sound and so that the new Government may find itself freed from embarrassments in its early years. For this purpose it is particularly important that the large volume of short term debt maturing over the next few years should be converted into long term securities, so that the new Government may find itself freed from the anxiety of having to meet substantial loan maturities during its early years.

A second object of great and immediate importance is to take advantage of the improved credit of the Government of India to reduce the rate of interest payable on Government loans.

In order to achieve these two objects we have, ever since the turn of events gave us an opportunity last year, been working according to a carefully planned programme. Since June, 1932, we have now launched no less than four important loan transactions three of which have been completed. We started with a loan to meet our immediate cash requirements in June, and followed that in August with our first conversion operation. Then in the last ten days we have taken two more important steps, first a cash loan for 15 crores for which the subscription list was opened on the 23rd January and closed in half an hour heavily over-subscribed, followed on the 24th of January by the announcement of a conversion offer for three issues totalling over 50 crores which we have the right to repay during 1933. I think I may say incidentally that this must be a record in the financial history of the Government, and I note that one very enterprising weekly journal in Calcutta had to issue special supplements dealing with our loans in two successive weeks. These last two operations were, of course, closely connected, the first having been designed to reinforce the Government's cash position and to test the strength of the market as a preliminary to the second. It has been very gratifying that our plan so far has been attended with such signal success.

Now there is one feature about this programme to which I must call special attention. At each step the level of the Government's credit has been raised, and whereas in June last we borrowed on a basis of somewhat over 5½ per cent., the last transactions show Government's credit established very nearly at a 4 per cent. level. While this steady raising of our credit has strengthened our own position and will ultimately mean substantial savings in the Budget, the process has also brought considerable profit to those members of the investing public that have taken advantage of the opportunities thus successively offered. This in itself has helped to fulfil the important purpose of restoring confidence generally, and our latest reports from investment centres show that this confidence among investors is spreading. This must not only help the general recovery of business but will afford us opportunities of still further strengthening our own position, and it is our purpose to continue on the lines hitherto so successfully pursued. This, gentlemen, is all of happy augury for the future.

[H. E. the Viceroy.]

The steps which I have just described will, I hope, lead us towards greater economies in expenditure. But that is only one side of the picture, and on the other it is of equal, or perhaps even greater importance, to consider the economic development of the country. I think it is true to say that there is now in the world, and particularly in India, a growing sense that in present world conditions some sort of economic planning is necessary for every country. My Government is very much alive to this feeling and here again we have our eyes on the future and desire to prepare for the new Government measures for providing more accurate statistical information, and for evolving a co-ordinated economic policy. I hope that we shall shortly be able to make known certain plans in this connection which are now under our consideration. At the moment I wish to call your attention to one particular matter on which we are taking action which is an important illustration of the work which requires to be done in this field. Communications and transport are of vital importance in the development of every country, but more especially to a country so vast as India. The competition of road and rail transport has produced acute problems in many countries, and, although in India these problems are not yet so acute as in some other continents, it is essential that a properly co-ordinated plan should be prepared if we are to avoid the serious difficulties which are being faced elsewhere. A valuable report on this subject has just been completed for the Government by two expert officers and we propose as soon as possible after the conclusion of this Session to hold a conference at which all Provincial Governments, the Railway Board, and certain unofficial organisations will be represented. This conference will deal with questions such as the co-ordinated development of roads and railways, the methods by which such development may be financed, the taxation of motor transport and other kindred matters. It is a particularly appropriate occasion for the discussion of these questions, because after a long period of restriction in public expenditure we are now, I hope, approaching times, when, aided by the consolidation of our financial position and the improvement of our credit to which I have already referred, and with prospects of cheap money, we may be able to initiate plans which will not only permanently improve the economic productivity of the country, but in their execution help to set money in circulation which is so necessary in the present depression.

In leaving you to your duties I earnestly pray that sound judgment and a desire for mutual understanding and goodwill may characterise this Session of the Legislature and may thus carry India further forward to the fulfilment of her legitimate aims and aspirations.



The Assembly met in the Assembly Chamber of the Council House in New Delhi, at a Quarter Past Twelve of the Clock, being the First Day of the Fifth Session of the Fourth Legislative Assembly, pursuant to Section 63-D(2) of the Government of India Act. The Deputy President (Mr. R. K. Shanmukham Chetty) was in the Chair.

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### MEMBERS SWORN :

- U Ba Maung, M.L.A. (Burma : Non-European);  
Mr. Andrew Gourlay Clow, C.I.E., M.L.A. (Government of India : Nominated Official);  
Khan Bahadur J. B. Vachha, C.I.E., M.L.A. (Government of India : Nominated Official);  
Mr. Arthur Gordon Leach, M.L.A. (Madras : Nominated Official);  
Mr. Pratap Chandra Dutt, M.L.A. (Madras : Nominated Official);  
Mr. Wilfred Wilmot Smart, M.L.A. (Bombay : Nominated Official);  
Mr. Charles Kenningale Seaman, M.L.A. (Central Provinces : Nominated Official); and  
Mr. Charles Frederick Grant, M.L.A. (Burma : Nominated Official).

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### QUESTIONS AND ANSWERS.

#### POSITION OF INDIAN STUDENTS UNDER THE IMMIGRATION RULE IN THE UNITED STATES OF AMERICA.

1. **\*Mr. Gaya Prasad Singh:** Has the attention of Government been drawn to the immigration rule in the United States of America under which any immigrant student admitted as a non-quota immigrant under the provisions of sub-division (e), section 4 of the Immigration Act of 1924, who engages in any business or occupation, or who labours for hire, shall be deemed to have abandoned his status as an immigrant student, and shall be taken into custody and deported? How will this affect Indian students in the United States?

**Mr. H. A. F. Metcalfe:** The attention of Government has been drawn to the section of the Immigration Act of 1924 to which the Honourable Member refers. I understand that the United States Department of Labour have recently announced that they will henceforward enforce as strictly as possible Rule 10, Sub-division (D) of the immigration rules of January, 1st, 1930, which reads as follows:

"Any immigrant student admitted to the United States as a non-quota immigrant under the provisions of sub-division (e), section 4 of the immigration act of 1924, who fails, neglects or refuses regularly to attend the school, college, academy, seminary, or university to which he has been admitted or who otherwise fails, neglects, or refuses to maintain the status of a *bona-fide* student, or who is expelled from such institution; or who engages in any business or occupation for profit, or who labours for hire, shall be deemed to have abandoned his status as an immigrant student, and shall on the warrant of the Secretary of Labour be taken into custody and deported."

The Department have, on the other hand, agreed as the result of protests from college presidents and educational authorities to interpret this rule so as to permit alien students to work in exchange for their room and board or in part payment for their tuition but not to obtain funds from employment outside the institution where they are studying or the lodgings in which they are residing. The rule as thus interpreted will affect Indian students in the United States in the same way as it will affect students of any other nationality and if they offend against the provisions of the rule they will be liable to arrest and deportation.

**Mr. Lalchand Navalrai:** Will the Honourable Member be pleased to state if there is any rule or law or Ordinance in India which prohibits alien students to come to this country for a special study and to be treated in the same way as the United States Government does?

**Mr. H. A. F. Metcalfe:** I am afraid I must ask for notice of that question as I have no information on the subject.

**Mr. Lalchand Navalrai:** Will the Honourable Member be pleased to say if there has been any instance in India in which such treatment has been meted out?

**Dr. Ziauddin Ahmad:** Or in any other country in the world?

**Sardar Sant Singh:** What was the practice in the United States of America before this rule was framed?

**Mr. H. A. F. Metcalfe:** Will the Honourable Member repeat the question?

**Sardar Sant Singh:** May I know what has been the practice in the United States of America up till the time this regulation was framed?

**Mr. H. A. F. Metcalfe:** I am afraid that my knowledge of the United States history is not sufficient to enable me to answer the Honourable Member's question.

**Mr. Lalchand Navalrai:** May I know from the Honourable Member if the Government of India approve of such treatment being meted out to Indians in the United States of America? If not, are they going to take any retaliatory measure?

**Mr. H. A. F. Metcalfe:** I would point out to the Honourable Member that the Government of India's approval is not necessary to matters within the discretion of the United States Government.

**Mr. Lalchand Navalrai:** Does the Honourable Member know that the Chinese Government and the Japanese Government and other Governments have, on occasions like this, actually retaliated in order to see that the interests of their countrymen are safeguarded and protected by making rules of a similar nature for the subjects of the foreign Governments concerned?

**Mr. H. A. F. Metcalfe:** I have no knowledge of any such retaliatory legislation.

**Mr. Lalchand Navalrai:** Will the Honourable Member make enquiries and take up this matter and get some protection for Indians?

**Mr. H. A. F. Metcalfe:** If the Honourable Member will put down a question on paper, I should be glad to do my best to obtain the information for him.

**Mr. Lalchand Navalrai:** My submission is this . . . . .

**Mr. Deputy President (Mr. R. K. Shanmukham Chetty):** The Honourable Member must ask a question.

**Mr. Lalchand Navalrai:** The Honourable Member said that Indian students were being treated in a harsh manner. I ask him whether the Government of India are going to give protection to them.

**Mr. H. A. F. Metcalfe:** I am unable to say what action the Government of India are going to take. If the Honourable Member will put down a question on the paper, I will do my best to give him an answer.

**Mr. Lalchand Navalrai:** May I ask whether my suggestion will be taken up or not, namely, that the United States Government should be told that this is a harsh rule and that it should be modified.

**Mr. H. A. F. Metcalfe:** I would point out to the Honourable Member that it is not for the Government of India to take such action. If they regard such action to be necessary, they can address His Majesty's Government, but whether they will do so or not is a matter for consideration.

**Mr. Lalchand Navalrai:** Will Government consider the necessity of it or not?

**Mr. H. A. F. Metcalfe:** The Government will certainly consider it.

**Mr. Gaya Prasad Singh:** May I know the approximate number of Indian students in the United States?

**Mr. H. A. F. Metcalfe:** I am afraid I must ask for notice. I cannot carry the information in my head.

**Sardar Sant Singh:** Has any representation been made by the Government to the United States?

**Mr. H. A. F. Metcalfe:** No.

## CONSTRUCTION OF THE NARBADA BRIDGE ON THE BOMBAY, BARODA AND CENTRAL INDIA RAILWAY.

2. **\*Mr. Gaya Prasad Singh:** (a) Is it a fact that the Narbada Bridge on the Bombay, Baroda and Central India Railway is shortly going to be constructed at an approximate cost of over a crore of rupees?

(b) Is it the practice in the case of State Railways that tenders are called and opened at a fixed hour in the presence of engineering representatives who compete for the work, but Company-managed Railways send sealed tenders to their Home Board for scrutiny there?

(c) Is it a fact that the proposed Narbada Bridge is estimated to consume over 13,000 tons of steel? Do Government propose to take steps to ensure that the manufactures of the materials at Jamshedpur should have the first preference in the supply and that the claims of Indian firms and constructional engineers in this country are not overlooked? If so, what? ]

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

(b) The practice on State Railways is as stated. I am not aware of the exact procedure on Company-managed Railways, but I consider it is most unlikely that such railways would send sealed tenders to their Home Boards for scrutiny as a general practice.

(c) The quantity of steel work involved is over 13,000 tons. Under the ordinary rules, the letting of a contract of this magnitude will require the sanction of the Railway Board who will take into account all relevant considerations before arriving at a decision.

**Mr. M. Maswood Ahmad:** Are Government prepared to enquire from Company-managed Railways as to the procedure they adopt about these matters?

**Mr. P. R. Rau:** I have no objection to do that.

**Mr. M. Maswood Ahmad:** Will Government be pleased to enquire what was the procedure they followed in this particular case, and will Government place on the table the result of their enquiry?

**Mr. P. R. Rau:** I have no objection to enquire and place the reply on the table in due course.

**Dr. Ziauddin Ahmad:** Will the cost of the bridge be borne by the Indian tax-payer or by the Company.

**Mr. P. R. Rau:** The cost will be debited to the capital account of the Bombay, Baroda and Central India Railway.

**Dr. Ziauddin Ahmad:** Who will pay it immediately?

**Mr. P. R. Rau:** The funds are provided by the Government of India.

**Dr. Ziauddin Ahmad:** Has the sanction of the Assembly been obtained for this purpose?

**Mr. P. R. Rau:** I believe it was included in the usual course in the estimates sanctioned by the Assembly.

#### ARREST AND DEPORTATION OF GURMUKH SINGH AND HARNAM SINGH OF THE PUNJAB AT KABUL BY THE AFGHAN GOVERNMENT.

3. \***Mr. Gaya Prasad Singh:** Are Government aware that Gurmukh Singh and Harnam Singh of the Punjab have been arrested at Kabul by the Afghan Government and deported to Turkistan or elsewhere? If so, why?

**Mr. H. A. F. Metcalfe:** Yes. They are stated by the Afghan Government to have been intriguing against that Government.

**Sardar Sant Singh:** May I know whether the Government of India were informed of the pending action before they were deported?

**Mr. H. A. F. Metcalfe:** No.

**Sardar Sant Singh:** Was any enquiry made from the Government of India about their antecedents?

**Mr. H. A. F. Metcalfe:** No.

**Mr. S. C. Mitra:** Why were they deported to Turkestan and not to India, their native land?

**Mr. H. A. F. Metcalfe:** I am not aware exactly where they have been deported. I understand they were given the option as to where they should be deported.

**Sirdar Harbans Singh Brar:** Did the Government of India make any representation to the Afghan Government?

**Mr. H. A. F. Metcalfe:** The Government of India made no representations to the Afghan Government, since the matter concerned the internal administration of Afghanistan.

**Sirdar Harbans Singh Brar:** When did the Government get the information about their deportation?

**Mr. H. A. F. Metcalfe:** I cannot give the exact date.

**Sardar Sant Singh:** Approximate time?

**Mr. H. A. F. Metcalfe:** To the best of my belief, it was about two months ago, I cannot give the exact date without reference to the papers.

**Mr. Gaya Prasad Singh:** I gave notice about the same time.

#### REMARKS MADE BY KUNWAR MAHARAJ SINGH TO THE DURBAN CHRISTIAN SERVICE COUNCIL.

4. **\*Mr. Gaya Prasad Singh:** (a) Has the attention of Government been drawn to the following remarks made by Kunwar Maharaj Singh to the Durban Christian Service Council lately:

"The Indian people who have come here suffer under marked disabilities. They have no vote; they do not have the privilege of sending their children to European schools with the European youngsters; nothing is given by the provincial Council towards the education of Indians. There is almost complete segregation. The European and Indian communities do not meet except for business. On trains, trams, etc., there is complete separation. These disabilities are going to be serious problem. They are the cause of the ill-feeling that exists in India towards South Africa."

(b) How long have these disabilities been existing; and what steps have been taken by Government to have them redressed, indicating the time, and a brief description of specific steps taken by Government, and also the amount of success, if any, achieved?

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

(b) Indians in South Africa have been subject to a number of disabilities for many years. Honourable Member is referred to part I of Sir Benjamin Robertson's statement before the Asiatic Inquiry Commission for an account of the action taken by the Government of India from time to time before 1921 and of the measure of success achieved by them. For developments since 1921, I would refer the Honourable Member to statements at various times in this House.

**Mr. Gaya Prasad Singh:** Have the efforts of the Government of India succeeded in removing at least some of the disabilities of Indians in South Africa in recent times?

**Mr. G. S. Bajpai:** The efforts of the Government of India have certainly succeeded in averting fresh disabilities.

**Mr. Lalchand Navalrai:** How far have the efforts of the Government of India been successful? We know they have been making efforts.

**Mr. G. S. Bajpai:** I would point out that this question practically covers 40 years of representations and negotiations and it is impossible for me within the limits of a manageable answer to present a balance sheet of gains and losses.

**Mr. Lalchand Navalrai:** I want at least some idea whether the efforts have been fruitful?

**Mr. G. S. Bajpai:** My Honourable friend, if he would only recall to mind the number of deputations which the Government of India have sent and the number of occasions on which this question has been discussed in conference, would find that the Government of India have not been lacking in tenacity or assiduity of making representations.

**Mr. Lalchand Navalrai:** But the question is whether these efforts have resulted in gain?

**Mr. G. S. Bajpai:** My Honourable friend would not agree with my opinion, but I should say we have succeeded to a certain extent.

**Mr. Gaya Prasad Singh:** What is the exact measure of the success?

**Mr. G. S. Bajpai:** My Honourable friend does not seem to appreciate that the nature of the success in any particular case is to be related to the case itself. Here the question is about segregation, education and other matters. If he would ask me a specific question, I will give a specific answer.

**Mr. Lalchand Navalrai:** May I know from the Honourable Member about the invidious distinction in trams and trains, has it been removed?

**Mr. G. S. Bajpai:** So far as trams are concerned my knowledge is that these are not matters of legislative action, that is to say, segregation is not enforced by means of rules or laws made under legislative authority. It is a matter of administrative action.

**Mr. Lalchand Navalrai:** With regard to these administrative acts also have the Government of India made any efforts to remove the inconvenience?

**Mr. G. S. Bajpai:** The Government of India have to devote their attention to matters of much greater importance than reservation of accommodation in trains.

**PROPOSAL FOR THE INTRODUCTION OF NEW SCALES OF PAY IN SERVICES MANNED BY INDIANS.**

5. **\*Mr. Gaya Prasad Singh:** Is there any proposal for the introduction of new scales of pay in services manned purely by Indians, and leaving over the question of the reduction of salaries of higher services, particularly the Indian Civil Service and the Indian Police Service, for adjustment at a later stage, on the plea that the concurrence of the Secretary of State has to be obtained for the purpose? What was the opinion of the Retrenchment Committee in this matter? What are the main outlines of the proposal, and what is the approximate amount of saving which it is likely to secure?

**The Honourable Sir George Schuster:** (i) The Government of India are now considering a proposal to introduce revised scales of pay for new entrants to services which are under their control. They also propose to place before the Secretary of State in Council their views in regard to the pay of new entrants to the Indian Civil Service and the Indian Police Service.

(ii) The proceedings at the meeting of the Retrenchment Advisory Committee, at which this matter was mentioned, were confidential and I, therefore, cannot make any detailed statement. The Committee as a whole recorded no recommendation on this subject; but certain members expressed views which I undertook to communicate to the Government before any decision was taken.

(iii) The proposals are not yet complete and I am, therefore, unable at present to state their terms or to attempt any estimate of the savings which will eventually result from them. As they would apply only to new entrants, the immediate savings are not likely to be large.

**Mr. Lalchand Navalrai:** Has the Honourable Member seen in the Press the report that the Secretary of State refused to make any reduction in the salaries of the Imperial Services? Is there any truth in that?

**The Honourable Sir George Schuster:** I have not seen the particular report to which the Honourable Member has referred, but all I can tell him is that the Government of India have not yet put the proposal to which I have referred in my answer before the Secretary of State.

**Mr. Lalchand Navalrai:** Then am I to understand that the Secretary of State has not made any declaration up to this time with regard to that matter?

**The Honourable Sir George Schuster:** I can only tell my Honourable friend that, to the best of my knowledge, the Secretary of State has not made any such statement.

**Dr. Ziauddin Ahmad:** Is the Honourable Member prepared to make any statement whether the ten per cent. cut will be continued in the year 1933-34?

**The Honourable Sir George Schuster:** If my Honourable friend will refer to the question paper, he will see that a good many of his own Honourable friends have put similar questions to me. I can anticipate the answer by saying that I am not yet in a position to make any statement on that point.

**Sirdar Harbans Singh Brar:** Will the Central Legislature get an opportunity of discussing the new scales of pay before Government take a final decision on the matter?

**The Honourable Sir George Schuster:** I think it is very unlikely that the Government of India will put a matter of pure administration of this kind before the Legislature.

**Mr. Gaya Prasad Singh:** Is this a foretaste of the nature of the coming reforms?

**ORDER TO QUIT DELHI ON MR. C. L. POLIWAL, PRESIDENT OF THE DELHI UNIVERSITY UNION.**

**6. \*Mr. Gaya Prasad Singh:** (a) Is it a fact that Mr. C. L. Poliwal, President of the Delhi University Union, was ordered to quit Delhi within 24 hours? If so, for what specific offence?

(b) Is it a fact that once he presided over a meeting at which Miss Ellen Wilkinson spoke; and, at another time, acted as speaker in the University Union over a debate on the Ottawa Agreement in which many Members of the Legislative Assembly also took part?

**The Honourable Sir Harry Haig:** (a) Yes, the action was taken under section 4 of the Special Powers Ordinance. Mr. Poliwal returned to Delhi on the expiry of the Ordinance and has given an undertaking not to act in a manner prejudicial to the public safety or peace.

(b) I have no information on these points.

**Mr. Gaya Prasad Singh:** May I know the exact nature of the offence for which this gentleman was asked to quit Delhi?

**The Honourable Sir Harry Haig:** I am afraid I cannot state on the floor of the House the exact nature of the information on which the Chief Commissioner acted, but I am satisfied that there was quite sufficient information.



**Mr. Gaya Prasad Singh:** May I know if the information in the possession of Government is confidential or if the Honourable Member is not in possession of the information on which action has been taken against this gentleman?

**The Honourable Sir Harry Haig:** The information is confidential.

**Sardar Sant Singh:** Do Government take a serious view of the action of students when they are debating in their own University Clubs?

**The Honourable Sir Harry Haig:** I can assure the Honourable Member that the action taken by the Chief Commissioner had nothing to do with the activities of this gentleman in the University Union.

**BUILDING IN CHANDNI CHOWK, DELHI, PREVIOUSLY OCCUPIED BY THE DISTRICT CONGRESS COMMITTEE, DELHI.**

7. **\*Mr. Gaya Prasad Singh:** (a) Will Government please state if the building situated in Chandni Chowk which was used by the District Congress Committee, Delhi, as its office, is in the possession of Government and is used as quarters for the lady police?

(b) When was the said building taken possession of by Government, and under what law?

**The Honourable Sir Harry Haig:** (a) Yes.

(b) The building was taken possession of in accordance with the Chief Commissioner's Notification No. 303-Home, dated the 12th January, 1932. This notification was issued under section 3 (1) of the Unlawful Association Ordinance, IV of 1932.

**Mr. Gaya Prasad Singh:** Are Government liable to pay rent for the building which they occupied?

**The Honourable Sir Harry Haig:** If my Honourable friend will refer to the Ordinance, he will find that that is not so.

**FUND FOR THE RELIEF OF DESTITUTE PERSONS IN DELHI.**

8. **\*Mr. Gaya Prasad Singh:** (a) Is it a fact that there is a fund at the disposal of the District Magistrate of Delhi, out of which provision is made to assist destitute persons in the matter of providing railway fares, fooding, etc.? If so, what is the name and amount of the fund, and how long has this fund been in existence?

(b) Is it a fact that not a single Hindu, Mussalman, or Sikh has so far been assisted out of this fund? Will Government kindly state separately how many Hindus, Mussalmans, Sikhs and Christians have been given assistance so far, and the amount spent separately on each community?

**The Honourable Sir Harry Haig:** (a) There is a provision, which stands in the current year's budget at Rs. 600, under the head "Charges on account of European vagrants". There is a further provision under a general head "Donations for charitable purposes", which includes among a number of sub-heads "Aid to Destitute Indians".

(b) The provision for European vagrants is naturally confined to this purpose. I lay on the table a statement showing the expenditure incurred in the last two years on aid to destitute Indians.

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		1931-32,		1932-33 up to date,	
		No.	Amount,	No.	Amount.
			Rs. a. p.		Rs. a. p.
Hindus	. . .	21	97 8 0	15	126 0 0
Muslims	. . .	18	117 0 0	9	78 0 0
Sikhs	. . .	2	11 2 0	1	4 12 0

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**Mr. Gaya Prasad Singh:** May I take it that the statement includes the amount spent on European vagrants as well as that spent on Indians?

**The Honourable Sir Harry Haig:** No, Sir; I have said that the provision in the current year's budget for European vagrants is Rs. 600. The statement I have laid on the table refers to the expenditure under the sub-head "Aid to Destitute Indians", and divides it, as my Honourable friend requested, communally.

**Mr. Gaya Prasad Singh:** Have Government any objection to laying a statement giving the amount of money spent during the last two years on the first head, namely, European vagrants?

