

14th September 1939

THE

# LEGISLATIVE ASSEMBLY DEBATES

(Official Report)

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Volume V, 1939

*(30th August to 22nd September, 1939)*

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TENTH SESSION

OF THE

FIFTH LEGISLATIVE ASSEMBLY,  
1939



NEW DELHI  
GOVERNMENT OF INDIA PRESS  
1940.

# Legislative Assembly.

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THE HONOURABLE SIR ABDUR RAHIM, K.C.S.I.

## *Deputy President:*

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## *Assistants of the Secretary:*

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## *Marshal:*

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

## *Committee on Petitions:*

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MR. A. AIKMAN, C.I.E., M.L.A.

SYED GHULAM BEIK NAIRANG, M.L.A.

MR. N. M. JOSHI, M.L.A.

RAJA SIR VASUDEVA RAJAH, C.I.E., M.L.A.

## CONTENTS.

VOLUME V—30th August to 22nd September, 1939.

	PAGE.		PAGE.
<b>WEDNESDAY, 30TH AUGUST, 1939—</b>		<b>WEDNESDAY, 30TH AUGUST, 1939—contd.</b>	
Members Sworn . . . . .	1—2	The Indian Rubber Control (Amendment) Bill . . . . .	149
Starred questions and Answers . . . . .	2—14	The Indian Arbitration Bill—Introduced . . . . .	149
Statements laid on the Table	15—70	The Indian Tea Cess (Amendment) Bill—Introduced . . . . .	149—50
Motion for Adjournment re—		The Medical Diplomats Bill—Introduced . . . . .	150
Compensation for Indians who suffered during Burma Riots—Disallowed by the President . . . . .	71	The Code of Civil Procedure (Amendment) Bill—Introduced . . . . .	150
Majdia Train Disaster on the Eastern Bengal Railway Disallowed by the President . . . . .	71—72	The Indian Census Bill—Introduced . . . . .	150
Despatch of Indian troops outside India—Disallowed by the Governor General . . . . .	72	The Indian Salt (Amendment) Bill—Introduced . . . . .	150
Special reservation of posts and fixing minimum remuneration for Anglo Indians—Not moved . . . . .	72	Motion re Report of the Pacific Locomotive Committee—Postponed . . . . .	151—64
Grievances of Muslim employees on the Eastern Bengal Railway—Disallowed by the President . . . . .	72	<b>THURSDAY, 31ST AUGUST, 1939—</b>	
Issue of Ordinances Nos. I and II when the Legislature is in session—Ruled out of order . . . . .	72—73	Members Sworn . . . . .	165
Governor General's assent to Bills . . . . .	73—74	Starred Questions and Answers . . . . .	165—70
Statement laid on the Table re—		Panel of Chairmen . . . . .	171
Net earnings of recently constructed railway lines . . . . .	74—75	The Hindu Women's Right to Divorce Bill—Discussion on the motion to refer to Select Committee not concluded . . . . .	171—217
The Insurance Rules, 1939, and the United Kingdom—India Trade Agreement Rules, 1939 . . . . .	76—111	<b>FRIDAY, 1ST SEPTEMBER, 1939—</b>	
Registration of Foreigners (Exemption) Order, 1939 . . . . .	111—12	Starred Questions and Answers . . . . .	219—33
Report on the progress of the Schemes financed from the Grants for Rural Development . . . . .	112—47	Resolution re—	
The Indian Railways (Amendment) Bill—(Insertion of new section 42B)—Motion to continue adopted . . . . .	148—49	Non-Indian Companies and Protective Tariffs—Negatived . . . . .	233—57
		Deduction of the amount of Provincial Employment Tax from the Income-tax payable to the Central Government—Withdrawn . . . . .	257—68
		Appointment of a Committee on the "Bunder Boat" disaster—Negatived . . . . .	269—77
		The Commercial Documents Evidence Bill—Presentation of the Report of the Select Committee . . . . .	278