**The Honourable Sir Harry Haig:** I am certainly prepared to do that.

**Mr. K. O. Neogy:** Is European vagrancy on the increase in this country?

**The Honourable Sir Harry Haig:** Judging from the figures in Delhi it is on the decrease. At any rate the provision made for it is a decreasing figure.

**PORTION OF THE CANTONMENT AREA IN RAWALPINDI INCLUDING THE TOPI PARK USED AS A GOLF CLUB FOR EUROPEANS.**

9. **\*Mr. Gaya Prasad Singh** (on behalf of Mr. B. B. Puri): (a) Are Government aware:

- (i) that a portion of the Cantonment area in Rawalpindi including the Topi Park is being used as a Golf Club for Europeans; and
- (ii) that this Golf Club is a section of the Rawalpindi Club and as such is an *exclusive* Club to which every European, Civil or Military, official or non-official, tradesman or otherwise, is admitted but Indians, irrespective of their position, are excluded?

(b) Will Government be pleased to state :

(i) what the exact area occupied by the Golf Club is :

(ii) for how long the Club has enjoyed the use of this public property in the past and for how long in future are they permitted such use; and

(iii) whether the Club pays anything to Government, and, if so, what; if there is any lease deed executed, whether a copy of the same will be placed on the table of the House?

(c) Will Government be pleased to state their policy regarding the making over of public property for the exclusive use of a particular race, class, section or denomination of His Majesty's subjects and to the exclusion of the rest?

(d) Will Government be pleased to state whether they are prepared to give similar facilities to Indians to set up their own Golf and other Clubs to be run on racial lines in the Cantonment area and the Topi Park?

**Mr. G. R. F. Tottenham:** (a) (i). Yes, except that the Topi Park is not part of the Cantonment.

(ii) I understand that the Golf Club is a section of the Rawalpindi Club, and that the rules of the latter authorise the admission of Indians as honorary members of the Golf Club and other sports sections.

(b) (i). The Club occupies 57.5 acres in the cantonment. I have no information about the area in the Topi Park, which belongs to the Local Government and is outside the Cantonment.

(ii) The Club has had the use of the land since 1910. The existing lease for the cantonment portion will expire on the 15th April, 1935, and is renewable at the option of the lessee up to 30 years.

(iii) The Club pays a rent of Rs. 199 per annum for the land within cantonment limits. A copy of the lease is placed in the Library: it is too lengthy for reproduction in the proceedings of this House.

(c) When there is spare land in a cantonment, which is not immediately required for military purposes, the policy of the Government is to lease it to members of the public on commercial terms. All leases of land, whether for building, recreational or any other purpose, naturally convey exclusive use of the land to the lessee. The rules make no distinction between the various sections of the community; and there have of course been many cases in which land has been leased exclusively to Indians, including a certain number of leases of land for recreational purposes to Indian Clubs.

(d) If any Indian Club or association wishes to apply for spare land in the Cantonment for recreational purposes, the applications will certainly be considered.

#### AUCTION OF CONTRACTS FOR FRUITS, BETEL-LEAVES, CIGARETTES AND UTENSILS ON THE MORADABAD DIVISION OF THE EAST INDIAN RAILWAY.

10. **\*Rao Bahadur S. R. Pandit:** (a) Is it a fact that vending contracts for eatables at railway stations on the North Western Railway and the East Indian Railway with the exception of Moradabad Division are not auctioned and given to the vendors free?

(b) Is it a fact that on the Moradabad Division on the East Indian Railway contracts for fruits, betel-leaves and cigarettes and utensils have been auctioned this year? If so, why?

(c) Are Government aware that this auction of contracts on the Moradabad Division has caused great inconvenience to the travelling public on account of the poor quality of supply?

(d) Is it a fact that fruits, betel-leaves and cigarettes are considered as luxuries by the railway on the Moradabad Division and have, therefore, been auctioned?

(e) Are Government aware that these eatables are as great a necessity to the public as *puris*, sweets, bread, etc., contract for which is not auctioned?

(f) Do Government propose to stop the auctioning of such contracts to avoid inconvenience to the public who are directly hit?

**Mr. P. R. Rau:** (a) I understand vending contracts for eatables at railway stations on the East Indian and North Western Railways are not auctioned. On the East Indian Railway a small license fee is charged in addition to rent for the accommodation occupied. On the North Western Railway rent is charged for accommodation occupied, but a licensing fee is not charged, though a deposit is taken.

(b) On the Moradabad Division of the East Indian Railway tenders were invited for the sale of miscellaneous articles, *viz.*, brassware, shoes and leather goods, toys, durries, carpets, ebony and wood carving, etc. Fruit was not included.

(c) It is understood that no complaint has so far been received from the public.

(d) and (e). As I have already pointed out fruits were not included in these arrangements. I have been informed that betel-leaves and cigarettes are sold at current market rates determined by the Divisional Superintendent, and that the system of calling for tenders has not increased prices.

(f) I am sending a copy of these questions to the Agent, East Indian Railway, in order that he may take any steps necessary to see that the quality does not deteriorate.

**Mr. Lalchand Navalrai:** Are there any rates fixed for the sale of these articles by the vendors?

**Mr. P. R. Rau:** Yes: I believe the Divisional Superintendent fixes them according to the market rates.

**Mr. Gaya Prasad Singh:** Is it not a fact that tenders are called for for contracts for selling these articles on the East Indian Railway?

**Mr. P. R. Rau:** Yes; tenders are called for; but they are not auctioned. What really happens, as I understand, is that tenders are called for to find out who are willing to take up the work and then the Divisional Superintendent, in consultation, I think, with the local civil authorities, ascertains who is the most suitable person for the job and gives a licence to him and, at the same time, fixes the rates at which he has to sell the articles.

**Mr. Gaya Prasad Singh:** May I know if the man who offers the highest tender or the lowest tender gets the contracts usually?

**Mr. P. R. Rau:** No; it does not depend on the lowest or highest tender. I understand it depends on the suitability of the person.

**Sardar Sant Singh:** Is the local Advisory Committee consulted on this point?

**Mr. P. R. Rau:** I have no information as to that, but I should consider it to be most unlikely.

**Dr. Ziauddin Ahmad:** The Honourable Member said that the rates of station vendors are fixed according to the current market rates; may I know who is the authority who fixes the rates and the authority who scrutinises the rates?

**Mr. P. R. Rau:** The Divisional Superintendent.

**Mr. Lalchand Navalrai:** Are Government aware that the kind of food-stuffs usually supplied to Indian passengers on the East Indian Railway platforms are of an inferior quality?

**Mr. P. R. Rau:** No; I understand that no complaint has so far been received from the public. The railway administration does take steps occasionally to inspect the foodstuffs sold to the public.

**Mr. Lalchand Navalrai:** Is there any objection to the local Advisory Committee being consulted in the matter and will the Honourable Member be pleased to ask the Agent to consult members of those Committees, because they are the persons who are on the spot?

**Mr. P. R. Rau:** I am sure it is open to the local Advisory Committee to raise the question with the Agent at their periodical meetings.

**Mr. M. Maswood Ahmad:** Are Government aware whether there is any difference in rates at present and the rates two years before?

**Mr. P. R. Rau:** I have no information on the point; but I have been told by the East Indian Railway authorities that there has been no increase in prices owing to the system of calling for tenders.

**Mr. Gaya Prasad Singh:** Are Government aware that *dalis* are sometimes presented and accepted in these transactions?

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

**Dr. Ziauddin Ahmad:** The Honourable Member said that the Divisional Superintendent fixes the rates: does he go to every station to fix the rates or is it done by the Station Masters?

**Mr. P. R. Rau:** All these rates are sanctioned by the Divisional Superintendent, I understand, in consultation with the local authorities.

**Dr. Ziauddin Ahmad:** That is the formal sanction, but who makes the first recommendation?

**Mr. P. R. Rau:** I am afraid I do not know the details of this.

**Mr. Amar Nath Dutt:** Does the Honourable Member know that in these days people generally take their own food during the journey as the food supplied in these stations is not worth taking and brings on illness if one takes it?

**Mr. P. R. Rau:** There are various reasons for people taking food themselves rather than buy from the vendors.

**Mr. Amar Nath Dutt:** Is not the one which I have mentioned one of the reasons?

**Mr. P. R. Rau:** Possibly so; but I have no information in the matter.

**Mr. M. Maswood Ahmad:** Do Government propose to have inquiries made to ascertain whether the rates now charged on the East Indian Railway are higher than the rates in the open market?

**Mr. P. R. Rau:** Than the rates two years ago?

**Mr. M. Maswood Ahmad:** No: higher than the present rates even.

**Mr. P. R. Rau:** I have been assured by the administration that these rates are fixed by the Divisional Superintendents at current market rates; if my Honourable friend can give me particular instances where the rates are higher, I will certainly have an investigation made.

**Mr. M. Maswood Ahmad:** Take the case of lemonade: it is sold at two annas and six pies at stations, whereas it costs one anna and six pies outside for the same quality and brand.

**Mr. P. R. Rau:** It is quite possible that there is a difference in quality.

**Mr. Amar Nath Dutt:** Will the Honourable Member condescend to take this food during one of his trips to Calcutta—at Allahabad, Cawnpore, Patna and other places?

#### TENDERS FOR VENDING OF ICE AND AERATED WATER ON THE NORTH WESTERN RAILWAY.

11. **\*Rao Bahadur S. R. Pandit:** Is it a fact that tenders for vending of ice and aerated-waters on the North Western Railway were not called for last year? If so, why? Do Government propose to call for such tenders in future? If not, why not?

**Mr. P. R. Rau:** As regards the first part of the question attention is invited to the answer given to starred question No. 866 put by Bhai Parma Nand on the 7th November, 1932. As regards the latter part of the question the Administration reports that if the work of any licensee is found unsatisfactory, applications will be invited for the next season through advertisements in the Press.

**AZIMGANJ CITY RAILWAY STATION.**

**12. \*Mr. Bhuput Sing:** Will Government be pleased to state:

- (a) whether there was a proposal for closing the Azimganj City East Indian Railway station in 1931;
- (b) whether there was a local representation for keeping up the City station then;
- (c) what the effect of that representation was;
- (d) whether the railway fares to and from Azimganj City were increased (after the representation) and, if so, why;
- (e) the total cost incurred for raising the ground level and erecting a fencing in the Azimganj City station recently?

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

(b) Yes.

(c) The closing of Azimganj City Station was deferred pending further enquiry.

(d) Certain enhancements were made to meet the cost of maintaining Azimganj City Station.

(e) Rs. 350.

**CONSTRUCTION OF A ROAD FROM AZIMGANJ CITY TO AZIMGANJ JUNCTION BY THE EAST INDIAN RAILWAY.**

**13. \*Mr. Bhuput Sing:** Will Government be pleased to state:

- (a) whether there is a project for making a new road from Azimganj City to Azimganj Junction by the East Indian Railway;
- (b) if the answer is in the affirmative, the estimate for such a road;
- (c) what amount was incurred for the construction of the road up to the end of December, 1932;
- (d) whether it is a fact that there is already a metalled road of the local municipality and the railway between the junction and city station; and
- (e) if the answer to part (d) is in the affirmative, what are the grounds for making a new road and whether Government propose to stop further expenditure (towards the making of the road) in view of the financial stringency of the Railway?

**Mr. P. B. Rau:** (a) I understand that the East Indian Railway have such a project in view.

(b) Rs. 10,750.

(c) Nil.

(d) and (e). I understand there is no direct road. Further information is being obtained from the Agent of the East Indian Railway and a further reply will be laid on the table.

**TEMPORARY STAFF OF THE GREAT INDIAN PENINSULA RAILWAY ENGINEERING DEPARTMENT.**

14. **\*Mr. M. Maswood Ahmad:** (a) Will Government be pleased to state the number of the Great Indian Peninsula Railway Engineering Department's temporary staff who have put in more than five years service?

(b) Do Government propose to make the temporary staff mentioned in part (a) permanent on their average pay or on any other scale of pay?

(c) If the reply to part (b) be in the negative will Government be pleased to state for how long they want to keep them in temporary service?

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

(b) The scale of pay on which they are confirmed will depend on when they are made permanent. There is no question, so far as I am aware, of making any temporary staff permanent on their average pay.

(c) Government are unable to say when any of the staff will be made permanent. It depends on vacancies in the permanent establishment and their fitness for confirmation.

**RESERVATION OF POSTS OF ASSISTANT ACCOUNTS OFFICERS ON THE NORTH WESTERN RAILWAY FOR ACCOUNTANTS AND INSPECTORS OF STATION ACCOUNTS.**

15. **\*Mr. M. Maswood Ahmad:** (a) Is it a fact that eight posts of Assistant Accounts Officers in the North Western Railway are reserved for Accountants whose total strength is 32, whereas only two posts are reserved for Inspectors of Station Accounts who figure 38?

(b) If so, how can this discrimination be accounted for?

(c) Is it not a fact that the number of non-reserved appointments on the North Western Railway for which alone the Inspectors are eligible is disproportionately small as compared with the other Railways?

(d) Do the Railway Board propose to afford relief to this aggrieved class?

(e) In the case of the Inspectors of Station Accounts, are the Railway Board prepared to issue definite orders that at least the two posts of Assistant Accounts Officers, which are reserved for the Inspectors, should be given to them in the two vacancies that are shortly going to occur on the North Western Railway?

(f) Does the Financial Commissioner of Railways propose to adhere to the undertaking given by him on the eve of the separation of Audit from Accounts to the effect that the then existing rights and privileges of the men shall be protected?

**Mr. P. R. Rau:** (a) and (b). No. Out of eight posts of the Assistant Accounts Officer, six are reserved for selection by the Auditor General from employees in the Audit Department and the remaining two are available for members of the Railway Accounts Department including both accountants and inspectors.

(c), (d) and (e). The question is under investigation.

(f) My Honourable friend can rest assured that the Financial Commissioner will adhere to every undertaking given by him.



**Mr. M. Maswood Ahmad:** Will Government be pleased to submit the result of their inquiry?

**Mr. P. B. Rau:** I shall lay a statement on the table in due course.

**Dr. Ziauddin Ahmad:** May I know what was the original contract between the Railway Board and the Audit Department at the time the separation took place?

**Mr. P. B. Rau:** When audit was separated from accounts some years ago, there was an understanding that the Auditor General will have the right to nominate a certain number of these Assistant Accounts Officers.

#### RELAXATION OF THE AGE-LIMIT FIXED FOR ADMISSION TO GOVERNMENT SERVICE.

16. **\*Mr. M. Maswood Ahmad:** (a) Are Government aware that on account of the retrenchment, when no new recruitment is being made in services, candidates are likely to get over-aged for entrance into public service?

(b) Do Government propose to condone their age limit when the time comes to admit such new recruits into service? If not, why not? If yes, do Government propose to issue such a circular?

**The Honourable Sir Harry Haig:** (a) This is a possible contingency.

(b) I would refer the Honourable Member to the reply given by the Honourable the Finance Member to part (d) of Mr. Rahimtoola M. Chinoy's question No. 1081 on the 29th September, 1931. Government see no sufficient reason for relaxing the general rule.

#### TEN PER CENT. EMERGENCY CUT.

17. **\*Mr. M. Maswood Ahmad:** Will Government be pleased to state if it was not the express intention of Government to limit the operation of the ten per cent. emergency cut to March, 1933? If yes, is that cut going to be abolished from April, 1933? If not, why not?

**The Honourable Sir George Schuster:** I would refer the Honourable Member to the exact words which I used in my speech made on September 29th in this Assembly when introducing the Emergency Finance Bill of September, 1931. Apart from this I have nothing to add to the replies given to starred questions Nos. 143 and 1478 in the last Session.

**Mr. Lalchand Navalrai:** Will the Honourable Member be pleased to remind the House of what the Honourable Member said?

**The Honourable Sir George Schuster:** The Honourable Member can, I think, look it up for himself.

**Mr. Lalchand Navalrai:** That will result in not allowing supplementary questions: however I shall put one. Will the Honourable Member be pleased to state whether it was not the intention of the Government to restrict it to the time which has been mentioned in this question, and is there any likelihood that it will be restored?

**The Honourable Sir George Schuster:** I would ask my Honourable friend to have a little patience in this matter and he will very shortly, I hope, be enlightened about it. As he is anxious to know the exact words which I used, I will save him the trouble of looking up the quotation. The words which I used were:

"It must be clearly explained that there is no intention that they should remain operative beyond March 31st, 1933. They will not be continued beyond that date without further examination of economic conditions".

**Mr. M. Maswood Ahmad:** Is it a fact that the Government of India are consulting the British Government in this matter?

**The Honourable Sir George Schuster:** Will my Honourable friend repeat the question please?

**Mr. M. Maswood Ahmad:** Is it a fact that the Government of India are consulting the Secretary of State for India whether they should continue or discontinue this policy of the ten per cent. cut in salaries?

**The Honourable Sir George Schuster:** Naturally, Sir, the Government of India are consulting the Secretary of State, because, as my Honourable friend knows quite well, a considerable number of Government officers are protected by an Act of Parliament, and, therefore, action could not be taken by this Government without action by the British Legislature.

**Mr. Lalchand Navalrai:** May I know whether the Honourable Member has by now considered the economic effect of this question, and whether that will make it likely that the original intention would be given effect to?

**The Honourable Sir George Schuster:** I will answer the first part of my Honourable friend's question, but not the second part. The Government of India is just concluding its review of the economic conditions. I cannot, I am afraid, tell my friend what the result of that review is likely to be.

**Dr. Ziauddin Ahmad:** In case the Parliament refused to allow the continuation of the cut in the year 1933-34, will the Government of India enforce the cut in the case of officers whose salaries are not fixed by the Secretary of State or the Parliament?

**The Honourable Sir George Schuster:** I think my friend will hardly require me to point out to him that it is a hypothetical question.

**Dr. Ziauddin Ahmad:** I will put it in this way: will the cut be enforced (a) in the case of those officers whose pay is regulated by Parliament, and (b) in the case of those officers whose pay is regulated by the Government of India?

**The Honourable Sir George Schuster:** I think my friend's question remains hypothetical, and I must, with your permission, Sir, refuse to answer any further questions on this subject, because the whole matter is now under the review of the Government and a full announcement will shortly be made on the Government policy.

**Mr. K. Ahmed:** In view of the fact that the economic condition of the Government will be considerably ameliorated and the Finance Department will find ample scope on account of Federation and reforms to enlist the opinion of the representatives of the people of this country, do Government propose to make a statement whether the economic condition in this country will in any way be affected than last year when the Budget was passed . . . . (Laughter.)

**The Honourable Sir George Schuster:** I am afraid I did not follow my friend's question, but the only part of it which I feel able to answer is this, that I am not prepared to admit that any Government in the future will find scope to do the work of the Finance Department better than it has been done now.

**Mr. K. Ahmed:** Sir, in view of the fact that the Honourable the Finance Member has caught hold of the wrong end of the stick (Laughter), is it not a fact that the present economic condition is neither uplifted nor ameliorated than the condition when the last Budget was passed last year?—(After a pause)—Yes or no? (Laughter.)

(No reply.)

**Mr. K. Ahmed:** In view of the fact . . . .

**Mr. Deputy President (Mr. R. K. Shanmukham Chetty):** Order, order.

#### NEW SCALES OF PAY FOR GOVERNMENT SERVANTS.

18. **\*Mr. M. Maswood Ahmad:** (a) Will Government be pleased to state in what respect the new scales of pay for Government servants will be different from the existing scales?

(b) When will they be brought into force?

(c) To whom will they be applicable?

(d) Do Government propose to safeguard the interests of the present incumbents?

**The Honourable Sir George Schuster:** (a) to (d). Since 16th July, 1931, all new entrants into the civil service of the Governor General in Council have been recruited on a provisional basis as regards pay, that is to say, they have been told that Government is considering introducing revised scales of pay and that these when introduced will be applicable to them. All that I can say at present is that the matter is now under the active consideration of Government. The new scales will be at reduced rates. The interests of those officials who were appointed on a permanent basis before 16th July, 1931, will be duly safeguarded.

#### POPULATION OF MUSLIMS IN THE AREA SERVED BY THE EASTERN BENGAL RAILWAY.

19. **\*Mr. M. Maswood Ahmad:** (a) Is it a fact that the Eastern Bengal Railway serves an area which is overwhelmingly Muslim?

(b) Will Government be pleased to state the population of Muslims in the area served by the Eastern Bengal Railway?

**Mr. P. R. Rau:** (a) and (b). If by "the area served by the Eastern Bengal Railway" my Honourable friend refers to the province of Bengal, the figures, according to the last census returns, are as follows:

	Muslim Population.	Percentage of total population.
Bengal . . . . .	27,497,624	54.87

**MUSLIM SUBORDINATE STAFF, EXCLUDING ACCOUNTS OFFICES, ON THE EASTERN BENGAL RAILWAY.**

20. **\*Mr. M. Maswood Ahmad:** (a) Is it a fact that the total subordinate staff employed on the Eastern Bengal Railway excluding those in accounts offices on the 31st March, 1931, was 9,343?

(b) Is it a fact that their communal composition on the 31st March, 1931, was:

Hindus 76.47 per cent., 7,146 in number.

Muslims 14.09 per cent., 1,316 in number.

Europeans cum Anglo-Indians 8.71 per cent., 814 in number.

Indian Christians .45 per cent., 42 in number.

Others .28 per cent., 26 in number?

(c) Will Government be pleased to state their communal composition on the 31st March, 1932, according to the schedule mentioned in part (b)?

(d) What action do Government propose to take in order that Muslims may get their due share in services on the Eastern Bengal Railway?

**Mr. P. R. Rau:** With your permission, Sir, I propose to reply to questions Nos. 20 to 41, 59 to 77, 158 to 178 and 196 to 218 together . . . .

**Mr. M. Maswood Ahmad:** Sir, I want to move in that connection . . .

**Mr. Deputy President (Mr. R. K. Shanmukham Chetty):** The Honourable Member must finish his answer first.

**Mr. P. R. Rau:** In these 85 questions my Honourable friend has asked for information regarding the communal composition of various services or departments in the various State-managed Railways on the 1 P.M. 31st March, 1931, and on the 31st March, 1932, and as to the steps Government propose to take so that Muslims may get their due share in these services or departments. The position on the 31st March, 1931, is given in full detail in Mr. Hassan's report, which contains the latest information available to Government. As regards the position on 31st March, 1932, the very detailed information required by my Honourable friend is not available, and in order to get it, it will be necessary to have another special investigation, similar to that carried out by Mr. Hassan, which Government regret they are unable to undertake. My Honourable friend will, however, find more up to date information with regard to the communal composition of staff on Indian Railways in the appendix to the Report by the Railway Board on Indian Railways for 1931-32, though

not in as much detail as he requires. Finally, as regards the action that Government propose to take, I regret I am not yet in a position to give a definite reply to him. The general question of the policy to be followed as regards the representation of Muslims and other minority communities in services under the control of the Government of India has been for some time under the consideration of Government and it is hoped that it will be possible to announce their decision at an early date. As soon as the general policy is settled, the details as affecting the railway staff will be worked out, and after consultation with the Central Advisory Council for Railways, the decision of Government will be announced without avoidable delay.

**Mr. K. Ahmed:** What was the period taken by the Hassan Committee to conduct the inquiry and what was the period taken by that Committee to write out their Report?

**Mr. P. R. Rau:** I am not sure of the exact time, but I think Mr. Hassan took over a year to conduct the inquiry.

**Mr. K. Ahmed:** Is the Honourable Member going to take longer than one year to make the inquiry and give an answer?

**Mr. P. R. Rau:** As I have already pointed out, it is a matter beyond the Railway Board itself. The matter is in the hands of the Government of India, and, as soon as a decision on the matter of policy has been reached, the Railway Board will take immediate steps to work out details and place their proposals before the Central Advisory Committee for Railways and, thereafter, the decision of the Government will be announced.

**Mr. M. Maswood Ahmad:** If Government are not prepared to disclose the figure for the year 1932, what is the other course for Members to know the correct figures?

**Mr. P. R. Rau:** It is not a question of Government not being prepared to disclose any information, but the Government are not in possession of it. It is impossible for them to obtain that information without the expenditure of much time and labour which will not be justified in these days of financial stringency.

**Mr. M. Maswood Ahmad:** Are Government prepared to allow any Members to see the pay sheets of any Department of the Government and of the Railways?

**Mr. P. R. Rau:** No, Sir; these are purely Government documents.

**Mr. K. Ahmed:** In view of the fact that the salaries are paid every month to clerks and officers, is it not easy for the Government Departments or for the office of the Financial Commissioner for Railways to find out the number and give the exact figure?

**Mr. P. R. Rau:** As I have already stated, the special investigation took over a year or probably 18 months, and I do not think that a further investigation will take less time.

**Mr. M. Maswood Ahmad:** Are Government aware that the percentage of Muslims in the Government services generally and, in railway services particularly, is going down? In 1932 has it gone down much lower than in 1931?

**Mr. P. R. Rau:** I am not aware of that, but I may point out that the circumstances of 1931-32 were peculiar. There was a large amount of retrenchment going on in the railways and very little of fresh recruitment.

**Mr. M. Maswood Ahmad:** Do Government propose to make an enquiry into the matter just referred to by me?

**Mr. P. R. Rau:** May I know what enquiry the Honourable Member wants?

**Mr. M. Maswood Ahmad:** Whether the percentage of Muslims has decreased in the railway services in 1932.

**Mr. P. R. Rau:** As regards the general question, my Honourable friend will find a considerable amount of information in the Administration Report on the Indian Railways, which, I hope, will be in the hands of Honourable Members in a week or so.

**Mr. M. Maswood Ahmad:** Is it not a fact that Muslims have been retrenched much more than their percentage in the services warrants?

**Mr. P. R. Rau:** I would suggest to my Honourable friend that he might await that Report.

**Mr. M. Maswood Ahmad:** Is it not a fact that at the time of calling back the retrenched hands the Muslims are not called in the same proportion in which they were retrenched?

**Mr. P. R. Rau:** No, I think the orders are that retrenched personnel should be called back in the order in which they were retrenched.

**Mr. M. Maswood Ahmad:** I want to know whether the order of the Government has been carried out by the local authorities. I want to know if Government have made enquiries into that matter.

**Mr. P. R. Rau:** If my Honourable friend has any information to the effect that the orders of the Government have not been carried out, I should certainly be pleased to investigate the matter.

**Mr. M. Maswood Ahmad:** I have pointed this out on several occasions.

**Mr. K. Ahmed:** In view of the fact that it was admitted by the Government last year during the Budget and the year before last, and during the regime of Mr. Hayman, that the enquiry has been frustrated, do Government propose now to undertake another enquiry, which will be futile obviously, because lakhs and lakhs of rupees have been spent in the last few years without any effect—they started an enquiry and investigation by a special officer at a high cost and yet my Honourable friend and the Government are not familiar with the difficulties and will not remove the anomaly?

**Mr. P. E. Rau:** If I understand my Honourable friend aright, he is asking the Government to undertake an admittedly futile enquiry.

**Mr. M. Maswood Ahmad:** Is it a fact that the figures mentioned in this question are practically correct for 1931, or can Government challenge them?

**Mr. P. E. Rau:** These reports can be checked by reference to Mr. Hassan's report.

**Mr. M. Maswood Ahmad:** Have not Government even checked these figures after receiving notice of these questions?

**Mr. P. E. Rau:** I assume that the Honourable Member has checked them himself.

**Mr. M. Maswood Ahmad:** I want to know whether the Department has checked those figures.

**Mr. P. E. Rau:** The correct figures are given in Mr. Hassan's report and I do not see why the Department should go into the figures given by the Honourable Member.

**Mr. M. Maswood Ahmad:** I am asking whether the figures given in my question are correct or not.

**Mr. P. E. Rau:** If they agree with the figures given in Mr. Hassan's report, they will be correct.

**Mr. M. Maswood Ahmad:** It means that the Honourable Member accepts the figures to be correct, but does not want to admit it.

**Dr. Ziauddin Ahmad:** Is it not a fact that full share was given to the Mussalmans on population basis *plus* weightage so far as retrenchment was concerned, but it was entirely overlooked at the time of recruitment?

**Mr. P. E. Rau:** Will the Honourable Member kindly repeat his question?

**Dr. Ziauddin Ahmad:** My question was, is it not a fact that full share was given to the Mussalmans on population basis *plus* weightage *plus* everything else at the time of retrenchment, and it is entirely forgotten at the time of recruitment?

**Mr. P. E. Rau:** The orders of the Government were that the necessity for retrenchment should not operate to the detriment of any minority community.

**Mr. S. C. Mitra:** May we take it that when giving effect to retrenchment measures attention was paid to the inadequate representation of Mussalmans in the railways?

**Mr. P. E. Rau:** Yes. As a matter of fact, orders were issued that the retrenchment should not be carried into effect so as to make the position of any minority worse than what it was before.

**Sir Abdulla-al-Mámún Suhrawardy:** Were the orders carried out?

**Mr. P. R. Rau:** I hope so. But as I have already offered to my Honourable friend, Mr. Maswood Ahmad, if there are any instances in which they have not been carried out, and these are brought to the notice of the Railway Board, the matter will be investigated.

**Mr. M. Maswood Ahmad:** Will Government be pleased to ask the Department to check these figures and inform the House whether they are correct or not, because these figures may be quoted on some other occasion?

**Mr. P. R. Rau:** I would advise my Honourable friend, if he wants to be accurate, to quote from Mr. Hassan's report. I think it is unfair to ask the Railway Board, which, as everybody knows, has reduced its staff considerably, to go to the unnecessary length of checking these figures when the correct figures are available in a published report.

**Mr. M. Maswood Ahmad:** If the Honourable Member cannot deny its correctness, why does he not admit it to be correct? It is very surprising to know that the Department does not check the figures in questions.

**Mr. K. Ahmed:** In view of the fact that the Honourable Member is very heavily engaged in preparing the Budget and he has not considered these questions, and in view of the fact that he says he will try his utmost to give some answer to these questions later on, does my Honourable friend propose, for the benefit of the questioner and for the benefit of themselves and the public, to prepare the answer thoroughly and to go into these facts and figures and verify them, so as to admit or deny the same.

(No answer.)

**Bhai Parma Nand:** Is it not a fact that during the last year, in the course of retrenchment, Hindus in the Accounts Department, even though they were senior, were retrenched while Mussalmans, who were junior, were kept on, and that when representations were made by the retrenched Hindu employees to the Railway Board, no action was taken upon it?

**Mr. P. R. Rau:** I think I must ask for notice of that question.

**Mr. Lalchand Navalrai:** May I know from the Honourable Member whether he is prepared to advise the Government that the time has now come when communal representation should be done away with, so as to avoid such bitter discussions on the floor of the House?

(No answer.)

**Bhai Parma Nand:** May I ask the Honourable Member whether it is not a fact that the percentage of Hindu employees in the railways has been much reduced during the last year?

**Mr. P. R. Rau:** I must ask for notice of that question. I cannot carry all these figures in my head.



**Mr. Lalchand Navalrai:** Will the Honourable Member be pleased to state whether it is not a fact that since this communal method of recruitment came, there has been less efficiency in the railway services?

**Mr. P. B. Rau:** I am afraid I cannot answer that question. It requires an investigation into the whole administration of the railways.

**EMPLOYMENT OF MUSLIMS IN CLERICAL POSTS, EXCLUDING ACCOUNTS OFFICES, ON THE EASTERN BENGAL RAILWAY.**

†21. **\*Mr. M. Maswood Ahmad:** (a) Is it a fact that the total clerical staff employed on the Eastern Bengal Railway excluding those in accounts offices on the 31st March, 1931, was 2,102?

(b) Is it a fact that their communal composition on the 31st March, 1931, was:

Hindus 92·67 per cent., 1,948 in number.

Muslims 4·57 per cent., 96 in number.

Europeans cum Anglo-Indians 2·14 per cent., 48 in number.

Indian Christians ·52 per cent., 11 in number.

Others ·1 per cent., 2 in number?

(c) Will Government be pleased to state their communal composition on the 31st March, 1932, according to the schedule mentioned in part (b)?

(d) What action do Government propose to take in order that Muslims may get their due share of the posts mentioned in part (a)?

**EMPLOYMENT OF MUSLIMS IN CLERICAL POSTS, EXCLUDING ACCOUNTS OFFICES, ON THE EASTERN BENGAL RAILWAY.**

†22. **\*Mr. M. Maswood Ahmad:** (a) Is it a fact that the total number of clerical posts on a scale of pay from Rs. 110 to Rs. 250, excluding those in accounts offices, on the Eastern Bengal Railway on the 31st March, 1931, was 262, out of which only seven were Muslims?

(b) Is it a fact that the communal composition of the men in total clerical posts on a minimum pay of Rs. 150 excluding those in accounts offices on the Eastern Bengal Railway on the 31st March, 1931, was:

Hindus 91·23 per cent., 104 in number.

Muslims ·88 per cent., 1 in number.

Europeans cum Anglo-Indians 7·89 per cent., 9 in number?

(c) Will Government be pleased to state the communal composition of the men in total clerical posts on a scale of pay from Rs. 250 and also on a minimum pay of Rs. 150, excluding those in accounts offices, on the Eastern Bengal Railway on the 31st March, 1932, according to the schedule mentioned in part (b)?

(d) What action do Government propose to take so that Muslims may get their due share in the services mentioned in part (a)?

† For answer to this question, see answer to question No. 20.

**EMPLOYMENT OF MUSLIMS IN THE TRAFFIC DEPARTMENT (TRANSPORTATION)  
OF THE EASTERN BENGAL RAILWAY.**

†23. \***Mr. M. Maswood Ahmad:** (a) Is it a fact that the total Traffic Department (Transportation) staff employed on the Eastern Bengal Railway on the 31st March, 1931, was 2,435?

(b) Is it a fact that the communal composition of the Traffic Department (Transportation) staff on the Eastern Bengal Railway on the 31st March, 1931, was:

Hindus 80.98 per cent., 1,972 in number.

Muslims 9.8 per cent., 221 in number.

Europeans *cum* Anglo-Indians 9.57 per cent., 233 in number.

Indian Christians .25 per cent., 6 in number.

Others .12 per cent., 3 in number?

(c) Will Government be pleased to state the communal composition of the total Traffic Department (Transportation) staff on the Eastern Bengal Railway on the 31st March, 1932, according to the schedule mentioned in part (b)?

(d) What action do Government propose to take in order that Muslims may get their due share in the services mentioned in part (a)?

**EMPLOYMENT OF MUSLIMS AS ASSISTANT TRAIN CONTROLLERS ON THE EASTERN  
BENGAL RAILWAY.**

†24. \***Mr. M. Maswood Ahmad:** (a) Is it a fact that there were 20 posts of Assistant Train Controllers on the Eastern Bengal Railway on the 31st March, 1931, and that none of them was held by any Muslim?

(b) Is it a fact that there were 81 posts of Station Masters and Assistant Station Masters in the grade of Rs. 100—5—140, and 20 of Signallers whose pay was between Rs. 50 to Rs. 170 and that Muslims held one of each in the Eastern Bengal Railway on the 31st March, 1931?

(c) Will Government be pleased to state the communal composition of the Assistant Train Controllers, Station Masters and Assistant Station Masters in the grade of Rs. 100—5—140 and Signallers getting Rs. 50 to Rs. 170 in the Eastern Bengal Railway on 31st March, 1932?

(d) What action do Government propose to take so that Muslims may get their due share in the services mentioned in part (a)?

**EMPLOYMENT OF MUSLIMS IN THE TRAFFIC DEPARTMENT (TRANSPORTATION)  
OF THE EASTERN BENGAL RAILWAY.**

†25. \***Mr. M. Maswood Ahmad:** (a) Is it a fact that the total staff in the Traffic Department (Transportation) on a minimum of Rs. 150 or more employed on the Eastern Bengal Railway on the 31st March, 1931, was 105?

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† For answer to this question, see answer to question No. 20.

(b) Is it a fact that the communal composition of the staff mentioned in part (a) on the Eastern Bengal Railway on the 31st March, 1931, was:

Hindus 32 in number, 30.48 per cent.

Muslims 1 in number, .95 per cent.

Europeans *cum* Anglo-Indians 71 in number, 67.62 per cent.

Indian Christian 1 in number, .95 per cent.?

(c) Will Government be pleased to state the communal composition of the total staff mentioned in part (a) on the Eastern Bengal Railway on the 31st March, 1932, according to the schedule mentioned in part (b)?

(d) What action do Government propose to take in order that Muslims may get their due share of the posts mentioned in part (a)?

**EMPLOYMENT OF MUSLIMS, HINDUS AND INDIAN CHRISTIANS IN THE LOCOMOTIVE DEPARTMENT (POWER) OF THE EASTERN BENGAL RAILWAY.**

†26. \*Mr. M. Maswood Ahmad: (a) Is it a fact that the total Locomotive Department (Power) staff on a minimum pay of Rs. 150 or more employed on the Eastern Bengal Railway on the 31st March, 1931, was 21?

(b) Is it a fact that the communal composition of the total staff mentioned in part (a) on the Eastern Bengal Railway on the 31st March, 1931, was:

Hindus *nil* per cent.

Muslims *nil* per cent.

Europeans *cum* Anglo-Indians 100 per cent.

Indian Christians *nil* per cent.

Others *nil* per cent.?

(c) Will Government be pleased to state the communal composition of the total staff mentioned in part (a) on the Eastern Bengal Railway on the 31st March, 1932, according to the schedule mentioned in part (b)?

(d) What action do Government propose to take so that Muslims and Hindus and Indian Christians may get their due share in the services mentioned in part (a)?

**SAFEGUARDING THE INTERESTS OF MUSLIMS IN THE TRAFFIC DEPARTMENT (COMMERCIAL) OF THE EASTERN BENGAL RAILWAY.**

†27. \*Mr. M. Maswood Ahmad: (a) Is it a fact that the total Traffic Department (Commercial) staff employed on the Eastern Bengal Railway on the 31st March, 1931, was 3,429?

(b) Is it a fact that the communal composition of the total Traffic Department (Commercial) staff on the Eastern Bengal Railway on the 31st March, 1931, was:

Hindus 75.8 per cent., 2,599 in number.

Muslims 19.13 per cent., 656 in number.

Europeans *cum* Anglo-Indians 4.43 per cent., 152 in number.

Indian Christians .35 per cent., 12 in number.

Others .29 per cent., 10 in number?

† For answer to this question, see answer to question No. 20.

(c) Will Government be pleased to state the communal composition of the total Traffic Department (Commercial) staff on the Eastern Bengal Railway on the 31st March, 1932, according to the schedule mentioned in part (b)?

(d) What action do Government propose to take to safeguard the Muslim interest in the services mentioned in part (a)?

#### **SAFEGUARDING THE INTERESTS OF MUSLIMS IN CERTAIN CADRES OF THE EASTERN BENGAL RAILWAY.**

†28. \*Mr. M. Maswood Ahmad: (a) Is it a fact that there was not a single Mussalman on the Eastern Bengal Railway on the 31st March, 1931, in the posts of Yards and Goods Supervisors, Chief Booking Clerks, Luggage and Fish Inspectors, Advertisement and Food Inspectors, Chief Passenger Guides, Goods Clerks in the grade of Rs. 115—10—145, Booking Clerks in the grade of Rs. 115—10—145, Parcel Clerks in the grade of Rs. 115—10—145, Transshipment Clerks in the grade of Rs. 115—10—145, Ticket Collectors on pay of Rs. 95 or more, Circle Inspectors (Crews), Travelling Ticket Inspectors?

(b) Will Government be pleased to state the communal composition in the services mentioned in part (a) separately on the Eastern Bengal Railway on the 31st March, 1932?

(c) What action do Government propose to take to safeguard Muslim interests in the services mentioned in part (a)?

#### **EMPLOYMENT OF MUSLIMS AS INSPECTORS (CLAIMS, RATES AND OUTSTANDING) ON THE EASTERN BENGAL RAILWAY.**

†29. \*Mr. M. Maswood Ahmad: (a) Is it a fact that the total number of posts of Inspectors (Claims, Rates and Outstanding) employed on the Eastern Bengal Railway on the 31st March, 1931, was 21?

(b) Is it a fact that only one of the posts mentioned in part (a) was held by a Muslim on the Eastern Bengal Railway on the 31st March, 1931?

(c) Will Government be pleased to state the communal composition of the posts mentioned in part (a) on the Eastern Bengal Railway on the 31st March, 1932?

(d) What action do Government propose to take so that Muslims may get their due share of the posts mentioned in part (a)?

#### **EMPLOYMENT OF MUSLIMS IN THE TRAFFIC DEPARTMENT (COMMERCIAL) OF THE EASTERN BENGAL RAILWAY.**

†30. \*Mr. M. Maswood Ahmad: (a) Is it a fact that the total Traffic Department (Commercial) staff on a minimum pay of Rs. 150 or more employed on the Eastern Bengal Railway on the 31st March, 1931, was 44?

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† For answer to this question, see answer to question No. 20.

(b) Is it a fact that the communal composition of the staff mentioned in part (a) on the Eastern Bengal Railway on the 31st March, 1931, was:

Hindus 20 in number, 45.45 per cent.

Muslims 8 in number, 6.82 per cent.

Europeans *cum* Anglo-Indians 17 in number, 38.63 per cent.

Indian Christians 2 in number, 4.55 per cent.

Others 2 in number, 4.55 per cent?

(c) Will Government be pleased to state the communal composition of the staff mentioned in part (a) on the Eastern Bengal Railway on the 31st March, 1932, according to the schedule mentioned in part (b)?

(d) What action do Government propose to take to see that Muslims get their due share in the services mentioned in part (a)?

**EMPLOYMENT OF MUSLIMS IN THE LOCOMOTIVE DEPARTMENT (CARRIAGE) OF THE EASTERN BENGAL RAILWAY.**

†31. \*Mr. M. Maswood Ahmad: (a) Is it a fact that the total Locomotive Department (Carriage) staff employed on the Eastern Bengal Railway on the 31st March, 1931, was 162?

(b) Is it a fact that the communal composition of the Locomotive Department (Carriage) staff on the Eastern Bengal Railway on the 31st March, was:

Hindus 71.6 per cent., 116 in number.

Muslims 13.59 per cent., 22 in number.

Europeans *cum* Anglo-Indians 11.11 per cent., 18 in number.

Indian Christians 1.85 per cent., 3 in number.

Others 1.85 per cent., 3 in number?

(c) Will Government be pleased to state the communal composition of the Locomotive Department (Carriage) staff on the Eastern Bengal Railway on the 31st March, 1932, according to the schedule mentioned in part (b)?

(d) What action do Government propose to take in order that Muslims may get their due share in the services mentioned in part (a)?

**EMPLOYMENT OF MUSLIMS IN THE LOCOMOTIVE DEPARTMENT (CARRIAGE) OF THE EASTERN BENGAL RAILWAY.**

†32. \*Mr. M. Maswood Ahmad: (a) Is it a fact that the total Locomotive Department (Carriage) staff on a minimum pay of Rs. 150 or more employed on the Eastern Bengal Railway on the 31st March, 1931, was 19?

(b) Is it a fact that the communal composition of the staff mentioned in part (a) on the Eastern Bengal Railway on the 31st March, 1931, was:

Hindus 2 in number, 10.53 per cent.

Muslims 1 in number, 5.26 per cent.

Europeans *cum* Anglo-Indians 16 in number, 84.21 per cent.?

(c) Will Government be pleased to state the communal composition of the staff mentioned in part (a) on the Eastern Bengal Railway on the 31st March, 1932, according to the schedule mentioned in part (b)?

(d) What action do Government propose to take so that Muslims may get their due share in the services mentioned in part (a)?

**EMPLOYMENT OF MUSLIMS IN THE LOCOMOTIVE DEPARTMENT (WORKSHOPS)  
OF THE EASTERN BENGAL RAILWAY.**

†33. \*Mr. M. Maswood Ahmad: (a) Is it a fact that the total Locomotive Department (Workshops) staff employed on the Eastern Bengal Railway on the 31st March, 1931, was 185?

(b) Is it a fact that the communal composition of the Locomotive Department (Workshops) staff on the Eastern Bengal Railway on the 31st March, 1931, was:

Hindus 34.6 per cent., 64 in number.

Muslims 1.08 per cent., 2 in number.

Europeans cum Anglo-Indians 62.16 per cent., 115 in number.

Indian Christians 1.08 per cent., 2 in number.

Others 1.08 per cent., 2 in number?

(c) Will Government be pleased to state the communal composition of the Locomotive Department (Workshops) staff on the Eastern Bengal Railway on the 31st March, 1932, according to the schedule mentioned in part (b)?

(d) What action do Government propose to take to see that Muslims get their due share in the services mentioned in part (a)?

**EMPLOYMENT OF MUSLIMS IN THE LOCOMOTIVE DEPARTMENT (WORKSHOPS)  
OF THE EASTERN BENGAL RAILWAY.**

†34. \*Mr. M. Maswood Ahmad: (a) Is it a fact that the total Locomotive Department (Workshops) staff on Rs. 150 or more employed on the Eastern Bengal Railway on the 31st March, 1931, was 18?

(b) Is it a fact that the communal composition of the staff mentioned in part (a) on the Eastern Bengal Railway on the 31st March, 1931, was:

Hindus 18, 13.44 per cent.

Muslims 2, 1.49 per cent.

Europeans cum Anglo-Indians 110, 82.09 per cent.

Indian Christians 2, 1.49 per cent.

Others 2, 1.49 per cent.?

(c) Will Government be pleased to state the communal composition of the staff mentioned in part (a) on the Eastern Bengal Railway on the 31st March, 1932, according to the schedule mentioned in part (b)?

(d) What action do Government propose to take to see that Muslims get their due share in the services mentioned in part (a)?

**EMPLOYMENT OF MUSLIMS IN THE CIVIL ENGINEERING STAFF OF THE EASTERN BENGAL RAILWAY.**

†35. \***Mr. M. Maswood Ahmad:** (a) Is it a fact that the total Civil Engineering Staff employed on the Eastern Bengal Railway on the 31st March, 1931, was 178?

(b) Is it a fact that the communal composition of the staff in the Civil Engineering Department on the Eastern Bengal Railway on the 31st March, 1931, was:

Hindus 70·22 per cent., 128 in number.

Muslims 7·87 per cent., 14 in number.

Europeans *cum* Anglo-Indians 18·54 per cent., 23 in number.

Indian Christians 1·12 per cent., 2 in number.

Others 2·25 per cent., 4 in number?

(c) Will Government be pleased to state the communal composition of the Civil Engineering Staff on the Eastern Bengal Railway on the 31st March, 1932, according to the schedule mentioned in part (b)?

(d) What action do Government propose to take so that Muslims get their due share in the services mentioned in part (a)?

**EMPLOYMENT OF MUSLIMS IN THE CIVIL ENGINEERING STAFF OF THE EASTERN BENGAL RAILWAY.**

†36. \***Mr. M. Maswood Ahmad:** (a) Is it a fact that the total Civil Engineering Staff on a pay of Rs. 150 or more employed on the Eastern Bengal Railway on the 31st March, 1931, was 94?

(b) Is it a fact that the communal composition of the staff mentioned in part (a) on the Eastern Bengal Railway on the 31st March, 1931, was:

Hindus 59 in number, 62·77 per cent.

Muslims 4 in number, 4·26 per cent.

Europeans *cum* Anglo-Indians 27 in number, 28·72 per cent.

Indian Christians 1 in number, 1·06 per cent.

Others 8 in number, 8·19 per cent.?

(c) Will Government be pleased to state the communal composition of the staff mentioned in part (a) on the Eastern Bengal Railway on the 31st March, 1932, according to the schedule mentioned in part (b)?

(d) What action do Government propose to take so that Muslims may get their due share in the services mentioned in part (a)?

**EMPLOYMENT OF MUSLIMS IN THE STORES DEPARTMENT OF THE EASTERN BENGAL RAILWAY.**

†37. \***Mr. M. Maswood Ahmad:** (a) Is it a fact that the total Stores Department staff employed on the Eastern Bengal Railway on the 31st March, 1931, was 52?

(b) Is it a fact that the communal composition of the staff in the Stores Department on the Eastern Bengal Railway on the 31st March, 1931, was:

Hindus 80·77 per cent., 42 in number.

Muslims 8·85 per cent., 2 in number.

Europeans *cum* Anglo-Indians 15·38 per cent., 8 in number?