	PAGE.		PAGE.
<b>MONDAY, 4TH SEPTEMBER, 1939—</b>		<b>FRIDAY, 8TH SEPTEMBER, 1939—</b>	
✓ Statement by the Leader of the House <i>re</i> the International Crisis	279—80	Member Sworn	389
Starred Questions and Answers	280—306	Starred Questions and Answers	389—96
Unstarred Question and Answer	306	Committee on Petitions	396
The Indian Rubber Control (Amendment) Bill—Presentation of the Report of the Select Committee	306	Presentation of the Report of the Public Accounts Committee	396
Statement laid on the Table <i>re</i> —		The Indian Railways (Amendment) Bill—Presentation of the Report of the Select Committee	397
Objects on which the Aviation share of the Petrol Tax Fund was expended during the year 1938-39	307	The Repealing and Amending Bill—Presentation of the Report of the Select Committee	397
Notification prohibiting the emigration of unskilled labourers from British India to Ceylon for the purpose of unskilled work.	308	The Indian Carriage by Air (Amendment) Bill—Introduced	397
Resolution <i>re</i> Payment of contributions from Railway Revenues to General Revenues—Adopted	308—22	The Defence of India Bill—Referred to Select Committee	397—426
The Indian Census Bill—Passed	322—48	The Indian Tariff (Fourth Amendment) Bill—Passed	426—27
The Indian Salt (Amendment) Bill—Passed	348—49	The Commercial Documents Evidence Bill—Passed as amended	427—30
The Indian Railways (Amendment) Bill—Referred to Select Committee	349—51		
The Code of Civil Procedure (Amendment) Bill—Passed	351—52	<b>MONDAY, 11TH SEPTEMBER, 1939—</b>	
The Indian Tea Cess (Amendment) Bill—Passed	352—53	✓ Speech delivered to the Council of State and the Legislative Assembly by His Excellency the Viceroy.	431—34
Statement of Business	353	Members Sworn	435
<b>TUESDAY, 5TH SEPTEMBER, 1939—</b>		Starred Questions and Answers	435—55
Member Sworn	355	Statements laid on the Table	456—63
Starred Questions and Answers	355—59	Declaration of exemption under the Registration of Foreigners Act	464
Unstarred Questions and Answers	360—61	The Indian Oaths (Amendment) Bill—Appointment of certain Members to the Select Committee	464
Motion for Adjournment <i>re</i> Government of India's decision on questions of Indian Defence—Talked out	361, 374—88	Motion <i>re</i> Report of the Pacific Locomotive Committee—Amendment negatived	464—83
The Indian Tariff (Fourth Amendment) Bill—Introduced	361		
The Defence of India Bill—Introduced	362	<b>TUESDAY, 12TH SEPTEMBER, 1939—</b>	
The Medical Diplomas Bill—Passed	362—67	Starred Questions and Answers	485—91
The Indian Arbitration Bill—Referred to Select Committee	367—74	The Defence of India Bill—Presentation of the Report of the Select Committee.	491
		The Indian Carriage by Air (Amendment) Bill—Passed	491—92
		The Indian Rubber Control (Amendment) Bill—Passed as amended	492—94
		Consideration of the Report of the Public Accounts Committee	494—95