(c) Will Government be pleased to state the communal composition of the staff in the Stores Department on the Eastern Bengal Railway on the 31st March, 1932, according to the schedule mentioned in part (b)?

(d) Will Government be pleased to state what action they propose to take so that Muslims may get their due share in the services mentioned in part (a)?

#### EMPLOYMENT OF MUSLIMS IN CERTAIN CADRES OF THE EASTERN BENGAL RAILWAY.

†38. \*Mr. M. Maswood Ahmad: (a) Is it a fact that not a single Muslim was on the Eastern Bengal Railway on the 31st March, 1931, as a Landing, Assistant Landing, Shipping Inspector, Depot Store Keeper, Sub-Store Keeper, Ward Keeper or Recorder in the Stores Department?

(b) What action do Government propose to take to see that Muslims get their due share in the services mentioned in part (a)?

(c) Will Government be pleased to state the communal composition of the staff in total posts mentioned in part (a) on the Eastern Bengal Railway on the 31st March, 1932?

#### EMPLOYMENT OF MUSLIMS IN THE STORES DEPARTMENT OF THE EASTERN BENGAL RAILWAY.

†39. \*Mr. M. Maswood Ahmad: (a) Is it a fact that the total number of posts in the Stores Department on a pay of Rs. 150 or more employed on the Eastern Bengal Railway on the 31st March, 1931, was 16?

(b) Is it a fact that the communal composition of the staff in the total posts mentioned in part (a) on the Eastern Bengal Railway on the 31st March, 1931, was:

Hindus 9, 56·25 per cent.

Muslims Nil.

Europeans *cum* Anglo-Indians 7, 43·75 per cent.?

(c) Will Government be pleased to state the communal composition of the staff in the total posts mentioned in part (a) on the Eastern Bengal Railway on the 31st March, 1932, according to the schedule mentioned in part (b)?

(d) What action do Government propose to take to see that Muslims get their due share in the services mentioned in part (a)?



**EMPLOYMENT OF MUSLIMS IN THE MEDICAL DEPARTMENT OF THE EASTERN BENGAL RAILWAY.**

†40. \***Mr. M. Maswood Ahmad:** (a) Is it a fact that the total Medical Department staff employed on the Eastern Bengal Railway on the 31st March, 1931, was 160? .

(b) Is it a fact that the communal composition of the total staff in the Medical Department on the Eastern Bengal Railway on the 31st March, 1931, was:

Hindus 72·5 per cent., 116 in number.

Muslims 18·12 per cent., 29 in number.

Europeans *cum* Anglo-Indians 7·5 per cent., 12 in number.

Indian Christians 1·88 per cent., 3 in number?

(c) Will Government be pleased to state the communal composition of the total Medical Department staff on the Eastern Bengal Railway on the 31st March, 1932, according to the schedule mentioned in part (b)?

(d) What action do Government propose to take so that Muslims may get their due share in the services mentioned in part (a)?

**EMPLOYMENT OF MUSLIMS IN THE MEDICAL DEPARTMENT OF THE EASTERN BENGAL RAILWAY.**

†41. \***Mr. M. Maswood Ahmad:** (a) Is it a fact that the total number of posts in the Medical Department on a pay of Rs. 150 or more employed on the Eastern Bengal Railway on the 31st March, 1931, was 36?

(b) Is it a fact that the communal composition of the staff in the total posts mentioned in part (a) on the Eastern Bengal Railway on the 31st March, 1931, was:

Hindus 12 in number, 46·15 per cent.

Muslims 2 in number, 7·69 per cent.

Europeans *cum* Anglo-Indians 13 in number, 46·16 per cent.?

(c) Will Government be pleased to state the communal composition of the staff in the total posts mentioned in part (a) on the Eastern Bengal Railway on the 31st March, 1932, according to the schedule mentioned in part (b)?

(d) What action do Government propose to take so that Muslims may get their due share in the services mentioned in part (a)?

**GRANT OF KING'S COMMISSIONS TO INDIANS IN THE ARMY EDUCATIONAL CORPS.**

42. \***Mr. M. Maswood Ahmad:** Will Government be pleased to state:

(a) whether they intend, in view of the Indianisation of a complete division of Infantry and a Brigade of Cavalry with all other auxiliary services, to grant King's Commissions to Indians in the Army Educational Corps;

(b) if the answer to (a) is in the affirmative, what the terms of the service and percentage of Indianisation in the Corps will be;

- (c) whether the existing Indian officers (with the Viceroy's Commissions) on the Educational Establishment of the Army will be eligible for the grant of such King's Commissions; and
- (d) whether their age-limit will be waived as in the case of British Warrant Officers selected for Commissions in the Army Educational Corps and Quartermaster's appointments in the Training Battalions of the Indian Army?

**Mr. G. R. F. Tottenham:** (a), (b), (c) and (d). The Army Educational Corps is a part of the British Army and cannot therefore be Indianised as such. The question of providing for the educational requirements of the new Indian Army will, however, be considered in accordance with the general policy under which the King's Commission is to be granted to Indians in all arms and branches of the service. It is too early yet to say what the exact scheme will be, but it is unlikely that it will include the grant of direct King's Commissions to Indian officers who are above the age-limit for entry to the Indian Military Academy. Indian officers now seconded from their units and serving on the educational establishments of the Army are eligible for admission to the Indian Military Academy if they fulfil the required conditions.

#### GRANT OF DIRECT KING'S COMMISSIONS TO INDIAN OFFICERS HOLDING VICEROY'S COMMISSION.

**43. \*Mr. M. Maswood Ahmad:** Will Government kindly state if it is a fact that a number of Indian officers (Subedars and Jamadars), now holding King's Commissions, were granted direct King's Commissions for their loyal services, at the end of the Great War; if so, do they propose to consider favourably the cases of those Indian officers (holders of Viceroy's Commission) who are now between the ages of 25 and 38 years, and grant them direct Commissions?

**Mr. G. R. F. Tottenham:** A number of senior Viceroy's Commissioned officers were granted King's Commissions just after the Great War for specially distinguished services rendered during the war. Government cannot regard this as a precedent for the purpose which the Honourable Member has in view: and do not consider that the interests of the Army would be served by granting King's Commissions to Viceroy's Commissioned officers over the age of 25. It would upset the whole scheme for officering the new Indian Army: and the officers themselves would have little or no prospect of promotion by reason of their age.

#### SCHEME FOR THE GRANT OF KING'S COMMISSIONS TO INDIAN NON-COMMISSIONED OFFICERS WHO ARE OVER AGE.

**44. \*Mr. M. Maswood Ahmad:** Will Government kindly state whether they have framed a scheme with regard to those Indian non-commissioned officers who are now over age, but are otherwise suitable for the grant of King's Commissions? If so, what is the scheme?

**Mr. G. R. F. Tottenham:** The answer to the first part of the question is in the negative. Non-commissioned officers over the age of 25 would obviously not be suitable for training at the Indian Military Academy with

a view to receiving the King's Commission. The second part does not arise.

Non-commissioned officers will still remain eligible for promotion within their groups as Indian officers holding the Viceroy's Commission.

**REPLACEMENT OF BRITISH CLERKS OF THE HIGHER GRADES AT THE HEAD-QUARTERS OF COMMANDS, DISTRICTS, BRIGADES, ETC., BY INDIAN CLERKS.**

45. **\*Mr. M. Maswood Ahmad:** Will Government be pleased to state whether they propose to replace British clerks of the higher grades at the Headquarters of Commands, Districts, Brigades, etc., by Indian clerks; if so, do they propose to grant them King's Commissions as is the case with regard to the British Warrant Officers on the unattached list who are even Majors and Lieutenant-Colonels?

**Mr. G. R. F. Tottenham:** The answer to the first part of the question is in the negative. The second part, therefore, does not arise.

**MOTION FOR ADJOURNMENT.**

**EXECUTION OF NARSINGH PRASAD BHABANI AND TWO OTHERS.**

**Mr. Deputy President** (Mr. R. K. Shanmukham Chetty): I have received from Mr. S. C. Mitra notice of his intention to move for adjournment of the business of the Assembly to discuss a definite matter of urgent public importance, namely, the Honourable the Home Member's refusal to accept a short notice question regarding the execution of Narsingh Prasad Bhabani on the 3rd February, 1933. I have to inquire whether any Honourable Member has any objection to this motion.

**The Honourable Sir Joseph Bhowe** (Leader of the House): The only objection I would take is a general one, namely, that it is not open on any ground for any one to raise the objection that a Member of Government has not exercised his discretion rightly in refusing to accept a short notice question. It is a perfectly simple point and I take objection on that ground.

**Mr. S. C. Mitra** (Chittagong and Rajshahi Divisions: Non-Muhamadan Rural): Sir, in asking for your leave and the leave of the House I should like to make it clear that my intention in raising this question is to have the decision of the House, whether the Honourable the Home Member, in using his discretion in disallowing a question, is bound to use that discretion properly, judiciously and in a way not to encroach upon the privileges of Members of this House in the matter of interpellation. It will be clear from the questions that a certain man is going to be executed on the 3rd and three very distinguished lawyer Members of the House gave notice of these questions by telegram and, in order that the main purpose may not be frustrated, they pressed for a 'short notice' reply from the Honourable the Home Member. Here I join issue with the Honourable the Leader of the House. Though the Home Member has the right to use his discretion, he is bound to use that discretion properly and not in a way that will prejudice the privileges of the House to get a remedy by putting questions and getting replies in time. That is the question I should like to raise in my motion for Adjournment.

**Mr. Lalchand Navalrai** (Sind: Non-Muhammadian Rural): I want to support this motion. There is no doubt a discretion vested in the Government Member to accept a short notice question or not, but if that discretion is not wisely used, what is the course left open to the Members of this House? The only course is to approach the Chair for the Adjournment of the House. There is no rule or law which says that the Adjournment of the House should not be allowed on a matter like this. I do not think there is any precedent which would bar the President from putting a motion like this to the House, whether the House should be adjourned or not. I submit, in a matter like this where a man is going to be executed, if a short notice question is not accepted, the result will be that the execution will come into force and, after the man is executed, there will be no necessity for raising this question at all. It is of the utmost importance that the House should record its vote upon this vital question if the Government are so unreasonable as not to accede even to a request to answer a short notice question. I, therefore, wholeheartedly support Mr. Mitra.

**Mr. K. Ahmed** (Rajshahi Division: Muhammadan Rural): So far as the rules and standing orders are concerned, we know that there is no course left open but the practice that has been established since the time of the predecessor of the present President, which is to ask the Government to answer questions. None of the Members who have given notice of the motion for Adjournment has said definitely as to when the notice of the short notice question was served. Was it yesterday or the day before, and to whom was it given? Neither the Honourable the President nor the Acting President was in a position to accept notice and the copy was circulated before the circulation of the notice to Government Members. There has been irregularity all through. (Interruption by an Honourable Member.) If the notice was served 24 hours before, it may be that the Government Member concerned has not had sufficient time to transmit the information to the province where the execution will take place. If, on the other hand, Mr. Mitra gave the notice in time and the Home Department has had sufficient time to consult the Local Government, then the decision will not be in favour of the Leader of the House. If the Honourable Member from Bengal will enlighten the House, then the House will be in a position to deal with the matter.

**Sir Hari Singh Gour** (Central Provinces Hindi Divisions: Non-Muhammadian): I understand that there are three motions of which notice has been given. One is given by Mr. Mitra to the effect that this House should adjourn as a protest at the refusal of the Home Member to accept a short notice question and the other two notices deal with the question of the pending execution. Now, I would ask Mr. Mitra, if this House was to accede to his request, what he should be landing himself into. We shall be censuring the Home Member for not accepting a short notice question and the only discussion that will be pertinent will be the question whether the Home Member should be censured or not and, supposing, we did censure the Home Member, we are not in any way near the real point which Mr. Mitra and the protagonists of the other motions have in view, namely, to censure the Government for precipitating the execution of some convicts for reasons to be stated. The two questions must be dissociated, and I think if Mr. Mitra's motion is carried today, he will defeat the very purpose he had in view, namely, to raise a discussion on

the question of the propriety of the execution of the convicted person on the 3rd February. In this view, I would ask my Honourable friend whether he would not give way to the other motion and withdraw his own.

**Mr. Deputy President** (Mr. R. K. Shanmukham Chetty): Order, order. The right of Honourable Members to ask short notice questions arises from Standing Order No. 13, which reads as follows:

"Unless the President, with the consent of the Member of the Government whose department is concerned, otherwise directs, not less than ten clear days' notice of a question shall be given."

In order to enable an Honourable Member to ask a short notice question, it therefore follows that, not merely should the President concur in such a procedure, but that the Member of the Government to whose Department the question relates must agree to answer the question at short notice. Now, in this case, the Honourable Member, to whose Department this question relates, has refused to concur in this procedure, and, on this refusal of the Honourable the Home Member, the Honourable Member, Mr. S. C. Mitra, wants to move the Adjournment of the House. As was pointed out by Sir Hari Singh Gour, the Chair has received notice of two further motions relating to the substantive question arising out of this short notice question—one from the Honourable Member, Mr. Amar Nath Dutt, and the other from the Honourable Member, Mr. Gaya Prasad Singh. The Chair recognises that the right vested in Honourable Members to ask short notice questions is a very valuable right, and it is quite conceivable that even though the concurrence of the Member of Government is necessary, the exercise of his discretion in a particular manner might seriously infringe the rights of the Honourable Members of this House. It is quite conceivable that if the Member of Government refuses to concur in the procedure, no alternative remedy may be available to Honourable Members and that thereby there might be a serious infringement of their rights; but, fortunately for us, in this particular case, two other notices raising the same substantive motion have been given, and it is, therefore, unnecessary for the Chair at this stage to rule whether Mr. Mitra's motion is in order or not. In view of these circumstances, I would ask the Honourable Member, Mr. S. C. Mitra, whether he would persist in asking for the leave of the House to move his own motion.

**Mr. S. C. Mitra:** Sir, when I gave notice of my motion, I was unaware of the other two motions, and, in view of what you have said about our rights, I certainly withdraw my motion in favour of the other motion.

**Mr. Deputy President** (Mr. R. K. Shanmukham Chetty): I have received a notice from the Honourable Member, Mr. Amar Nath Dutt, that he proposes to ask for leave to move a motion for the adjournment of the business of the House today in the following terms, namely:

"I beg to give notice that I shall move for the adjournment of the business of the Assembly for the purpose of discussing a definite matter of urgent public importance, viz., the impending execution of Narsingh Prasad Bhabani, and two others, on the 3rd February, in which one of them has confessed exonerating the other two and that he alone was responsible for the murder."

I have to inquire whether any Honourable Member has any objection to this motion.

**Dr. Ziauddin Ahmad** (United Provinces Southern Divisions: Muhammadan Rural): Sir, let us hear the other motion as well so that we may be in a position to form our judgment.

**Mr. Deputy President** (Mr. R. K. Shanmukham Chetty): The other notice is the same in shorter form;

"I beg to give notice that I shall move for the adjournment of the House to discuss a definite matter of urgent public importance, viz., the impending execution of Narsingh Prasad Bhabani and two others on the 3rd instant."

I have to inquire whether any Honourable Member has any objection to the motion of Mr. Amar Nath Dutt being moved.

(After a pause.)

As no objection has been taken I declare that leave is granted and that the motion will be taken up for discussion at 4 P.M. The House will now adjourn and meet again at a quarter to three.

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

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The Assembly re-assembled after Lunch at a Quarter to Three of the Clock, Mr. Deputy President (Mr. R. K. Shanmukham Chetty) in the Chair.

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#### DEATH OF SIR WILLLOUGHBY CAREY.

**The Honourable Sir Joseph Bhore** (Leader of the House): Sir, once more we have to record yet another gap in the ranks of those who have been Members of this Assembly and have helped in its work and deliberations in the past. Many of us were, I think, familiar with Sir Willoughby Carey's genial personality for he was a Member of this Assembly in the year 1925-26; but his association with the public life of this country was not confined to his membership of the Assembly. He represented the European community in the Bengal Legislative Council: he was a President of the Bengal Chamber of Commerce: he was also a President of the Imperial Bank, Bengal: and he was a Sheriff of Calcutta. We must all deplore the tragic suddenness with which death has removed a figure that was prominent in the commercial, business and the public life of the country. I would ask you, Sir, to convey our respectful sympathy to the relatives of the deceased in their great bereavement.

**Sir Hari Singh Gour** (Central Provinces Hindi Divisions: Non-Muhammadan): Sir, I entirely associate myself with the words that have fallen from the Honourable the Leader of the House. I had the good fortune of sitting in this House when Sir Willoughby Carey was a Member thereof and I know his popularity and geniality. In fact, Sir Willoughby Carey was one of those few men who spoke very little, but always acted in the best interests of the country of their adoption. Only the other day I saw him adorning the Distinguished Visitor's Gallery and little did I know that within a few days he will pass away. Sir, we on this side of the House feel that in the loss of Sir Willoughby Carey we have lost an esteemed friend and the country at large a personality which it can ill afford to lose. I need hardly say that the whole Opposition associates itself with all that has fallen from the Honourable the Leader of the House.

**Sir Leslie Hudson** (Bombay: European): Sir, I should like to contribute to the expressions of deep regret which have been voiced by previous speakers at the demise of Sir Willoughby Carey. Sir Willoughby Carey for many years was a very prominent figure in Calcutta, not only in commercial circles, but also in the social circles there. He was a prominent member of the Bengal Chamber of Commerce of which he was at one time the President and his unfortunate demise will be regretted by very many people who remember him as part of the commercial and social life of Calcutta. It is only a few days ago that I saw him myself in Calcutta and though I thought that he was not looking well, I had no idea that the end was so near. I should like to join in the expression of sympathy which is to be forwarded to Lady Willoughby Carey.

**Mr. Deputy President** (Mr. R. K. Shanmukham Chetty): I associate myself with the tribute that has been paid to the memory of one of our late colleagues. I distinctly remember the place that Sir Willoughby Carey occupied in this House when Sir Campbell Rhodes resigned. It shall be my duty to communicate to the relatives of the late Sir Willoughby Carey the tribute of this House as placed on record.

#### GOVERNOR GENERAL'S ASSENT TO BILLS.

**Mr. Deputy President** (Mr. R. K. Shanmukham Chetty): I have to inform the Honourable Members that the following Bills which were passed by both Chambers of the Indian Legislature during the November Session, 1932, have been assented to by His Excellency the Governor General under the provisions of sub-section (1) of section 68 of the Government of India Act:

1. The Criminal Law Amendment Act, 1932,
2. The Bengal Suppression of Terrorist Outrages (Supplementary) Act, 1932, and
3. The Indian Tariff (Ottawa Trade Agreement) Amendment Act, 1932.

#### MESSAGE FROM HIS EXCELLENCY THE VICEROY AND GOVERNOR GENERAL.

**Mr. Deputy President** (Mr. R. K. Shanmukham Chetty): I have received a Communication from His Excellency the Viceroy and Governor General which I shall read to Honourable Members:

(The Assembly received the Message standing.)

"In pursuance of the provisions of sub-section (3) of section 67-A of the Government of India Act, I hereby direct that the heads of expenditure specified in that sub-section shall be open to discussion by the Legislative Assembly when the Budget is under consideration.

(Sd.) WILLINGDON,

*Governor General."*

# STATEMENTS LAID ON THE TABLE.

**The Honourable Sir George Schuster** (Finance Member): Sir, I lay on the table the information promised in reply to starred question No. 1588 asked by Sardar Sant Singh on the 5th December, 1932.

## RETIREMENT, ETC., OF MEMBERS OF THE SUPERIOR SERVICES UNDER THE RETRENCHMENT SCHEME.

•1588.

*Statement.*

Number of members of the Superior Services (all-India and Central, Class I Services) subject to the administrative control of the Governor General in Council who have been retired under the retrenchment scheme..	Number of posts held by members of the Superior Services which have been, or shortly will be, abolished as a result of retrenchments.	Number of abolished posts which have been re-filled and emoluments given to new incumbents.
57	191	Nil.

**The Honourable Sir Joseph Bhoré** (Member for Commerce and Railways): Sir, I lay on the table the information promised in reply to starred question No. 1407 asked by Mr. Muhammad Anwar-ul-Azim on the 22nd November, 1932.

## RECRUITMENT OF MUSLIMS IN THE SUPERIOR SERVICES UNDER THE VARIOUS PORT TRUSTS IN INDIA.

•1407.

*Statement.*

Port Trust.	Question.			
	(a)	(b)	(c)	(d)
Aden . . .	One .	Yes. Nil, because the total number of posts are so few that vacancies seldom occur.	....	..
Karachi . . .	One .	Yes. One . .		..
Bombay . . .	Two .	Yes. Two . .	....	..
Madras . . .	Nil .	Yes. Nil . .	....	..



Port Trust.	Question.			
	(a)	(b)	(c)	(d)
Calcutta . . .	<i>Nil</i>	Yes. <i>Nil</i> . Out of six probationary Traffic Inspectors appointed on probation in October, 1929, on Rs. 100—50—200, one is Muslim, two are Anglo-Indians and three are Hindus. The pay of the post of Traffic Inspector in which it is hoped in due course to confirm these probationers is Rs. 300/600.	Applications have been received from time to time during the past two years but as the Commissioners are not recruiting at the present time and do not anticipate any vacancies for some time to come owing to the acute trade depression, a record of these applications is not maintained. In the event of any post falling vacant the Commissioners would, according to their settled procedure, invite applications by advertisement in the press.	Does not arise.
Chittagong . .	<i>Nil</i>	Yes. <i>Nil</i> , as no vacancy occurred.	....	..
Rangoon . . .	<i>Nil</i>	The Commissioners' policy is to fill vacancies as far as possible by promotion with due regard to efficiency. When this course cannot be followed applications are invited by advertisement and the best candidate is appointed. No Muslims have been appointed during the last two years.	....	..

NOTE.—Information supplied in answer to this question relates only to posts carrying a maximum pay of Rs. 500 or over per mensem and those filled during the current and the last year.

Mr. G. R. F. Tottenham (Army Secretary): Sir, I lay on the table the information promised in reply to starred question No. 1855 asked by Mr. Gaya Prasad Singh on the 21st November, 1932.

## ALLEGATIONS AGAINST GARHWALI SOLDIERS AT MIDNAPORE.

— \*1355. I have received the following report.

The gentleman named by the Honourable Member was cycling on the crown of the road when he met a patrol moving in arrow formation. It is the normal practice all over the world for civilians to make way for troops on the march. Having been requested to do so, he swerved suddenly, hit the flank man and fell off his cycle, the pedal of which cut his leg. After an inquiry had been held at the request of the District Magistrate, the latter granted an interview to the pleader, who agreed that the incident should be regarded as closed.

**Sir Thomas Ryan** (Director General of Posts and Telegraphs): Sir, I lay on the table the information promised in reply to starred question No. 1585 asked by Mr. Nabakumar Sing Dudhoria on the 5th December, 1932.

## OCCUPATION OF THE EASTERN HOSTEL IN NEW DELHI.

\*1585. (a), (b) and (c). The building is used for post and telegraph offices and for quarters of departmental staff and their servants: there are also a coffee shop contractor and an Indian grocer who supply staff requirements.

(d) 33 officials besides their servants and the Indian grocer.

(e) All the occupants excepting the grocer are entitled to rent free accommodation. The grocer pays rent at Rs. 25 per mensem.

(f) Does not arise.

(g) Hindus	.	.	.	2*
Muslims	.	.	.	Nil.
Anglo-Indians	.	.	.	32*
Europeans	.	.	.	Nil.

(h) The building was originally constructed for the accommodation of Indian Members of the Legislature living in orthodox style, but was subsequently purchased by the Indian Posts and Telegraphs Department for the accommodation of their local offices and to provide quarters for staff attached thereto.

(i) Does not arise as the building is the property of the Posts and Telegraphs Department.

(j) Yes.

**Mr. P. R. Rau** (Financial Commissioner, Railways): Sir, I lay on the table:

- (i) the information promised in reply to starred question No. 1318 asked by Mr. S. G. Jog on the 21st November, 1932;
- (ii) the information promised in reply to starred question No. 865 asked by Bhai Parma Nand on the 7th November, 1932;
- (iii) the information promised in reply to part (h) of unstarred question No. 66 asked by Mr. N. M. Joshi on the 27th September, 1932;

- (iv) the information promised in reply to starred question No. 1808 asked by Mr. Amar Nath Dutt on the 21st November, 1932;
- (v) the information promised in reply to unstarred question No. 177 asked by Khan Bahadur Haji Wajihuddin on the 30th September, 1932; and
- (vi) the information promised in reply to starred questions Nos. 1177, 1178 and 1179 asked by Mr. M. Maswood Ahmad on the 14th November, 1932.

#### GREAT INDIAN PENINSULA RAILWAY EMPLOYEES MUTUAL BENEFIT SOCIETY.

\*1318. (a) to (c). Yes.

(d) The Agent of the railway reports that he is not aware of any considerable dissatisfaction among the members of the Society about the management of its funds and other affairs.

(e) No. The balance of the assets of the Society on the 31st March, 1932, was in round figures, Rs. 5,30,000.

(f) The Society has not been registered under the Indian Companies Act XI of 1860.

(g) The question has been brought to the notice of the Agent.

#### CALLING OF TENDERS FOR THE AUCTION OF OLD SLEEPERS BY THE NORTH WESTERN RAILWAY.

\*865. (a) I am informed that no separate arrangements were made by the North Western Railway for the auction of sleepers and timber scrap at different stations for the period 1932-34. Applications were invited for the post of auctioneers to deal with auctions of all scrap so sold (including metal scrap) for the period 1st April, 1932, to 1st April, 1935.

(b) K. B. Adamjee Mamoojee of Rawalpindi conducted auctions of scrap from 1927 to 1929 during which period the bulk of metal scrap was sold by public tender.

(c). (d) and (e). Yes: except that the quotation of the third firm was a good deal below the highest tender which was Rs. 5 per cent.

(f) The quotation of Messrs. Jamsetjee's Sons was accepted.

(g) Yes.

(h) Messrs. Jamsetjee's Sons have been conducting auctions of scrap material on the North Western Railway since 1930 and the North Western Railway considered that the low rates of commission quoted by others would not permit of giving either the publicity to the sales or the service required to obtain the best results.

#### REVISION OF THE CADRES OF THE SUPERIOR SERVICES OF THE STATE-MANAGED RAILWAYS.

\*66. (A) A statement giving the necessary information is laid on the table.

*Statement giving the names of the subordinates officiating in Superior cadre in various departments of the Great Indian Peninsula Railway, on 1st November 1932, with their continuous officiating service up to 31st October, 1932.*

Names of subordinates officiating in permanent and leave vacancies and continuous officiating service up to 31st October, 1932.	Total continuous officiating service in superior grade prior to 1st November, 1932.		
<i>Commercial Department.</i>	From	To	Y. M. D.
1. Mr. U. Dattatraya . . .	1st Sep. 1930 .	31st Oct. 1932	2 2 0
2. Mr. F. Carvalho . . .	7th Dec. 1925 .	31st Oct. 1932	6 10 25
3. Mr. F. J. Comes . . .	11th May 1929	31st Oct. 1932	3 5 21
4. Mr. J. A. Marret . . .	25th Feb. 1931	31st Oct. 1932	1 8 27
5. Mr. P. A. Karnik . . .	8th May 1929 .	31st Oct. 1932	3 5 24
6. Mr. T. C. Wynne . . .	21st May 1929	31st Oct. 1932	3 5 11
7. Mr. S. L. Purohit . . .	17th Jan. 1932	31st Oct. 1932	0 9 15
<i>Engineering Department.</i>			
1. Mr. A. E. Aylott . . .	8th June 1932 .	31st Oct. 1932	0 4 24
<i>Mechanical Department.</i>			
1. Mr. H. Fox . . . . .	16th May 1930	31st Oct. 1932	2 5 16
2. Mr. G. Dyer . . . . .	12th March 1931	31st Oct. 1932	1 7 20
3. Mr. A. C. Otto . . . . .	25th March 1932	31st Oct. 1932	0 7 7
<i>Transportation Department.</i>			
1. Mr. G. Mulleneux . . . . .	6th May 1926	31st Oct. 1932	6 5 26
2. Mr. W. R. Craig . . . . .	20th June 1931	31st Oct. 1932	1 4 12
3. Mr. H. Smith . . . . .	15th Dec. 1930	31st Oct. 1932	1 10 17
4. Mr. F. Found . . . . .	27th Dec. 1928	31st Oct. 1932	3 10 5
5. Mr. L. J. Gellard . . . . .	17th April 1930	31st Oct. 1932	2 6 15
6. Mr. W. P. Kirkwood . . . . .	13th April 1932	31st Oct. 1932	0 6 19

**BENGAL NAGPUR RAILWAY LEVEL CROSSING ON THE BANKURA-TALDANGA ROAD.**

\*1308. (a) The Bengal Nagpur Railway line runs along the southern side of Bankura Town separating from it a small suburb named Ketardanga.

(b) Yes. The road of the level crossing in question runs through Ketardanga to Taldanga. There are three other roads between Bankura and its suburbs which cross the railway, and each road is provided with a level crossing.

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

(f) The suggestion made is not considered to be practicable.

(g) The existing gate is considered suitable for the purpose for which it has been provided. Strict orders are being issued that delays to road traffic, on account of the gates of the crossing being closed, should be reduced to the minimum that is compatible with safety.

RAILWAY PASSES SANCTIONED FOR THE USE OF THE EAST INDIAN RAILWAY  
HIGH SCHOOL, TUNDLA.

177. The Agent of the East Indian Railway reports that an inter class season pass and a third class season pass were issued in favour of the East Indian Railway High School, Tundla between Tundla and Agra and Tundla and Allahabad available up to 31st December, 1931; as it was then considered that these passes were not necessary, they were not renewed after that date. The East Indian Railway Administration at present have under examination the question as to whether a duty pass should be issued between Tundla and Jumna Bridge.

(i) The passes were in the custody of the Head Master.

(ii) They were duty passes for use on the official business of the School.

(iii) The Agent East Indian Railway is not aware that these passes have been misused.

(iv) In the case of such passes each journey has to be entered and initialled by the authorised officer or the Station Master. In addition, such passes are subject to check *en route* by the ticket-checking staff and by the Accounts Department after they have been collected on the expiry of the period of availability.

### STRENGTH OF OFFICERS IN THE JAMALPUR WORKSHOP.

\*1177. (a) Gazetted Officers 10.

### STRENGTH OF CHARGEMEN AT THE JAMALPUR WORKSHOP.

\*1178. (a)

**176.**

**PROFESSORS AND DEMONSTRATORS IN THE TRAINING INSTITUTE, JAMALPUR.**

\*1179. (a) There are no staff employed in the Technical School, Jamalpur under the category of Professor or Demonstrator. The staff consists of :

Principal	1
Lecturers	2
Assistant Lecturers	3
Assistant Masters	2

## THE INDIAN MARINE (AMENDMENT) BILL.

**Mr. G. E. F. Tottenham** (Army Secretary): Sir, I beg to move for leave to introduce a Bill further to amend the Indian Marine Act, 1887, for a certain purpose.

The motion was adopted.

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

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## THE INDIAN FOREST (AMENDMENT) BILL.

**Mr. G. S. Bajpai** (Secretary, Department of Education, Health and Lands): Sir, I move for leave to introduce a Bill further to amend the Indian Forest Act, 1927, for a certain purpose.

The motion was adopted.

**Mr. G. S. Bajpai**: Sir, I introduce the Bill.

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## THE INDIAN RAILWAYS (AMENDMENT) BILL.

**The Honourable Sir Joseph Shore** (Member for Commerce and Railways): Sir, I move for leave to introduce a Bill further to amend the Indian Railways Act, 1890, for a certain purpose.

The motion was adopted.

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

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## THE REPEALING AND AMENDING BILL.

**Mr. D. G. Mitchell** (Secretary, Legislative Department): Sir, I ask your permission to move the motion standing in the name of the Honourable Sir Brojendra Mitter who, as you know, is unavoidably absent.

I move for leave to introduce a Bill to amend certain enactments and to repeal certain other enactments.

The motion was adopted.

**Mr. D. G. Mitchell**: Sir, I introduce the Bill.

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## THE INDIAN WIRELESS TELEGRAPHY BILL.

**The Honourable Sir Frank Noyce** (Member for Industries and Labour): Sir, I move for leave to introduce a Bill to regulate the possession of wireless telegraphy apparatus.

The motion was adopted.

**The Honourable Sir Frank Noyce**: Sir, I introduce the Bill.

## THE PAYMENT OF WAGES BILL.

**The Honourable Sir Frank Noyce** (Member for Industries and Labour): Sir, I move for leave to introduce a Bill to regulate the payment of wages to certain classes of persons employed in industry.

The motion was adopted.

**The Honourable Sir Frank Noyce**: Sir, I introduce the Bill.

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## THE WORKMEN'S COMPENSATION (AMENDMENT) BILL.

### APPOINTMENT OF TWO MEMBERS TO THE SELECT COMMITTEE.

**The Honourable Sir Frank Noyce** (Member for Industries and Labour): Sir, with your permission, I should like to make a slight amendment in the next motion which stands in my name:

I move:

"That the names of the Honourable Sir Brojendra Mitter and Mr. A. G. Clow be added to the list of members of the Select Committee on the Workmen's Compensation (Amendment) Bill."

I understand there is some slight doubt as to whether the Honourable Sir Brojendra Mitter is a Member of the Select Committee or not and my motion is intended to remove any doubts on that point. I should perhaps explain to the House that Mr. Clow's name is merely a restoration as, owing to his absence in another place, he ceased to be a Member of this Assembly for a short time since the Select Committee was originally appointed.

The motion was adopted.

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## THE CHILDREN (PLEDGING OF LABOUR) BILL.

**The Honourable Sir Frank Noyce** (Member for Industries and Labour): Sir, I move:

"That the Bill to prohibit the pledging of the labour of children, as reported by the Select Committee, be taken into consideration."

It will, Sir, I am sure, be within the recollection of this House that this brief and, in my view, wholly beneficent measure was discussed at some length in the course of the September Session and that it was then decided by the House that it should be referred to a Select Committee. Short as it was, it has, if I may say so, emerged from the Select Committee improved and strengthened in a number of ways. The agreements, the making of which was an offence under the Bill, have now been declared void. The most important modification which has been made by the Select Committee is a proviso which has been inserted in the definition of "agreement to pledge the labour of a child" in clause 2. That proviso

3 P.M.

is intended to bring out more clearly than was done in the Bill, as originally drafted, that there is no intention whatever to prohibit the employment of children. As was stated from these benches, in the course of discussion last September, in places where children can be and ought to be legitimately employed, this Bill throws no obstacle

[Sir Frank Noyce.]

whatever in the way of their employment and creates no handicap in regard to it. I much regret to find from the Minute of Dissent which my Honourable friends, Mr. Puri and Mr. Jog, have put in and also from the amendments which stand in the name of Mr. Jog that they are still unable, or perhaps it would be more correct to say unwilling, to realise what is the underlying object of this Bill. The objection that is taken in it is not to particular acts of cruelty that may be done to children after their labour has been bartered away. It is to the whole principle of contracts from which, after they are made, the child and ordinarily his parent cannot escape. The objections to indentured labour which were so strongly felt in India in the case of adults and have led to the elimination of that system from Indian law—I would remind the House that it removed the last relics of that system from the law of India when it repealed the Assam Labour Act last September—were not based on the possibility that indentured labourers might be cruelly treated. They rested on the view that the system tended to temporary slavery, because the labourer was compelled to continue to serve his employer under pain of prosecution. There is no question of prosecution in the present instance but the child is tied to an employer, generally at an early age and for an indefinite period and there is not even the excuse which there was for the system of indentured labour that the labourer himself is a free agent when he enters into the indenture. The fundamental wrong at which this Bill is aimed is not cruelty to those in bondage. It is to the bondage itself with its resemblance to slavery and its contempt for human personality. The fact that harsh conditions almost inevitably follow when children are so tied is an added reason for stopping the practice, but the elimination of harsh conditions would not make the practice harmless or unobjectionable. In other words, this Bill is not one for the prevention of cruelty to children, but it has that effect, that is an additional argument in favour of it. As regards the further objection which has been raised by Mr. Puri and Mr. Jog and which has been endorsed by Mr. Lalchand Navalrai and Mr. Maswood Ahmad that the Bill seeks to throw the burden of proof on the employer, that is based on the same misconception of the purpose of the Bill. The Bill starts with the presumption that *all* service bonds in the case of children are objectionable, and it follows from this that it is only the employer who can prove that a particular agreement is not open to objection; it is for that reason that the burden of proof is placed on him.

Sir, with these few remarks I commend this Bill to the consideration of the House in the confident expectation that it will receive the same generous measure of support from all quarters that it did when it came up for discussion in the September Session.

Sir, I move.

**Mr. N. M. Joshi** (Nominated Non-Official): Sir, I rise to support the motion made by the Honourable Member for Industries and Labour. At the same time I must make it quite clear that I am not quite pleased with the amendments introduced by the Select Committee. The Honourable Member stated that most of these amendments were an improvement in the Bill. I hold that not only are they not improvements, but they have made the Bill more reactionary.



**An Honourable Member:** But you did not give any note of dissent.

**Mr. N. M. Joshi:** It is true that I did not write any note of dissent. I did not do it, because I felt that Government who sponsored this Bill weakened in their desire to give sufficient protection to the children of this country and I thought it would not serve any useful purpose if I wrote a minute of dissent. Moreover, Sir, as you know, I am quite moderate in my political persuasion and so I thought that on the whole I should be content with the Report of the Select Committee for the present. I am very glad that the Honourable Member in charge of the department has stated very clearly what the object of this Bill is. The object of this Bill is not to prevent cruelty to children, but to prevent exploitation of children by their parents; and, therefore, every agreement by which a parent derives some benefit for himself should be made void as well as an offence. Sir, when the Bill was discussed last time in the Assembly, one of the Members stated that there were poor people in the country who found it very difficult to find money for the maintenance of their families, and, therefore, it became necessary for them to pledge their children. Sir, I sympathise with the families who cannot maintain themselves by the hard work of their adult members. It is a grievance that even though the adult members of the families work very hard for a large number of hours, they should not be able to maintain their families. But the remedy is not to make children work in addition to the adult members of their families. The remedy lies in organising themselves and in protesting against the low wages which the employers in this country with the connivance of Government give. If they are organised, they can induce Government to bring forward measures to fix minimum wages so that families of hard-working adult people may be maintained in comfort. But, if such families begin to depend upon the wages of their children, they do harm to themselves, to their children and to the whole country. It is, therefore, right that Government should come forward and prevent such families from relying upon the labour of children for the maintenance of their families.

I need not also say anything about the second objection which some Members have raised, namely, that the Bill presumes that every contract for the pledging of children's labour is a bad contract. It is a bad contract for the reasons which I have stated. Child labour is itself bad and the pledging of child labour is worse. Therefore the presumption is that every contract for the pledging of children is a bad contract; and, if any employer has to make any agreement with regard to the labour of children, he must prove that it is a good contract. Similarly the objectors of this Bill also say that *per se* the act of child labour is not a bad act. It is a bad act, and, therefore, the principle of the Bill is a sound principle and that principle is that no family, no parents and no guardians should be allowed to exploit the children for the sake of the maintenance of the family. Sir, I have nothing more to add on this Bill; I support the motion made by the Honourable Member.

**Mr. S. G. Jog (Berar Representative):** Sir, it is no doubt true that I am in general sympathy with the measure that is before the House and the motion for taking it into consideration. At the time when this Bill was introduced, I had an occasion to talk on this measure and, even at that time, I gave a warning that we were rather going too fast so far as this welfare of children was concerned. The purpose of the Bill, so far

[Mr. S. G. Jog.]

as I can see, is to decide what the nature of the contracts that are entered into for the pledging of children should be. If you look at section 28 of the Indian Contract Act, you will find that it is not clear in that section as to what contracts are void and whether such contracts as pledging of children will be governed by that section. The object of this measure, as I understand it, is to make *per se* all such contracts for the pledging of child labour void so that the Courts shall have no discretion in the matter. That seems to me to be the purpose of the Bill. As soon as there is a contract, the Courts will presume that it is a void agreement and no Court will give any relief under that contract. In order to clear this doubt, I think this measure was introduced. But what I find now is that they are going much further and they have made a provision that not only will such contracts not be given effect to, but over and above that such contracts will be penalised by making it an offence. I should like to draw attention to clause 3 which says:

"Whoever, being the parent or guardian of a child, makes an agreement to pledge the labour of that child, shall be punished with fine which may extend to fifty rupees."

There is another penal provision in clause 4:

"Whoever makes with the parent or guardian of a child an agreement whereby such parent or guardian pledges the labour of the child shall be punished with fine which may extend to two hundred rupees."

I first take objection to the very premise that the parents in India are negligent of the welfare of their own children and it is the bureaucracy which care more for these children. That proposition I most emphatically deny. The parent has got the welfare of his children at heart much more than the bureaucracy claim to have. This measure has been introduced by those people who are not in touch with the realities of village life. I have no grievance against the sponsor of this Bill: probably he is not in touch with village life; but what I am surprised at is to find that my friend, Mr. Joshi, should also not be in touch with what goes on in villages. . . .

**Mr. N. M. Joshi:** It is because I am in touch with what goes on in the villages that I am supporting this Bill.

**Mr. S. G. Jog:** You are supporting it from the wrong point of view. Take a family. In a village a family consists, say, of five people, a man, his wife and three children: one man's earning is hardly sufficient to maintain this family consisting of five people. . . .

**Mr. N. M. Joshi:** Go on strike.

**Mr. S. G. Jog:** What are they going to do? If you introduce this measure, you make it restrictive to employ them and getting some money or finding out employment for them. Under these restrictions, do you mean to say that anybody would like to employ such children? And if these children are not employed, what will be the result? They will be without any wages and the result will be starvation as one man alone will not be able to support his family. What I am afraid of is this. With a view to doing good and seeking the welfare of the children, you are doing

more damage than good by this measure. I have, therefore, made a suggestion. The object of this Bill is to remove a hardship. It is just possible that in the case of factories the pledging of child labour goes on and there the children are put to trouble and harassment. But take the case of these domestic servants or agricultural servants, where boys do part-time work and help the family. I do not see where the harm is. Everywhere you have the question of unemployment in villages: nowhere they are properly taken care of: they have no proper clothing and no food to eat; and with this measure what are you going to do? You simply make laws, but what provision have you made to meet the case of unemployment in villages? So long as you are not prepared to make provision for reducing unemployment, you are not justified in making such laws, much less laws of a penal nature. Supposing a man enters into a contract and, later on, finds that he is hauled up in Criminal Courts,—the result will be that he will be fined fifty rupees. How is he to get this amount? In default he will be sent to jail. That will be the effect of this measure. If employers will not help these boys, because there is this liability to criminal punishment, then what becomes of these people? Who is going to help them? Those who are concerned with village life, those who come in contact with villagers, will probably realise how at times it is difficult to find money; and who is to come forward to help them with such measures before them? We have, therefore, suggested that the provisions of this Bill should be only restricted to factories or some such works where hardship is expected; but so far as domestic or agricultural service is concerned, I think this Bill should not apply to that at all; and, over and above that, I have also suggested that in no case should these things be made an offence. We should be rather cautious. This is the first time that we are introducing a measure of this sort and we are at once starting by making it an offence. Let us be content for the time being with only this provision that such contracts are void. That will serve as a sufficient check for the time being; and if, after some time, some experience is gained and then we find that the purposes of this Bill are not served, then we may introduce further legislation making it an offence. Till then I think we should take away this provision making it a penal offence. We should remain content for the time being with saying that the contract will be void, so that the employer will not be able to enforce a contract from the parent. In working also it will be very difficult as you will find from the proviso which says:

“Provided that an agreement, made without detriment to a child, and not made in consideration of any benefit other than reasonable wages to be paid for the child's services, and terminable at not more than a week's notice, is not an agreement within the meaning of this definition.”

Just see how impracticable in working it will be to determine as to what are reasonable wages. Wages differ from place to place, from town to town and from province to province. What is reasonable in one place may not be reasonable in another. When the matter goes to Court, the first thing to consider is whether the contract was entered into on this basis, that the wages entered in the agreement are reasonable or not. In every case that issue will arise and it will have to be decided as to what are the reasonable wages in that particular locality. How difficult it will be to decide for the Courts so long as there is no standard? Under these circumstances are the contracting parties to risk a prosecution? As soon as the Court finds that the wages entered in the contract are unreasonable,

[Mr. S. G. Jog.]

the party concerned will be hauled up before the Court and fined. With these observations I suggest that the penal nature of the offence should be taken away from this measure. I also suggest that the Bill should be restricted only to those factories where some hardship is expected and it should not affect agricultural or domestic servants. So far as I can see, there is no material to justify the application of this measure to domestic or agricultural servants. Probably the Government may have some material where children are harshly treated in factories or some other concerns. So far as domestic and agricultural services are concerned, I do not think Government have got any sufficient material to justify such a legislation. I suggest that the Bill may be taken into consideration subject to the remarks I have made.

**Mr. B. V. Jadhav** (Bombay Central Division: Non-Muhammadan Rural): Sir, I heartily support this Bill. It is well known that especially in villages needy parents are ready to pledge the labour of their children when they are 8, 9 or 10 years of age, and wealthy people recruit such boys and employ them to watch their cattle and so on, and this pawning of labour goes on for years; sometimes it goes on for the whole life of the child and even after the child becomes an adult. This system of pawning a child's labour is a very bad and vicious system. It leads almost to slavery, and, therefore, I welcome the step which the Government have taken in coming forward to put a stop to it. I think the limit of 15 years is rather low; it ought to be 18 years, and that is the suggestion I would like to make. The Act does not intend that children should not earn wages and help their parents. All that the Act aims at doing is to put a stop to the pawning or pledging of labour of a child beforehand, and, therefore, I heartily support this measure.

**Maulvi Muhammad Shafee Daoodi** (Tirhut Division: Muhammadan): Sir, I had no intention to intervene in this debate but for the observations made by my friend, Mr. Jog. It appears to me that my friend, Mr. Jog, is under a misconception. He says that he knows the village life so well as to think that this is not an evil which exists in our society. I may tell him that we have also got sufficient experience of our people, and we know very well that there are a large number of parents who do not consider the hypothecation of the labour of their children an evil for the purpose of their own gains. If the agreement is made without detriment to the interests of the child, it will not come under this Act at all. It is only when the agreement is detrimental to the interests of the child that this Act will come into operation. Therefore, there need not be any kind of fear for those parents who enter into an agreement with the sole object of improving the condition of their child. It is only when the agreement is detrimental to the interests of the child that this Act will come into operation. We know lots of cases in which poor children have been very harshly treated by their parents, I should add, unconsciously,—they do not mean to treat the children harshly, but such is the social custom, such is the social system of those people that they do not consider the pawning of labour of their children as harmful. That is the reason why they do it, and, therefore, it is the duty of the State to teach such parents how to behave towards their children when they are young and immature. I feel, Sir, that the State ought to have taken up this question much earlier. It has now fallen to the lot of my friend, the Honourable

Sir Frank Noyce, to take up this question and confer a boon, I should say, on the people of this country by rousing the feeling of the people to their duty in this matter, and, therefore, I feel that without any modification whatsoever in the Bill, it should be passed into an Act. I heartily support this measure.

**Diwan Bahadur Harbilas Sarda** (Ajmer-Merwara: General): Sir, I have every sympathy with the object of this Bill. This Bill, as I understand it, is intended to prohibit the pledging of the labour of children by their parents. I am personally against the pledging of any form of human labour, whether it is of children or of adults . . . .

**Maulvi Muhammad Shafee Daoodi**: Adults are free.

**Diwan Bahadur Harbilas Sarda**: Pledging of human labour in any form is really tantamount to men being allowed to be treated like chattel. This Bill does not restrict the employment of children. If that were so, the issue would be quite different. The object of this measure is merely to prohibit the pledging of the labour of children. A man may take money and pledge the labour of his son or his ward for a certain period of time. As it is, it smacks of nothing but slavery. It is a remnant of that attitude of mind which supported and kept up slavery; it is only such an attitude of mind that will support the pledging of labour. It must be remembered that a child has no voice when its labour is being pledged, and, I personally think, Sir, that it is,—I would not use very strong language,—but it is a great evil that any child's labour should be pledged by anybody on its behalf. I, therefore, strongly object to the proviso which has been added evidently by the Select Committee to clause 2 of this Bill. I think that before this proviso was added, the Bill was a much better one than it at present is. If we read the first part of clause 2, we find this:

"In this Act, unless there is anything repugnant in the subject or context: 'an agreement to pledge the labour of a child' means an agreement, written or oral, express or implied, whereby the parent or guardian of a child, in return for any payment, or benefit received"

and so on, but the proviso tries to nullify the first clause by the explanation that:

"Provided that an agreement made without detriment to a child, and not made in consideration of any benefit other than reasonable wages to be paid for the child's services, and terminable at not more than a week's notice, is not an agreement within the meaning of this definition".

This Bill, as amended, does not put a stop to the pledging of child labour. By the insertion of this proviso, you are defeating the very object of the Bill.

Sir, I have not sent in any amendment, and it is not possible for me to divide the House on this matter. But I strongly object to the proviso, and I would ask the Government to consider this matter seriously, because, by the insertion of this proviso, three-fourths of the value of this Bill is lost.

[Diwan Bahadur Harbilas Sarda.]

As my friend, Mr. Jog, said, it will be very difficult to determine whether an agreement is detrimental to the interests of the child or not. A child of eight years is there and his labour is pledged; a child of 14½ years is there and his labour is pledged. Now, is the case to go to somebody to determine whether it will be to the detriment of the child to pledge his labour? Then the proviso says: "terminable at not more than a week's notice". That means that any agreement can be made pledging a child's labour for, say, six months or a year, but terminable at a week's notice, that agreement will not be an agreement under this Bill, and, therefore, the provisions of this Bill will not apply to it. If this is the proper reading of the position, I think that the chief object of the Bill is lost. I, therefore, consider that the Government should look into the matter carefully; either they should amend or delete this proviso altogether. With these remarks, I say that I am very glad that this measure has been introduced, and the object of the Bill is a very laudable one indeed.

**Mr. K. Ahmed** (Rajshahi Division: Muhammadan Rural): Sir, even before the Government thought of bringing forward a measure like this, I might say that during the investigations made by the Royal Commission on Labour, a certain number of witnesses came forward in the province of the Punjab,—I think it was from the Amritsar Carpet Factory,—and gave evidence of that size which showed that the labour of tender boys of eleven and twelve years of age was pledged, and a number of documents were found with their parents which showed that they had pledged the boys for a fixed period of, say, a year or two . . . . .

**Mr. H. P. Mody** (Bombay Millowners' Association: Indian Commerce): Anybody of your size?

**Mr. K. Ahmed**: Marks of injuries were found on the bodies of these boys. Advance was taken by the parents of these boys, and these boys had to work for a fixed period, number of months, for a period of one year or two, and so on, without proper education or without any proper undertaking given by the employers that these boys will be treated properly.

We found in Madras that *beedi* factories took boys who had to go there in the morning and work till evening without even an hour or two of recreation in the interval. The poor boys were ill fed, ill clothed, and not properly looked after, and they had to undergo a lot of hardship. We found the same in Ahmedabad. There were written agreements entered into for the labour of young boys of tender age, who had to work every day for long hours. These are the things which the Royal Commission found, and at page 102 of their report they say:

"The system is indefensible; it is worse than the system of indentured labour, for the indentured labourer is, when he enters on the contract, a free agent while the child is not. The State would be justified in adopting strong measures to eradicate this evil. The giving of advances to secure the labour of children and the execution of bonds pledging such labour could both be made criminal offences. But, as there may be other questions of policy to be taken into account, we commend the proposal for examination by Government. In any case we recommend that a bond pledging the labour of any person under the age of 15 years, executed for or on account of the receipt of any consideration, should be void. This will not interfere with any honest system of apprenticeship. . . ."

As regards what my Honourable friend, Mr. Jog, said, this is a Bill which will not interfere with those boys of tender age who are working in the household, but their parents are not allowed to take advances and pledge the labour of these boys—not to receive marks of injury on their bodies any more. But if they choose, their children below fifteen will work there and be taken care of, properly clothed, or nicely educated, and it is not contemplated to interfere with that from the side of the bureaucratic Government. And it is not the bureaucratic Government that has taken up this matter. They have merely taken up the recommendation of the members of the Royal Commission on Labour. Some of these have taken care of children in the West, and half a dozen of them have taken care as fathers of many of their household families, and they have got in their employ a number of servants of tender age also. There is no restriction on that, but certainly taking money by the parents and pledging the children and thereby compelling them to work for a number of years is not desirable. My Honourable friend, Diwan Bahadur Harbilas Sarda, supported the Bill in a vacillating manner. But his heart is sound and soft and I hope he will accept the Bill without any alteration. Sir, I support the Bill.

**Mr. A. G. Olow** (Government of India: Nominated Official): Those who have criticized the Bill seem to be of two opinions—some that it is too stringent, and others that it has been unduly weakened in Select Committee. I might leave those opinions to cancel each other, but I would like just to say something, particularly in reply to what fell from my Honourable friend, Mr. Jog. It is quite clear that he signed his minute of dissent under the misapprehension that the object of this Bill was to prevent cruelty. That misapprehension having been removed by the speech of my Honourable friend in charge of the Bill, he has fallen into another, that the object of the Bill is to check the employment of children; and I admit that the speech of my Honourable friend, Mr. Joshi, did seem to give some colour to that view. But if one looks at the purpose of the Bill, as Mr. Jadhav pointed out, the essence of it lies in a point which has hardly been touched by Mr. Jog. It lies in the fact that the children whom we are endeavouring to protect are bound down to the employment, in other words, that they are there and that they cannot get away. There is nothing whatever to prevent Mr. Jog employing a child and giving him such reasonable treatment that he will be willing to stay in his employment. That is what good employers, a majority of the employers, in fact, all but a few employers throughout the country do. They depend on the conditions that they are offering to retain children in their employment; they do not depend on bonds or some terms or conditions that will prevent the child from getting away and will prevent the parent from taking away the child. Mr. Jog seemed to suggest that we were inviting the Legislature to interfere in a bureaucratic manner with liberty, the liberty of the parent, and possibly the liberty of the child. Actually the Bill is designed to protect liberty. The position at present, as I understand it, is that if you enter into some of those bonds such as were cited before the Royal Commission and produced before them, whereby in return for a comparatively small sum of money you can hand your child over to an employer for many years—as we understood the position, that bond will be enforceable in the Courts; and when the parent, realising his mistake, wishes to withdraw his child, the bond stands in his way. That is the system at which the Bill is aimed. }

[Mr. A. G. Clow.]

And that I think is the answer to the point raised by my Honourable friend, Diwan Bahadur Harbilas Sarda, who complained of the proviso which the Select Committee had inserted to clarify the position and said—if I put his argument rightly—you can make an agreement for a year or two years or more or as long as you like, but so long as it is terminable at a week's notice, it is all right. Precisely: that conserves our object. It is not that the child should not be employed, but that if he is employed, he should be able to cease his employment and not be bound by a contract. Only last week I heard of some cases in Delhi—I did not know that the evil existed there previously—in which children of some poor, illiterate Chamars, who were indebted to the money-lender, were compelled to work for the money-lender who took their labour in lieu of not recovering the debt. I feel sure that the House will agree that cases like that are cases that should be severely dealt with, and that the criminal penalty of the slight kind approved by the Select Committee is not unduly severe.

I should, in conclusion, just like to refer to Mr. Jadhav's suggestion that the age might be raised to 18. In most of our labour Acts, such as the Workmen's Compensation Act and the Factories Act, a child becomes an adult at 15 or earlier and I hope he will agree with me, knowing what Indian boys of over 15 are, that there is very little likelihood of their agreeing to serve under very harsh conditions by virtue of contracts entered into after they have reached that age.

**Mr. Gaya Prasad Singh** (Muzaffarpur *cum* Champaran: Non-Muham-madan): As a member of the Select Committee it is a great pleasure to me to support the motion before the House, and I offer my hearty congratulations to the Honourable Member in charge for the promptitude with which he has brought forward this piece of legislation. He tries to remove a blot which is generally felt to exist in agricultural and industrial labour conditions obtaining in this country. It must be a matter of satisfaction to my Honourable friend to see that all sides of the House have joined in giving support to this measure, and my friend, Mr. Jog, will realise that he is ploughing a lonely furrow, and I would ask him whether it is worth while to move the amendments of which he has given notice. The labour condition, under which the pledging of labour of children is possible, is a blot obtaining in the village life of this country. I know of an instance in my own village. The father of my servant, Kamla, took a small loan from a village money-lender, and, in return for that, my servant's brother was given to work for that money-lender for years and years together. No account was kept and the boy had to go on working much against his wish and the wish of his father, because he was bound hand and foot in that sort of agreement. There was no way out of the transaction, till some of us intervened and settled the accounts, and the servant became a free man again. He was less than 15 years when this contract was entered into. Now of course he is a free man, and he is working elsewhere. This is the condition which obtains in many parts of the country, and we must now face the actual facts and try to remove a blot which exists in the labour conditions of the country. I quite appreciate the argument which has been advanced by my Honourable friend, Diwan Bahadur Harbilas Sarda, who proposes to omit the proviso which has been inserted by the Select Committee. I may assure him that that was, if I remember aright, as a result of an agreement arrived at between two sets of views represented on the Select Committee, and the sum and substance of that provision is to allow



the employment of children even under 15 years of age terminable at a week's notice. On the whole, this is a very salutary piece of legislation. It will be beneficial to the children. It conduces to their welfare, and it gives them an opportunity not to be bound down in any contract at the sweet will and pleasure of the parent or guardian. With these words, I support the motion before the House.

**Mr. Muhammad Azhar Ali** (Lucknow and Fyzabad Divisions: Muhammadan Rural): I had also the honour of being one of the members of the Select Committee and I know the pains the members took in arriving at their decisions. On the one hand we had to meet such cases where weak and unprovided parents were compelled,—I would not use the word 'pledge'—to get their children earn a living. It was with that view that this proviso was put in and if my friend, Mr. Sarda, will read the note of dissent of Mr. Puri, he will find that it is mentioned there that the principle of the Bill was that there should be no hardship or cruelty to children and that the securing of a monetary gain by the parents to the detriment of the children was objectionable. Otherwise there was no need for us to add this proviso. Mr. Jog raised this objection in Committee and I asked him then and I ask him now, who is to be the offender? It is the parent or the guardian himself that commits this offence and the only person who should be punished is the parent or guardian. We expect that the salutary laws which should be the guiding principles of civilisation should be introduced in our country and I think that by introducing such laws we are doing good to our own country. If the parent or guardian does something against morality or the interest of the child, he is the person who should be punished. With these words, I support the motion.

**Mr. Muhammad Muazzam Sahib Bahadur** (North Madras: Muhammadan): I give my wholehearted support to this Bill. I happened to be in the Committee myself and I remember very well that the proviso to which Diwan Bahadur Sarda referred just now was introduced because of a desire on the part of the members of the Committee to make an exception in the case of domestic servants. This was pressed and an agreement was reached whereby that proviso was introduced. I can assert that what the members of the Labour Commission had in mind were cases where the labour of such children was actually pledged. I do not suppose for a moment that it is the intention of the members of the Labour Commission to extend it to the case of children who are employed for domestic purposes. Sir, these three conditions are to be satisfied in order to exempt children under the age of fifteen years being employed. The first is that the agreement should not be to the detriment of the child, that the agreement should be restricted to the period of wages being paid for services, and it ought to be terminable at not more than a week's notice. That makes it clear that it is the intention of the proviso to restrict the application of this Bill to cases where the employment of children under the age of fifteen would work extreme hardship, as in the case of those factories to which my Honourable friend, who was also a Member of the Royal Commission on Labour, has just now referred. As regards the observations of my Honourable friend, Mr. Jadhav, that a child ought to be defined as one under the age of 18 years, I beg to differ. As a matter of fact, in the case of the Factories Act, I find that the age is limited to fifteen, although the nature of the undertaking there is more or less hazardous, whereas this enactment is a more general enactment and does not particularly refer to factories. As a matter of fact, I should consider that it

[Mr. Muhammad Muazzam Sahib Bahadur.]

would be far better to limit the age to twelve instead of to fifteen, because this Bill contemplates the labour of children who are not employed in hazardous undertakings. On the whole I am in entire agreement with my Honourable friend, the Mover of this motion, and I heartily support it.

**Mr. Lalchand Navalrai** (Sind: Non-Muhammadan Rural): Sir, I was a member of the Select Committee and I feel it my duty to say a few words on this motion. I have agreed to the Select Committee's Report subject to a note of dissent which is with regard to the burden of proof only. I have stated in my note, attached to the Select Committee's Report, that the burden of proof must be on the prosecution. Sir, this question of the burden of proof has been very lightly considered today. I am sorry I did not find yet any lawyer member getting up to insist upon this fundamental right of the burden of proof being upon the prosecution, but, before I go into the question of the burden of proof, I must remove one misgiving or misunderstanding which I find in the argument of my Honourable friend, Diwan Bahadur Harbilas Sarda. Sir, it was I chiefly who was responsible for having this proviso added to clause 2 by giving an illustration. Sir, as the original Bill stood, clause 2 was too drastic, I should say. It related to an agreement to pledge the labour of children, and it was defined thus:

" 'an agreement to pledge the labour of a child' means an agreement, written or oral, express or implied whereby the parent or guardian of a child, in return for any payment or benefit received or to be received by him, undertakes to cause or allow the services of the child to be utilised in any employment."

This was very general and I gave an illustration to prove its evil effect. I referred to the cases of boy servants in our houses. Now, those boy servants are given over to us for employment by their parents or guardians. Those parents and guardians do receive a certain remuneration, and if there was even volition on the part of any of the parties to the agreement to terminate the agreement, then too it would have come within clause 2 as it stood before the addition of the proviso and penalized. In that case, the door will be shut against even boy servants being taken into service for domestic purposes. It was, therefore, considered very necessary that this general clause should be restricted, and it has been modified by putting in certain conditions,—for example, that there must be a notice

4 P.M. on either side to dissolve the agreement making it not for an indefinite or a fixed term . . . . .

**Mr. Deputy President** (Mr. R. K. Shanmukham Chetty): Order, order. **Mr. Amar Nath Dutt.**

## MOTION FOR ADJOURNMENT.

### EXECUTION OF NARSINGH PRASAD BHABANI AND TWO OTHERS.

**Mr. Amar Nath Dutt** (Burdwan Division: Non-Muhammadan Rural): Sir, I beg to move:

"That the House do now adjourn."

In order to discuss a definite matter of urgent public importance, namely, the impending execution of Narsingh Prasad Bhabani and two others on the 3rd February, in which one of them has confessed exonerating the other two and confessing that he alone was responsible for the murder.

Sir, I must at the outset give a short history of the whole case. There was a murder in Jamshedpur sometime in June last, and one Nagendra Nath Chakravarty was said to have been murdered. A few days afterwards, a headless body was found about seven or eight miles away from the town of Jamshedpur and there was a *post-mortem* examination over it. Three or four days after that, two portions of the skull, namely, the upper skull without the lower jaw and, later, another portion with the lower jaw were found and there was a further *post-mortem* examination on these two, and the medical evidence is not positive about the skull belonging to the body; it was only said that that might just be possible. Whatever may be the truth, let us assume for argument's sake that one Nagendra Nath Chakravarty was murdered. Now three men were sent up for trial. They were committed to the Court of Sessions to take their trial and the learned Sessions Judge convicted all the accused under section 302 read with section 34 of the Indian Penal Code. There was an appeal to the High Court of Patna. Their Lordships of the High Court rejected the appeal. There was a prayer for leave to appeal to the Privy Council. No leave was granted and there was no appeal to the Privy Council. The execution of these men, which was confirmed by the High Court, was fixed to take place sometime in October last, but owing to their having applied for leave to appeal to the Privy Council, it was postponed. Then, again, when leave was refused, the 13th of January last was fixed for the execution of these three men.

On the 12th, that is, just before the day of the execution, the Superintendent of the Jail was requested by one of the condemned prisoners to see him and when he went there, with the jailor, the sub-assistant surgeon and others, he made a full confession to the effect that it was he and the taxi-driver who murdered the man in question and that the two other men had nothing to do with the crime. In the light of this statement made just before the day fixed for the execution, the Superintendent of the Jail was good enough to send a wire to the Local Government and postponed the execution. But the Local Government, without making any inquiry, has fixed the 3rd of February as the date for execution. Of course, I am not going to criticise the judgment of the learned Sessions Judge or that of the High Court, but, in order to understand the whole case, it will be necessary for me to make before the House certain statements. One is that the whole of the conviction of the three men is based upon the uncorroborated testimony of one who is nothing if not an accomplice.

Sir, you will permit me to state here, not in criticism of the judgment, but only to show the specimen of the evidence on which these people have been convicted and the other story now given out by one of the condemned men to enable the House to judge, which story is more probable. Sir, the whole conviction is based upon the confession of one of the accused. In this connection, I beg to draw the special attention of the Honourable the Home Member to the fact that from the perusal of the judgment he will find that this confession is no confession under the Criminal Procedure Code at all. Even the learned Sessions Judge has been obliged to observe that only the substance of the statement was taken down and not the questions and answers as is required by section 164 that the evidence should be taken down as is laid down in section 364 of the Criminal Procedure Code. This confession was retracted before the committing Magistrate and also the Sessions Judge. He gave out at that time that he was induced to make a confession like that, because he was persuaded

[Mr. Amar Nath Dutt.]

by the police that if he did so, he would be granted a pardon under section 337 of the Criminal Procedure Code. I would like to draw the special attention of the Honourable the Home Member to the fact that the police used the words "under section 337 of the Criminal Procedure Code" and the sub-inspectors, who were with him and under whose influence he was, showed him a book containing that section. He is a man employed in the Tata's, and, Sir, he is not a lawyer, though the learned Sessions Judge tried to show that probably his father-in-law, who is a lawyer, might have imparted some legal knowledge to him. But there is no ignoring the fact that he used the words that the police told him that he shall be granted pardon under section 337. That fact induced him to make the confession and that confession was retracted at the very first opportunity before the committing Magistrate and the Sessions Judge. Then, as regards implicating the other two men who were said by the other accused to be innocent, the only motive that is alleged is that the deceased and this accused used to occupy the same quarter and he wanted to have the whole quarter to himself. In this connection, you will pardon me, Sir, if I read only three or four lines from the judgment of the learned Sessions Judge where he says that he too was not convinced of the motive in this case. He says:

"These facts indicate that for some reason accused No. 2 wanted that accused No. 1 should have the entire quarter. This is the only motive alleged on behalf of the prosecution and it has been made out that this does not appear to be adequate for killing the man as there is nothing to show that even if the man was killed the whole quarter would be given to accused No. 1."

I appeal to all the Honourable Members to consider whether for this paltry reason, namely, to get hold of the whole quarter, even when that chance was rather remote, a man would commit a murder. Now, Sir, I beg to draw your attention to one other fact about the motive suggested at the last moment, that is on the 12th January, by the other accused who has also been condemned and whether this is more probable. The names of these three accused are No. 1 Narsing Prasad Bhabani, No. 2 Kasim Khan, and No. 3 Musta Ali. Musta Ali says that Kasim Khan and Bhabani had nothing to do with the murder. It cannot be suggested that these three consulted each other and decided that one of them be hanged and the other two be saved, because from the evidence which was recorded later on it will be seen that they were locked up and had no access to each other. The night watchman says in his evidence: "I did not notice Umar Khatab talking to other condemned prisoners; they were in their cells and locked up". The prosecution story was that because accused No. 1 wanted to have the whole quarter and he did not get it, this murder was committed. While, on the other hand, you will find, the Jail Superintendent says:

"Umar Khatab told me (*this was on the 18th January*) that he and the driver had murdered the man and that the accused Narsingh Prasad Bhabani and Kasim Khan had nothing to do with it."

As a matter of fact, this Umar Khatab was hired by one Pir Muhammad who promised to pay him Rs. 800 as his remuneration if he committed the murder. Out of this amount, Rs. 200 was paid to him.

The reason given out is that the deceased was in intrigue with the wife of a certain Sikh and the Sikh requested one Pir Muhammad to get hold of a man who would murder this man. This Pir Muhammad got Musta Ali to commit the murder for Rs. 800 out of which Rs. 200 was paid. This full confession was made just on the day previous to that which was fixed for his execution and when all the three accused had no access to each other. Considering all these circumstances, I submit that the Honourable the Home Member will kindly see his way to order an inquiry about the truth or otherwise of the statement of the condemned man. If an inquiry is held in the matter, I think new light may be thrown; and if no new light is thrown in the matter, they will pay the extreme penalty of law. So, nothing will be lost by postponing the execution for some days and to hold an inquiry. That is what I want the Honourable the Home Member to consider and it is for this reason that I have moved this motion for the adjournment of the House.

**Mr. K. Ahmed** (Rajshahi Division: Muhammadan Rural): The facts of the case, as stated by the Honourable the Mover of this motion for adjournment, are these. A certain murder took place, its motive being that there was a promise of Rs. 800 to be paid, out of which Rs. 200 was actually paid. This is the only motive. Another allegation was that if the murderer finished the life of the person murdered, he will get a full share of the quarter where they used to live. These facts are all opposed one by one by the other side. But the findings of the learned Judge are not disclosed by the Mover of this motion. I suppose there must be a finding in conviction under section 302, Indian Penal Code. If that is lacking, I do not know how I can say that the Judge was right. I suppose there was an appeal to the Honourable the High Court and the application was summarily rejected by two of the Divisional Judges of the said Court. While dismissing the appeal as above, the Judges were not required to give reasons. That fact also is not mentioned by the Mover of the motion. If the facts are not properly narrated, how can Honourable Members of this House decide as to which lobby they should go. Now it comes to this also that there was an application for leave to appeal to the Privy Council which was not permitted by the High Court. It is also necessary that in applications of that description the facts must be fully set out. Nothing of the sort has been given out by my friend. He has stated that a confession was made by the co-accused, Kasim Khan and Narasingh Prasad Bhabani. If a confession is made, the Magistrate has got the power to pardon any man under section 397, Indian Penal Code:

"In the case of any offence triable exclusively by the High Court or Court of Session, or any offence punishable with imprisonment which may extend to ten years, or any offence punishable under section 211 of the Indian Penal Code with imprisonment which may extend to seven years or any offence under any of the following sections of the Indian Penal Code, namely, sections 216-A, 369, 401, 435 and 477-A, the District Magistrate, a Presidency Magistrate, a Sub-Divisional Magistrate or any Magistrate of the First Class may, at any stage of the investigation or inquiry into, or the trial of the offence with a view to obtaining the evidence of any person supposed to have been directly or indirectly concerned in or privy to the offence, tender a pardon to such person on condition of his making a full and true disclosure of the whole of the circumstances within his knowledge relative to the offence and to every other person concerned, whether as principal or abettor, in the commission thereof."

If that is the case, my Honourable friend said that a sub-inspector of police made an investigation into the criminal case and if a fellow conspirator of the accused persons made a confession and he was taken

[Mr. K. Ahmed.]

before the Magistrate, he has got the power to pardon under section 337. But the difficulties are that that confession made before a Magistrate has got to be corroborated. It is the statement of an accomplice who has been aiding or abetting the murder. If that is so, his statement has got to be scrutinised. These facts have not been placed before this Assembly, before they are asked to give a verdict on this vote of censure. The difficulty is that under section 164, the police make an investigation and record statements of witnesses at the locality and elsewhere. He did not take down word for word the statement made by the people there. The substance was recorded evidently by the Magistrate, because he does not say that it was made by the police. My friend does not know his case and he is, therefore, moving about on the floor of the House to give a supplementary brief to his other friends. He knows the practice and procedure very well and now he cannot make another ground of appeal in his main application while he is defending a man. Therefore, as far as the matter stands at present, I do not think he has any legs to stand upon. The only point now is that an argument cannot be supplemented and the Deputy President will not allow me to make a second speech if fresh points are narrated by another speaker. His brief has been snatched away and now he cannot pick it up and hand it to his other friends to make a case different from the one that he has been making. That is probably why one set of lawyers was engaged in the Sessions Court and another set in the appellate Court.

**Mr. Amar Nath Dutt:** No, Mr. Yunus conducted the defence in both Courts.

**Mr. K. Ahmed:** Even if that is so, the Sessions Judge, while charging the jury, must have narrated all these points.

**Mr. Amar Nath Dutt:** But there was no juror, it was a trial by assessors.

**Mr. K. Ahmed:** Even so, he will have to note down the material points of fact with which the assessors were charged.

**Mr. A. Hoon** (Allahabad and Jhansi Divisions: Non-Muhammadan Rural): Assessors are not charged.

**Mr. K. Ahmed:** But the facts of the case are explained to them. And as the Honourable the Mover has not put his case before the House, it is not for this House to enter into grounds other than those on which the motion for adjournment was granted to Mr. Amar Nath Dutt. Therefore, in the absence of those material facts, which are necessary, I am afraid my friend has not much strength in his case and cannot ask us to walk into his lobby to pass a vote of censure against Government.

**Sardar Sant Singh** (West Punjab: Sikh): Sir, I am afraid I cannot agree with the line of reasoning adopted by the two previous speakers on this motion. The motion before the House is not worded in that manner so as to go into the merits of the evidence on which the case was decided. If this House takes it upon itself to constitute itself as a

Court of appeal from the findings of Sessions Judges or High Courts, I am afraid it will be too dangerous a precedent. We are not here to criticise how the mind of a Sessions Judge worked in arriving at a particular finding or how the mind of the High Court Judges worked in confirming the sentence passed by the Sessions Judge. We are here to discuss the matter from a different point of view. The issue before the House, as I understand it, is that the execution of the convicts should be postponed in the light of the confession made by a condemned man after the judgment of the High Court was given. The facts now before the House were certainly not before the Courts of justice, and hence no criticism can be levied on their findings. The position is that a new light has been thrown on the whole case. Is it or is it not the duty of the executive Government to guard itself against doing an injustice and hanging an innocent man? Even if there is a possibility of his being an innocent man, the duty is cast upon the executive Government to look into the affair and see that no injustice is done. We are assured that in the coming constitution there will be a rule of common sense; and if the executive refuses to listen to the prayer for the stay of execution, I understand that there is a lack of common sense in that and that is why they must be censured on this point. What is after all the demand made? The demand is that here are new facts which require investigation and looking into. Are Government prepared to look into these facts or do they refuse to do so? Their refusal to respond to the wishes of the Members of this House goes to prove conclusively the truth of the charge that the Government of India, as at present constituted, are too wooden and too inelastic. We want Government to be elastic; we want Government to be human and considerate. These are qualities which we expect in the Government of India today. If we find that by any action of theirs they refuse to become human, it is the duty of this House to put pressure upon it. We will certainly make every effort to make them human in dealing with human lives. A valuable life which cannot be replaced is going to be sent to the gallows. We want that execution should be postponed for a few days. After all justice will not be deprived of its victim. If it is proved later on that these persons are really guilty, you can hang them. Only a few days of postponement will not do any harm to Government, but will add to the prestige of Government. It is to the interest of the administration itself that such inquiries should be made, and this is why the prerogative of pardon is vested in His Majesty and that prerogative has been handed down to His Excellency the Viceroy under section 401 of the Criminal Procedure Code. It is the exercise of that prerogative which we want to be utilised in saving these lives if they are innocent. With these words, though I differ from the reasons given by the Mover of the motion, I support his conclusions. In my opinion the Mover has rather weakened his case by going into the merits or evidence of the case. The strong point which I want to place before the House is that a few days' postponement will help to establish a confidence in the sense of justice of the Government of India and will not do any harm. I, therefore, support this motion.

**Mr. Gaya Prasad Singh** (Muzaffarpur *cum* Champaran: Non-Muham-madan): Sir, I gave notice of a similar motion for adjournment as the case comes from my own province of Bihar and Orissa. I, however, take this opportunity to support this motion which has been moved by my friend on my left. He has recapitulated briefly the history of the case

[Mr. Gaya Prasad Singh.]

and, therefore, it is not necessary for me to cover the same ground over again. I will confine myself only to two outstanding points in the case. One is with regard to the alleged confession of this man, Narsingh Prasad Bhabani, and the second point is the adequacy or inadequacy of the motive which may have led him to commit this crime. With regard to the alleged confession of the man, I would point out to the House the circumstances under which this confession was made. As has been pointed out by the committing Magistrate himself, the allegation is that this confession was made at the instance of certain police officers. In support of this, I will only read out one short sentence from the order of the committing Magistrate. It is this:

"The accused, Narsingh Prasad Bhabani, in addition to his confession which tallies in most material points with the evidence of Badri Ram, prosecution witness No. 11, has made a statement to the effect that several subordinate police officers offered to make him an approver if he would make a full and frank statement of what he knew concerning this case."

So the earliest opportunity which presented itself before this convict was utilised by him by making this statement before the committing Magistrate. I am not here to say whether that confession has been voluntary or it has been extracted under threat or coercion or persuasion. I only make this statement that the circumstances are to some extent suspicious, and an element of doubt is cast upon the genuineness or the voluntary nature of the confession. The second point to which I would refer is the absence of motive—the adequacy or inadequacy of the motive which led this man to commit the crime. The only motive alleged by the prosecution is that he committed the crime in order to get rid of the deceased who was occupying another room adjoining his own in Tata Nagar. This inadequacy of motive was recognised by the committing Magistrate himself. In his order of commitment he observes as follows:

"The only real weakness in the prosecution story appears to be on the question of motive. The only reason given out for this terribly brutal murder is that the accused Narsingh Prasad Bhabani wished to have the whole of the quarter No. 10 at Jamshedpur to himself and that because Nagendra Nath Chakravarty refused to agree to this proposal the accused, who are friends, hacked him to pieces; but at this stage, discussion of the adequacy or inadequacy of this motive is clearly unprofitable."

This absence of motive has also been noticed by the Sessions Judge in his judgment. My friend who moved this adjournment motion has already read out that statement, and so I need not repeat it here. I would only point out that there are some aspects of the case which are of a suspicious character. I am not here to condemn the judgment of the learned Sessions Judge or of the High Court of Patna. They acted in the best light which was then available to them. But a new factor emerged later on after the judgment of the High Court was pronounced, and that new factor consisted in this, that one of the condemned persons has confessed one day before he was going to be hanged that he alone was responsible for the murder and not the two other accused with him. This was made before the Jail Superintendent, and, on that ground, the execution was postponed for a few days. Later on, there was also a Magistrate before whom this statement was made. This clearly throws a new light upon the case, and it is important that the question should be gone into by means of a judicial inquiry. If, after a proper inquiry, it is



found out that the confession of this co-accused exculpating the two other accused is false, justice will take its own course. We are not here to plead that the man should be released, or that his sentence should be commuted. We only plead that the execution should be postponed for a few days pending the result of a judicial inquiry which it is necessary to hold in the case. We are casting no reflection upon any one in particular. The judicial inquiry will be conducted by the machinery provided under the law by the Government themselves. It will be very cruel if, on grounds of prestige or whatever else it may be, the Government refused to accede to this little request from our side and allowed the execution to take place on the 3rd February as originally intended. In these days, when public opinion is gathering in favour of the abolition of capital punishment, it will be inhuman to send a man to the gallows under circumstances of a doubtful character. I need not refer to some cases which have happened in the West as well as elsewhere, where innocent men have actually been condemned and sent to the gallows, and their innocence has been established many years after their execution. The executive Government will be taking a very terrible responsibility on themselves—it may not be a legal responsibility, it may be a moral responsibility, but for that matter the responsibility is all the greater—if they refuse to stay the execution, and stand upon their prestige. I would, therefore, very earnestly beseech the Home Member to cast aside all notions of false prestige, and order the postponement of the execution of these people pending the result of an inquiry which they are themselves competent to hold. I understand that the wife of this condemned man has already sent a memorial to the Government of India and that memorial will furnish, apart from the proceedings of this House, grounds on which suitable action may be taken by the Government themselves. With these words, I support the motion.

**The Honourable Sir Harry Haig** (Home Member): Sir, though in this motion the question of my personal discretion in declining to accept short notice is not in issue, I should like, with your permission, as the matter was referred to this morning, to place the House in possession of the facts, which are indeed necessary for a full understanding of the case. The discretion, Sir, of a Member of the Government in the matter of accepting short notice is one that it is not always easy to exercise, and one cannot expect that the particular mode of exercising it will always commend itself to Honourable Members opposite. I should like, however, to assure the House that it is not a discretion that is exercised lightly or without due attention, and particularly a question which affects a man's life requires and receives special attention.

Now, Sir, I think it will be convenient in the first place to put the House in possession of the sequence of events, for there is, I think, some feeling that this case has been conducted with undue precipitancy. On the 13th of August, the Sessions Judge sentenced the three accused in this case to death, that is, five and a half months ago. On the 20th of September, the High Court upheld the sentences on appeal. The Local Government, about the end of September, rejected the accused's petition for mercy. On the 10th of October, the Governor General in Council rejected the further appeal for mercy which was preferred to them. On the 3rd November, the Local Government reported that the petitioner in this case was arranging to move for special leave to appeal to the Privy

[Sir Harry Haig.]

Council, and I should like to make it quite clear, because I fancy, from something that my friend, Mr. Amar Nath Dutt, said, that there is some misunderstanding on this point; the question of leave for appeal to the Privy Council is not one that is decided by a High Court in India; it is one that is decided by the Privy Council itself. In other words, this application for leave to appeal to the Privy Council went Home to the Privy Council and was there rejected by them on the 19th December. Thereafter, the 13th of January was fixed for the execution. By that time, as Honourable Members will understand, all the normal processes and more than the normal processes that succeed a death sentence had been exhausted. The day before the date fixed for execution, one of the condemned prisoners made a statement before the Jail Superintendent who postponed the execution and referred the matter for the orders of the Local Government. The statement was recorded by a Magistrate. Now, Sir, at this stage the telegraphic questions sent in by certain Honourable Members of this House . . .

**Mr. A. Hoon:** Who was the Jail Superintendent, may I know?

**The Honourable Sir Harry Haig:** I am afraid I cannot tell the Honourable Member.

**Mr. A. Hoon:** Any idea about his status?

**The Honourable Sir Harry Haig:** I am afraid I do not know. At this stage the telegraphic questions sent in by certain Honourable Members of this House were received. As the House will realise, there was at that time no question before the Government of India. The Government of India, so far as they were concerned, had discharged their duty in October. The matter then rested with the Local Government. They were under no obligation to forward any further petition. No petition was before the Government of India, and, in fact, we have since heard that a petition which was submitted to the Local Government subsequently was, in the normal course, withheld by them. I only mention these facts, Sir, to establish the point that, had the Honourable the President been present in Delhi at the time, I should have suggested to him that this was not a matter that primarily concerned the Governor General in Council and, on that account, the question might be disallowed. However, as the Honourable the President was not present in Delhi, I thought it was simpler to intimate my reluctance to accept short notice, for it seemed to me clear under the circumstances that I have just placed before the House that it was unnecessary to agree to short notice. Now, Sir, I want to make it plain that though that was the technical position, I did not in practice take my stand on that. There was after all the life of a man at stake, and as soon as that telegram was received containing these allegations about the case, I sent a telegram at once the same day to the Government of Bihar and Orissa asking them to report the facts, and they reported the facts, and I have in my possession a copy of the statement, which has been examined by the Government of India. I may say at once that the Local Government held that this statement did not in any way affect the situation, and that is a conclusion in which we have concurred.

Now, Sir, the facts of the case as found by the Courts established a very horrible and treacherous murder. A man was decoyed out. The murderers went out in a taxi to a remote place in the jungles. They there fixed a spot for the murder. It is alleged, it is found by the Courts, that the particular man whose case we are discussing here, went back in the taxi, brought the victim in the taxi to the agreed spot and there he was murdered and decapitated. Well, Sir, those facts are very horrible, and on those facts there was clearly no case for exercising clemency in favour of the petitioner. But it has been said by more than one Honourable Member today, and that is in fact the real ground for this motion, that the statement made by one of the accused on the 12th January established new facts which require to be considered, that that statement exonerated the other accused and established that this man alone was responsible for the murder. Well, Sir, I cannot find anything of that kind in the statement which I have received. It is true that in certain respects the statement is not very clear. There are references to some one, called Babu, which I can only suppose refers to the present petitioner. In fact, it is clear from the petition for mercy that we have since received that it is assumed that this man Babu referred to in the statement was the petitioner. Well, Sir, so far from Must Ali confessing that he alone was responsible for the murder and exonerating the others, he made a statement which, so far as Babu is concerned, tallies very closely with the facts found by the Courts, namely, that he went back in the taxi and returned with the victim and was in fact the man who decoyed this unfortunate man to death. So far as Must Ali himself is concerned, the whole substance of the statement is that he did nothing except that he was present and the two other men were the men who actually committed the murder and beheaded the deceased. On those facts, as I have said, the Local Government concluded that this statement really added nothing new and justified no further enquiry, and the Government of India have come precisely to the same conclusion.

These questions of examining death sentences present problems of difficult judgment. They cause the Government of India anxiety. They are examined with great care. I do not suggest for a moment that it is not within the competence of this House to discuss such matters by question or Resolution, but as far as I can ascertain, this has in the past been done very rarely, and I would appeal to Honourable Members as a general principle to refrain from doing it in the future. An Assembly of this nature is not really in a position to discuss the merits of a case like this and come to a considered opinion. In this case, at any rate, I am quite clear that the action we have taken is right, and I hope that we shall have the support of the House for that view. Indeed, in view of what I have said, and in view of the fact that this motion has, to a large extent, been moved under a misapprehension as to the nature of the statement, I hope that the Honourable the Mover will see his way to withdraw it.

**Sir Abdulla-al-Mámūn Suhrawardy** (Burdwan and Presidency Divisions : Muhammadan Rural): As one of the Honourable Members indirectly responsible for this motion, I take the earliest opportunity after the speech of the Honourable the Home Member to make a few observations. It was farthest from my thought when I gave notice of these questions by cable to the Honourable the President and the Honourable the Home Member to be a party to a motion of censure on the Home Member and little did I imagine and I could hardly foresee that it would subsequently develop

[Sir Abdulla-al-Mámūn Suhrawardy.]

into a motion for adjournment of the House. The questions which I had tabled were simply these:

"(1) Are Government aware that in the case of Emperor *versus* Narsingh Prasad Bhabani and two others who were tried in Sessions Case No. 6 of 1932 of Court of Sessions Judge of Manbhum, Sambalpur, on a charge of murder and sentenced to death and whose execution was fixed for thirteenth January last Must Ali Khan, one of the condemned co-accused, made a detailed statement before Magistrate and Jail Superintendent Purulia on twelfth January last confessing his own guilt and affirming the innocence of Narsingh Prasad Bhabani?

(2) Are Government aware that as a result of said statement execution was stayed by Jail authorities pending Local Government orders?

(3) Are Government aware that without any proper enquiry into the matter of said disclosure Government of Bihar and Orissa have ordered execution of all three to take place on Third February next?

(4) Are Government aware that this action of Local Government has aroused considerable public feeling and that a petition has been sent by wife of said Bhabani praying for judicial enquiry and stay of execution pending its result?"

The answer to these questions might have been one simple word: "No", or "Yes". Yet the Honourable the Home Member declined to accept

5 P.M. the short notice questions and give the simple answer. That there has been considerable feeling aroused by this case cannot be doubted now by the Honourable the Home Member. I invite his attention to a leading article in the *Amrita Bazar Patrika*, one of the oldest and most influential Indian dailies, under the heading "Strike, but hear", and that is our position here to-day. We do not say anything as to the merits of the case, but before you strike, hear and give us an opportunity of placing the facts of the case before the House. You have given us no opportunity. I have listened with the utmost attention to the speech of the Honourable the Home Member, who has shown himself to be a cleverer advocate than the Honourable gentleman on the other side of the House who has taken up an honorary brief on behalf of the Government and constituted himself the Public Prosecutor and Government Advocate in the case. The Honourable the Home Member has no doubt given a lucid statement of the case and the sequence of events in order to show that there has not been undue precipitancy. The question is not as regards any undue precipitancy so far as the fixing of the date of execution is concerned prior to the sensational developments which have resulted in the short notice questions being sent to him and my Honourable friend's motion for an adjournment of the House. No doubt, there has been considerable delay, a delay of nearly five months between the 3rd August when the unfortunate prisoners were condemned to death and the 13th January, the original date fixed for execution. These are Law's delays for which we are not responsible. You must go through all the procedure. There must be delay when there is an appeal to the High Court and to the Privy Council. I am glad that the Honourable the Home Member has cleared the point that the leave for appeal to the Privy Council was rejected by the Privy Council itself and not by the High Court of Patna, because it is an open secret that the High Court of Patna does not enjoy the confidence of the public to the same extent as other High Courts, and one would have thought that probably the High Court of Patna, which has been recently subjected to strictures by the Privy Council, have very well thought it prudent to refuse leave for appeal to the Privy Council.

**The Honourable Sir Harry Haig:** May I make the point clear, that legally there is no right in a High Court to refuse leave for appeal to the Privy Council?

**Sir Abdulla-al-Mámún Suhrawardy:** I know that. I say that I am glad that the Honourable the Home Member has made that point clear, because it was the general impression in the mind of lay members that the Patna High Court, which has been recently subjected to strictures by the Privy Council, may well have thought it prudent to have refused leave for appeal to the Privy Council. After rejection of leave for appeal to the Privy Council, the date of execution was fixed for the 13th January, and then sensational developments followed. There is no doubt now that we are in possession of new facts. The Honourable the Home Member has not yet stated in the course of his speech that a proper judicial enquiry was made, that the Local Government of Bihar and Orissa had done anything in the matter of a proper judicial enquiry in which the accused had opportunities of being represented by lawyers. All that the Honourable Member said was that the Local Government considered the report. I know something more than what has been stated by the Honourable the Home Member to the House. The Honourable the Home Member perhaps knows much more than myself, but has not told us all that he knows. I can enlighten the House to a certain extent as to the sequence of events. On or about the 11th January a wire was received from England to the effect that His Majesty the King Emperor to whom an appeal for mercy was submitted would not exercise his prerogative of mercy as that power had been delegated to the Viceroy. On receipt of that wire, the legal adviser of the accused approached the Private Secretary to His Excellency the Viceroy and urged that although the accused has exhausted all the remedies provided by the Code of Criminal Procedure, as the inherent power of His Majesty the King Emperor has now been delegated to the Viceroy, His Excellency may kindly consider the petition for mercy submitted by the wife of the accused.

**Mr. K. Ahmed:** It has been exhausted already.

**Sir Abdulla-al-Mámún Suhrawardy:** The legal luminary from Bengal is perfectly right. That remedy was also exhausted, but that was exhausted on or about the 11th January before the confession. Subsequent to the confession, a rumour was heard in Calcutta regarding it. Messrs. Clarke, Rawlins, Ker and Co., a firm of solicitors, who were representing the accused, wired to the Judicial Secretary to the Bihar and Orissa Government asking them as to whether there is any truth in this rumour. After a day or two, a reply was received to the effect that there has been a confession and that they were awaiting reports from the jail authorities; and, a few days after, another communication was sent to the same firm to the effect that the Bihar Government or, to quote the actual words, "The Governor in Council", had ordered the execution and fixed the 3rd February as the date. There is no mention in this communication as to whether there was any judicial or proper inquiry at all. We know what the meaning of "Governor in Council" is. As I had mentioned on a previous occasion, what the man on the spot says is repeated by the Governor-in-Council, the Governor-General-in-Council and the Secretary of State for India unless occasionally there are reasons, personal or otherwise, for them to differ from the views of the Local Government. Now, the Honourable

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the Home Member has not as yet placed before us the statement containing the confession. Has the Honourable Member any objection, on public grounds or otherwise, to read that statement? He has simply suggested that there is nothing in that statement. I have not seen the statement nor was a copy supplied by the Government. But in the deposition of the jail authorities before the Magistrate who recorded the confession, it is stated that Must Ali Khan admits his guilt and declares that the other two are innocent. I am not quite sure about the actual words, but I am sure that the word "innocence" is there. I do not know whether "Babu" in the confession means Bhabani or some other Babu. But if it means some other Babu, then it strengthens my argument for the postponement of the execution of these people and for holding a judicial inquiry, because, by precipitant and indecent haste in executing these three men on the 3rd February you are destroying the evidence altogether. You are relying on the retracted confession of the accused. What is the value of that confession? Although I agree with my friend, Sardar Sant Singh, that we should not enter into the merits of the case, I must read out a passage from the judgment of the Patna High Court, where the learned Judges even of Patna say:

"Bhabani, before the committing Magistrate, said that on the 11th July when he was examined by the sub-inspectors,.....they asked him to make a full confession and said that if he did so, they would treat him as an approver, showing him the rules and pointing out section 337 of the Code of Criminal Procedure. Mr. Ferguson, the Additional Superintendent of Police, says that the Divisional Inspector and the sub-inspector, Bagala Prashad Kabi, suggested that Bhabani should be made an approver, but he rejected the proposal. He says that the Divisional Inspector, when discussing the proposal to tender a pardon, told him that there was an offer by the accused to make a confession."

Now, with the remark that Mr. Ferguson, the Assistant Superintendent of Police, is a European and above suspicion, I leave it to the House to form its own conclusion as to whether the confession was induced or any inducement was held out to the accused by the subordinate police officials. There is the retracted confession of Bhabani and there is the unretracted confession of Must Ali Khan, a Mussalman. There is no suggestion of any friendly relations between Must Ali Khan and the Babu. It might have been between Kasim Khan and the Babu, but not between Must Ali Khan and the Babu. When we have got these facts before us, I do not see any reason why these men should be hustled out of existence by the Bihar and Orissa Government without giving an opportunity to the accused to be legally represented or any opportunity to the public to form an opinion as to whether justice has really been done. You should not merely administer justice. You should administer justice in such a way that the public should feel that justice has been done. There is no wonder that the Government of India has been described as too wooden, too iron, too inelastic, too ante-diluvian to deserve any consideration from anybody and fit only to be ended if not mended. The Government has been more often described as having neither a soul to be damned nor a body to be kicked. I should have thought that Sir Harry Haig, the Honourable the Home Member, with his kindly nature and his genial smile, would have introduced a little humanity into the soulless machine, but, alas, my expectations are doomed to disappointment. As my time is up, I should like to tell the House that I am supporting the motion for adjournment, not as a motion of censure on the Honourable the Home Member, for whom I have

the highest regard and esteem. In supporting this motion, we are only condemning the system which makes it possible for the Home Member or the Government not to give an opportunity to a Member of this House to ask a simple question by way of short notice, because there is no time for us to avail ourselves of the usual ten days' interval. So far as this particular case is concerned, the House certainly realises the urgency of it. There was no other alternative for us but to have this short notice question, because the date of execution has been fixed for the 3rd February. But for the zeal and ingenuity of my friends, Mr. Amar Nath Dutt, and Mr. S. C. Mitra, the House would not have heard anything about the facts of this case, although later on the Mother of Parliaments may have heard something from my friend, Mr. Lansbury or Major Attlee, who would have put questions on this subject and those who are against capital punishment would have made capital out of this case. When my friend, Mr. Gaya Prasad Singh, gave notice of his Bill to do away with capital punishment, I suspected some political motive behind it, but I am, to a certain extent, converted today. There is no political motive in this case. I am not interested in the case politically or from the communal point of view, because the confessing accused is Must Ali, a Mussulman, who will be hanged while the Hindu co-accused will be saved. Nor am I professionally interested in it. Yet I say that a great question of principle is involved and I am half inclined to support my friend when he brings up his Bill for the abolition of capital punishment in the light of these events, if the Government of India will not even ask the Government of Bihar and Orissa to stay the execution.

**Mr. S. C. Mitra** (Chittagong and Rajshahi Divisions: Non-Muham-madan Rural): Sir, in this debate I should like to follow the line of argument of my friend, Sardar Sant Singh. I have carefully gone through these judgments during the recess interval and I can frankly say that, reading those judgments, I was fully convinced that, on the facts as disclosed in the evidence before the Courts, there was no other alternative for any reasonable man but to support the judgment of these Courts. The Judge, in his first preliminary trial, went through all the evidence that was disclosed. The matter was referred to the Sessions Judge who, with the help of four Assessors, came to the same conclusion, and the High Court, not in a summary way, as was said by Mr. K. Ahmed, but in an elaborate judgment, has upheld that conviction. But then I had a chance to read the subsequent disclosures and I say that it will be no reflection on the Courts of trial in Bihar if we still find some reasons, after reading of the disclosures, for asking that there should be a further inquiry. If the Government have made up their mind not to interfere in this matter, I know that no appeal from us will help in any way, but I still hope that the Honourable the Home Member will kindly pay heed to some of our observations and see if he should even now revise his judgment. Sir, I shall not deal with the facts of this case by way of any criticism of the judgment of the Courts, but this is clear that the whole evidence is based mainly on the statement of the taxi-driver. His name is Badri Ram. His statement has been confirmed by the retracted confession of the accused Bhabani and, as has been said by my other friends, the Judges in all the Courts found it difficult to find out any sufficient motive for this crime. Now, if we have to judge from the evidence produced before the Courts, we do not find any reason for this taxi-driver to concoct this whole story, but as has been disclosed by the admission of this condemned man,

[Mr. S. C. Mitra.]

Must Ali Khan, on the 12th January last, he says clearly that it was the taxi-driver himself who was the real culprit who committed the murder, and that, at the instigation of a man, called Pir Muhammad, and with the help of the condemned man, Must Ali himself, the whole thing happened. While this new evidence is disclosed, one can clearly see that it is not unlikely that the taxi-driver could know all these details and it was with a view to saving his neck that he wanted to put the guilt on Bhabani and others. Sir, there are innumerable cases in India where similar confessions were extorted by the police. It is not at all unnatural that Bhabani made a confession at the instance of the police only to save his neck as an approver. I do not say that those facts should be taken for granted as a matter of course. Just now I was going through the confession of this man, Must Ali, made before a Magistrate and the Superintendent of the Jail, one Mr. Abdul Qaiyum. There is no reference in his confession about a Babu, except in one place where it is said that this Babu and Kasim fled towards Kalamati. There is no mention of any other Babu. There are provisions, at least in civil cases, for review petitions if fresh facts are disclosed, and I do not see why Government should shirk a further inquiry, when they could already see their way to wait for these eight or ten months, before executing these two men. Sir, similar cases are known where on such confessions convictions were made, but which had to be reversed. I may cite, as an instance, the case of the attempted wrecking of the train of the Lieutenant-Governor of Bengal. A few railway coolies were transported for life and then, subsequently, after two or three years, on a confession, made by Barindra Nath Ghose, in the famous Alipore Bomb Case, all the so-called confessing convicts had to be released when it was found that confessions were extorted from the unfortunate coolies. Now, because they were sentenced only to transportation for life, they could be released.

The Honourable the Home Member has admitted that in capital sentence cases there is nothing to be lost by being cautious. Government can take any number of lives, but the efforts of all the Governments in the world cannot give back one single life. Sir, the responsibility in this particular case is, a very serious one. I pass no reflection on the judgment of the Courts. I admit that the evidence before the Courts was sufficient for a conviction. But so far as the subsequent developments are concerned, I should say that this man, Must Ali, is in a condemned cell and he has no chance of communicating with his fellow-prisoners. He says that the crime was instigated at the instance of one Pir Muhammad who settled the affair for Rs. 800; Rs. 200 Must Ali received and the rest was divided among others including the driver on whose evidence the whole conviction stands. The Judges argued that this taxi-driver had no motive: he gave all the details of the places where this headless body as well as the head, two or three miles away, were found, and all those things came out in the evidence as disclosed at that time; that this driver had no interest as it appeared to the courts on evidence produced. But by the latest disclosures, it is clear that the taxi-driver is the most interested person; the very fact that the driver knew where the dead body was, and the fact that Must Ali now says that the driver was responsible for the murder are very important. I do not say that this statement by Must Ali should be taken as Gospel truth, but all that we demand is: what is the harm in having a fresh inquiry when these facts are now disclosed? It is quite a



different case from others. There are two other persons, and it explains also how it may be consistent with the innocence of the other two accused and the guilt of the driver, from whose corroborative evidence it was he without doubt at that time that these three men were implicated in the murder. So, in this case, I think we can rightfully appeal to the Home Member that even if he has made up his mind for having this execution carried out, yet he should, before this life is put an end to, order a further inquiry in the light of this confession. I am almost certain that he has not read this confession thoroughly, because there is no mention of this Babu being implicated in any way, in the statement. It was said that so and so fled towards Kalamati and, in this confession, he says clearly that these two people are not really guilty. The condemned man says that he himself is guilty and the taxi-driver,—the crime was committed at the instigation of Pir Muhammad at the dictation of a Sikh. Now, all these things can be inquired into in a week. Nothing will be lost by waiting for a while. You have already waited for eight or ten months and there can be no harm in waiting for another eight or ten days. As my old teacher, Sir Abdullah Suhrawardy said, not only should justice be done, but people should also be convinced that justice has been done; the people should know that justice has been done, I shall close my speech by appealing to the Honourable the Home Member that he might yet see his way to ordering some sort of inquiry before these unfortunate persons are finally forced out of this world.

**Mr. B. Sitaramaraju** (Ganjam *cum* Vizagapatam: Non-Muhammadan Rural): Sir, if I rise to speak, it is because of some remarks that have been made in the course of this debate by the Honourable the Home Member himself. The Honourable the Home Member said that we in this Assembly were not competent to judge matters of this kind and he asked us to refrain from making similar points for debate in this House. Sir, the House as well as the Honourable the Home Member himself would admit that the necessity for this adjournment motion has arisen simply because of his refusal to answer a short notice question, because that was the only other alternative left for the Honourable Members of this House. Honourable Members on this side of the House have repeatedly stated that they do not propose to sit as a court of appeal on matters which were before the High Court. They have also repeatedly stated, before the Honourable the Home Member himself got up in his seat, that they do not propose to go into the merits of the case except with regard to one or two remarks on merits which fell from two Honourable Members. Such being the case, it is very unjust on the part of the Honourable the Home Member, to say that we have made the mistake of bringing this matter before this House and that we should not discuss this matter at all. What else was left to Honourable Members on this side except to ask for the adjournment of the House? Certainly this side of the House does not maintain that the judgments of the Courts were wrong. All that they want is whether an inquiry, in the circumstances now available to the public, is advisable or not. Honourable Members from this side of the House have repeatedly appealed to the Honourable the Home Member that there were such circumstances which have come to lights in this case which would necessitate a careful reconsideration of the matter before the final step is taken, because when once you take away life it is impossible to restore it. Therefore, if there is any truth in the statement that some of the prisoners are not really guilty, then should not the Government just wait for a few days and make an inquiry, and if they are satisfied after this inquiry, then let the law

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have its usual course. That was all that was wanted from the House and I think a more reasonable proposal could not have been made from this side of the House. Under these circumstances, I think the Honourable the Home Member would consider the matter in the spirit in which Honourable Members have brought this matter and judge whether a case has not been made out for a dispassionate consideration of all the matters and whether time should not be granted before the final step is taken in this matter. This is all that I have to say.

**Mr. K. C. Neogy** (Dacca Division: Non-Muhammadan Rural): Sir, perhaps the House will permit me to say a few words on this motion in view of the fact that I was one of those Members who had put their signatures to the short notice questions which we had sought to ask this morning in this House. When I, in consultation with my Honourable friend, Sir Abdulla Suhrawardy, agreed to be a party to the notice of the questions, I carefully weighed the constitutional position to which reference was made by the Honourable the Home Member himself. Perhaps the Honourable Member will admit that we on this side are as much aware of the limitations which the constitution places upon the powers of this House as Members on the other side, and so far as I am concerned, the principal circumstance that determined my attitude was that here we have a case which is not covered by authority, it is not covered by the procedure law and it is not covered by any case law either of India or of any other country which we know of. So, if this instance is one which shows that there is a lacuna in the law of criminal procedure, then, certainly, it is this Legislature alone which has got the authority to legislate for the purpose of removing that defect. Apart from the question of legislation to meet such cases in the future, when we found that neither the Code of Criminal Procedure nor any decided case of any Indian High Court or of any other Supreme Court of any other country, whose decisions we had the opportunity of studying, covered this case, we thought that the only place where we could go to for the purpose of raising a discussion was this House. It was with no desire to encroach upon the province of the Legislative Council of Bihar and Orissa or of the Bihar Government that we sought to raise this issue in the form of a few short notice questions. If the Honourable Member would now go through those questions, he would, I daresay, admit that we did not raise the merits of the issue at all in those questions. It is merely a narration of the principal events. We did not commit ourselves to any particular point of view in those questions. All we suggested was that an inquiry should be held. Even that was put in a very indirect manner. We did not make any direct suggestion because that would go against the rules of this House. We wanted to know whether Government were aware of certain facts and certainly it is not open to my Honourable friend now, after having refused to admit those short notice questions, to complain that this House is transgressing the limits of constitutional propriety by raising this discussion.

**The Honourable Sir Harry Haig:** I do not think that I can plead guilty to complaining that this House was transgressing any limits. I chose my language, I think, carefully and said that I did not suggest for a moment that it was not fully within the competence of the House to discuss this matter. I only appealed to them to consider whether it really was convenient in the public interest that matters of this sort should be discussed on their merits in an Assembly of this nature.

**Mr. K. O. Neogy:** I am sorry I misunderstood my Honourable friend, but, whatever his position is, my Honourable friend certainly does not desire that such a discussion should take place in this House. That is the purport of my Honourable friend's statement on this point. And, so far as we are concerned, we want him to tell us as to where are we to go for the purpose of ventilating such issues, supposing they occur in the future. As I said before, here is an instance which shows that perhaps our law of criminal procedure is defective. All that we have from the Honourable Member is that it lies within the discretion of the Executive Government of Bihar and Orissa either to execute the capital sentence or not. That is a very unsatisfactory position so far as this House can judge. Now, Sir, even supposing that the Government of Bihar and Orissa has got the supreme discretion in this matter, then, in so far as the Government of India is charged with the direction, supervision and control of all Local Governments, particularly in regard to the reserved subjects, of which law and order is one, certainly it is not improper on our part to seek to raise such discussions on the floor of this House. I entirely disagree with the Honourable Member's attitude on this question and I daresay I have the bulk of opinion in this House with me when I make that statement.

Now, Sir, I desire to refer to one or two points which were made by the Honourable the Home Member. The Honourable Member said that there was no undue precipitancy in this matter and he gave a few dates to show as to when the first order of conviction was passed and when the High Court had dismissed appeal, and so on, and so forth. But the real point at issue is as to whether there should be a judicial inquiry into the circumstances of the case in view of the startling disclosures made by one of the condemned co-accused not earlier than the 12th January last, just a little more than a fortnight ago. Now, the whole question is whether the Government are proceeding with an undue precipitancy with reference to that date. It is no use referring to all the various dates of the trial. My Honourable friend certainly should not insist upon some people being hanged because so many months have elapsed. What is the use of having an inquiry, he asks. So many months have elapsed. And as some people must be hanged, and as we have got hold of these people, they must be hanged on the 3rd February. That seemed to me to be the gist of his arguments when he gave us all these dates beginning with the first order of conviction.

It is not always that we find inaccuracies creeping into the statements of responsible Members of Government. I was, therefore, very carefully going into the statements made by the accused convict on the 12th January last. The Honourable Member found nothing there which could justify the conclusion that even on that statement Bhabani is exculpated. My Honourable friend stated that even if we took our stand on that statement made by the co-accused on the 12th January, it does not very much improve Bhabani's position. The statement is unfortunately in Urdu, but I had it read by my Honourable friend, Sir Abdulla Suhrawardy, just now. There are only three references to this convict Bhabani, who is referred to here as Babu, and in not one of these places is there any reference to his complicity in the crime. Let us see what the Civil Surgeon of the district who is the *ex-officio* Superintendent of the Jail says on this point. He says:

"I went to the cell with the Jailor, Assistant Jailor and the sub-assistant surgeon and some warders and head warders. Umar Khatab told me that he and the driver had murdered the man and that the accused Bhabani and Kasem had nothing to do with it."

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This is what the Superintendent of the Jail who is the Civil Surgeon of the district says with regard to this matter. Then, he goes on to give the substance of the statement. Again, we have the statement on oath of the Jailor.

"Umar Khatab told the Superintendent that he and the driver had committed the murder and that Kasem Ali and Bhabani were innocent."

**The Honourable Sir Harry Haig:** Has the Honourable Member got the statement made before the Magistrate?

**Mr. K. C. Neogy:** Yes, I have.

**The Honourable Sir Harry Haig:** Is that consistent with the statement which is alleged to have been made before the Superintendent?

**Mr. K. C. Neogy:** All these statements were taken down by the Magistrate and, as I told the House before, I have got the statement in Urdu of this man Umar Khatab alias Must Ali; and, he refers only in three places to this man Bhabani and, in not one of these three places, does he refer to any complicity of this man in the crime. As I am not able to read it in the original I was referring to the statement made by the Superintendent of Jail and other officials who were repeating the substance of the statement made to them by this man. If anything, the statement of the Honourable the Home Member to my mind only strengthens our case for a judicial inquiry. He is certainly proceeding upon instructions which are not quite accurate. We have got copies of the statements made on oath, and I daresay what he is stating cannot by any means be read into the statement of the accused which was made on the 12th January last.

Now, Sir, my Honourable friend seemed also to make a little too much of the fact that the application for special leave had been rejected by the Privy Council. As if anything turned on that! As my Honourable friend, Sir Hari Singh Gour, will be able to bear me out, the Privy Council is always reluctant to interfere with the decisions of the Indian High Courts in criminal matters. Time and again they have said that theirs is not a criminal court of appeal. And that is one of the main arguments in favour of the establishment of a Supreme Court that my friend, Sir Hari Singh Gour, has been putting forward. Now, Sir, I was not quite prepared to find the Honourable the Home Member seeking to make any great point out of the fact that the Privy Council had rejected the application for special leave.

**The Honourable Sir Harry Haig:** I was not making a great point; I was merely correcting a misapprehension on the part of the Honourable Member sitting next to my Honourable friend.

**Mr. K. C. Neogy:** But what difference does it make whether the application for special leave is rejected by the Privy Council or by the High Court of Patna?

**The Honourable Sir Harry Haig:** Because it was endeavoured to import a certain amount of prejudice against the High Court of Patna,—a very unreasonable prejudice, I should say.

**Mr. K. O. Neogy:** It makes little difference when you find that the Privy Council does not go into the merits when rejecting an application of this character for special leave.

Then, Sir, my Honourable friend also seemed to be under a misapprehension when he said that there is no ground for clemency being shown in this case. I am sure he is still obsessed with the petition for mercy that he had to deal with weeks before this disclosure was made. There is no application for mercy from any side of this House. What we want is that instead of depending upon their own supreme judgment, let Government institute an independent judicial inquiry into the facts of the case and let the execution be stayed pending the result of that inquiry. It may not take more than a fortnight; if the Honourable Member were to telegraphically communicate with the Government of Bihar it may be started tomorrow or the day after.

(Sir, I do not think I will be justified in taking up any more time of the House. But I am really convinced after having heard the Honourable the Home Member that there is a very strong case for a judicial inquiry, particularly having regard to certain inaccuracies in certain points of his statement and also having regard to the misapprehension . . . . .

**The Honourable Sir Harry Haig:** What inaccuracies?

**Mr. K. O. Neogy:** Inaccuracies with regard to the statement made by the accused on the 12th January and to what extent that incriminated the man Bhabani.

**The Honourable Sir Harry Haig:** The Honourable Member has not pointed out any inaccuracy.

**Mr. K. O. Neogy:** I have, because the Honourable Member stated that even if we took our stand on the statement made on the 12th January by this co-accused, it would not improve the position of Bhabani and that Bhabani had actually decoyed the man who was murdered. There is not one single word to support this in the statement which we have in our hands and which was examined by my Honourable friend, Sir Abdulla Suhrawardy.

**The Honourable Sir Harry Haig:** I said, Sir, that the statement is not clear, but that if we took the man who is sometimes described as the unknown man and sometimes described as Babu as referring to Bhabani, then it did not help him at all; and if we did not, then his name does not appear at all in the statement.

**Mr. K. O. Neogy:** If the statement is not clear, there is all the more reason why there should be a judicial inquiry. Let us take all the references to Babu as meaning this particular man Bhabani. I put it to the Honourable Member to tell this House what these references are. It is a very serious matter and the Honourable Member himself began his speech by stating that as it is a question of life and death of a man, he was not taking his stand upon technicalities. and although he was absolutely convinced that these short notice questions would be ruled out of order, had the President been here, he went out of his way and sent a wire to

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the Bihar Government asking them to furnish him with the facts. Now, having displayed all this interest, may we not expect him to tell this House exactly what statements were made by these accused persons on the 12th January . . . . .

**Mr. Deputy President** (Mr. R. K. Shanmukham Chetty): Order, order; the Honourable Member's time is up.

**Mr. K. C. Neogy:** . . . . which incriminated the man Bhabani.

**Mr. T. N. Ramakrishna Reddi** (Madras ceded Districts and Chittoor: Non-Muhammadan Rural): Mr. Deputy President, I entirely agree with the remarks of the Honourable the Home Member that we should not enter into the merits of the case, but at the same time seeing the serious nature of the case before us and that the lives of two accused persons are hanging in the balance, we should not take this matter very lightly as the Honourable Mr. K. Ahmed would have it. Nor should we be carried away by the picture drawn by the Honourable the Home Member that this case was inquired into by a Magistrate and then by the Sessions Judge and an appeal was preferred to the High Court and also to the Privy Council and when all these judicial Courts have pronounced judgment, there is no case for us to inquire into here. If the matter had stood at that, if all these law tribunals had pronounced judgment and no further facts had been disclosed afterwards, then I would be at one with the Honourable the Home Member that we should not again reopen the whole case here and discuss this matter, when an opinion has been pronounced by the Courts of law after going into all the evidence. But a new circumstance has come in; one of the accused, just as he was about to be hanged, has confessed that some of the accused are innocent and he and some other have committed this offence. There was absolutely no motive: he was to be hanged the very next day and his conscience could not keep him quiet, his conscience would not permit him to hide the real facts and he has made that confession. So a new circumstance, a new set of facts has come to light. I want to ask the Government if it is their case that all the Courts of this land do convict only the offenders and they have not convicted and sentenced innocent persons to be hanged? If that is so, if the pronouncements of these law Courts are sacrosanct and they convict only the guilty persons, then, certainly, there would have been no case for us to interfere here. But every man in the street knows that there have been instances where the Courts have convicted innocent persons, and innocent persons have been hanged on the evidence that was produced before the Courts. The Courts are not to be accused for that. The Courts act upon the evidence that is produced before them at the time. We do not blame the Courts; the Courts do not go out of the way and condemn innocent persons to death; they merely act upon the evidence placed before them; and we know of many instances where innocent persons were hanged while the real person who had committed the offence of murder came out afterwards and have in some case or other declared that he was the real offender. With the little practice that I had before Criminal Courts, I can say that some such cases do arise and they arise now and then. Let us take a case of actual murder; and the actual murderer has been apprehended and there is clear evidence to prove the guilt of the accused. But there will be factions in that village and the witnesses are under the control of one faction and that faction would take

that opportunity to wreak vengeance against its opponents and tell the police that they would produce evidence if they would implicate one or two others also in that murder. The police could not have acted without the help of that evidence which is in the hands of that faction. The police have no other alternative but to take the help of that faction. They have only to include one or two other persons in addition to the real offender. Thus many cases have arisen where innocent persons have also been implicated along with the real accused and all the persons have been sentenced to death on that evidence. The evidence is unimpeachable and is very clear; and, on that evidence, no Court can come to any other conclusion. Many such cases have arisen and cases do arise even today and will arise in future. Here in this case on the evidence—and it might be very good evidence—the persons have been convicted and they are to be hanged in a day or two; we do not want to pronounce any opinion upon the merits of the case; but a circumstance has arisen; one of the accused says that the other two are innocent and he and some other have committed this offence. Why should not the Government now cry halt and take this matter into consideration without delay? It may be that the confession also might be wrong; it may be that it is made for some other purpose. Anyhow it will be too late if the Government reject this request and do not inquire into the case. It is a very clear case for inquiry by the Government and they will do well to enquire into and if it is found that this confession is wrong, then, instead of getting these persons hanged tomorrow or the day after, they could be hanged after a week. The Honourable the Home Member has stated that the judgment was pronounced five or six months ago: they have waited all these months and there is no harm in waiting for about a fortnight more and get the case expeditiously inquired into and the truth arrived at. So there is a clear case for the Government to take this matter in hand and make an inquiry; and since Government do not propose to do it, I support the motion before the House. Even now it is not too late for the Government to take it into consideration.

**Maulvi Muhammad Shafee Daoodi** (Tirhut Division: Muhammadan):

Sir, I knew nothing about this case before I came into the House this morning, and when I was told in the first hour what the case was I did not pay much attention to it. Now that some facts have been disclosed by both sides, I feel very strongly that I should make some observations in this matter. It appears to me that it is a very grave matter, and a great question of principle is involved in this case. There is no doubt that this Must Ali has made some statements to the Jailor as well as to the Magistrate in circumstances which cannot be said to have been aroused by sinister motives. It appears that he was in the custody of the Jailor. Nobody could approach him there, and the Jailor, so far as I have been able to gather from what Mr. Neogy just now told us, has made it clear as to what his impression was when he heard the statement of Must Ali. I submit that when a case of that nature arises, we have to consider whether justice was properly meted out or not, whether the evidence recorded by the police should be believed or the evidence which is now coming out should be considered in the light of the facts that have now emerged. I think there is no provision in the Criminal Procedure Code to open a case of this nature, but then it is this defect, as pointed out by my friend, Mr. Neogy, that we have to rectify and this is a fit case to be judged for that purpose . . . .

**Mr. Lalchand Navalrai** (Sind: Non-Muhammadian Rural): May I interrupt the Honourable Member for a minute? There is provision in section 401, Code of Criminal Procedure, for the Governor General under which he can send the case back to the confirming High Court or the convicting Court for its opinion.

**Maulvi Muhammad Shafee Daoodi**: I am very sorry. I did not know of it. If there is such a provision, then there is the least difficulty in applying the principle of equity in a matter of this kind. The Honourable the Home Member has not told us as to why Must Ali should not be believed. His confession cannot be taken by itself; his confession will have to be corroborated by evidence on the spot. I have seen now the confession itself—it is in my hands—it is a long confession. It narrates the story from beginning to end. In many relevant particulars it will have to be corroborated by facts on the spot. All confessions are tested in this way, and this confession too will have to be tested in this manner. There can be no difficulty in opening the case again if there is provision for it in the Criminal Procedure Code. I do not think it is right to hold that in a matter like this no notice should be taken of new facts which have come before us.

**The Honourable Sir Harry Haig**: I must make it plain that in our view there was no new case which required to be considered. If there was any doubt in the mind of the Bihar and Orissa Government or of the Government of India, we should take further action, but in our opinion there is no doubt that these accused have been properly and rightly convicted and deserve to be executed.

**Maulvi Muhammad Shafee Daoodi**: On that point, my experience is that in these days justice is meted out in a manner which does not satisfy the conscience of the public. I do not feel that these Courts do real justice. They only record the evidence produced before them. They may believe in their heart of hearts that they should not convict the accused in a certain case, but the evidence is such that the Judges are compelled to proceed on that basis. That has been my experience of 20 years in my practice at the bar. I do not believe that the procedure which we have enacted is sufficient, nor do I think that we have gone into this case in a manner which used to be done previously. In olden days when a Judge found that the evidence in a particular case did not satisfy his conscience, he would not hesitate to go against the procedure laid down for him but would endeavour to find out the real truth himself . . . . .

**Mr. G. Morgan** (Bengal: European): Lawyers.

**Maulvi Muhammad Shafee Daoodi**: Lawyers cannot object to a thing like this; when they find that the confession has been corroborated by facts on the spot, no lawyer can object to upsetting a judgment of that kind. I do not think that in a matter like this the Honourable the Home Member should adopt the attitude he has. I feel very strongly that this is a fit case which should be considered in the light of the new facts which have emerged.

**Mr. Deputy President** (Mr. R. K. Shanmukham Chetty): The House now stands adjourned till tomorrow at Eleven O'clock.

The Assembly then adjourned till Eleven of the Clock on Thursday, the 2nd February, 1933.