	PAGE.		PAGE.
<b>TUESDAY, 12TH SEPTEMBER, 1939—contd.</b>		<b>MONDAY, 18TH SEPTEMBER, 1939—</b>	
Demands for Excess Grants The Indian Railways (Amendment) Bill (Inser- tion of new section 42B)— Passed . . . . .	496—506 506	Starred Questions and Ans- wers . . . . .	61F—14
The Repealing and Amend- ing Bill—Passed as amen- ded . . . . .	506—08	Resolution re— Appointment of a Commit- tee to inquire into the affairs and general ad- ministration of the East Indian Railway—Nega- tived . . . . .	615—23
Statement of Business . . . . .	508	Provincial Autonomy for Baluchistan—Negatived . . . . .	623—47
<b>THURSDAY, 14TH SEPTEMBER, 1939—</b>		Payments of compensation to the Bengal Provincial Railway by the East In- dian Railway—With- drawn . . . . .	647—48
Member Sworn . . . . .	509		
Starred Questions and An- swers . . . . .	509—34	<b>TUESDAY, 19TH SEPTEMBER, 1939—</b>	
Transferred Questions and Answers . . . . .	534—40	Member Sworn . . . . .	649
The Indian Oaths (Amend- ment) Bill—Presentation of the Report of the Select Committee . . . . .	540	Starred Questions and Ans- wers . . . . .	649—83
The Indian Aircraft (Amend- ment) Bill—Introduced . . . . .	540	Ruling re Motion for an Ex- cess Grant negatived at a previous Session . . . . .	684
The Panth Piploda Courts (Amendment) Bill—Intro- duced . . . . .	540	Statement laid on the Table re acceptance of Tenders by the High Commissioner for India . . . . .	684
The Defence of India Bill— Discussion on the consi- deration of clauses not con- cluded . . . . .	540—88	The Indian Air Force Volun- teer Reserve (Discipline) Bill—Introduced . . . . .	684—85
<b>FRIDAY, 15TH SEPTEMBER, 1939—</b>		The Registration of Trade Marks Bill—Introduced . . . . .	685
Starred Questions and An- swers . . . . .	589—91	The Motor Vehicles (Amend- ment) Bill—Introduced . . . . .	685
Short Notice Question and Answer . . . . .	591	The Insurance (Second Amendment) Bill—Intro- duced . . . . .	685—86
The Hindu Women's Right to Divorce Bill—Motion to refer to Select Commit- tee negatived . . . . .	592—96	The Defence of India Bill— Discussion on the consi- deration of clauses not concluded . . . . .	686—736
The Contempt of Courts (Amendment) Bill—Circu- lated . . . . .	596—600		
The Indian Bar Council (Amendment) Bill—Circu- lated . . . . .	600—03	<b>WEDNESDAY, 20TH SEPTEMBER, 1939—</b>	
The Hindu Women's Rights to Property (Amendment) Bill—Circulated . . . . .	603—05	Starred Questions and Ans- wers . . . . .	737—43
The Muslim Intestate Succes- sion Bill—Introduced and referred to Select Com- mittee . . . . .	605, 606—09	Short Notice Question and Answer . . . . .	744
The Indian Penal Code (Amendment) Bill—Intro- duced . . . . .	605—06	Message from the Council of State . . . . .	744
The Indian Merchant Ship- ping (Amendment) Bill— Introduced . . . . .	606	The Defence of India Bill— Passed as amended . . . . .	744—93
The Press and Registration of Books (Amendment) Bill—Introduced . . . . .	606	The Indian Aircraft (Amend- ment) Bill—Passed . . . . .	793
		The Panth Piploda Courts (Amendment) Bill—Passed Resolution re Amendment of the Resolution on Road Development—Adopted . . . . .	793—95 796

THURSDAY, 21ST SEPTEMBER 1939—	PAGE.	THURSDAY, 21ST SEPTEMBER, 1939— <i>contd.</i>	PAGE.
Member Sworn . . . . .	797	The Insurance (Second Amendment) Bill—Passed	838—41
Starred Questions and Ans- wers . . . . .	797—300	The Registration of Trade Marks Bill—Referred to Select Committee . . . . .	841—45
Amendment in the declara- tion <i>re</i> Registration of Foreigners Act . . . . .	800	Statement of Business . . . . .	845
The Workmen's Compensa- tion (Second Amendment) Bill—Introduced . . . . .	801	FRIDAY, 22ND SEPTEMBER, 1939—	
The Indian Arbitration Bill —Appointment of certain Members to the Select Committee . . . . .	801	Starred Questions and Ans- wers . . . . .	847—66
Consideration of the Report of the Public Accounts Committee . . . . .	801—16	Unstarred Questions and Answers . . . . .	866—73
Demand for Excess Grant . . . . .	816	Statements laid on the Table	873—74
The Indian Oaths (Amend- ment) Bill—Passed . . . . .	816—31	The Indian Arbitration Bill —Appointment of Mr. F. E. James to the Select Committee in place of Mr. A. Aikman . . . . .	874—75
The Indian Air Force Volun- teer Reserve (Discipline) Bill—Passed . . . . .	832—35	The Workmen's Compensa- tion (Second Amendment) Bill—Passed . . . . .	875—900
The Motor Vehicles (Amend- ment) Bill—Passed . . . . .	835—37		

# LEGISLATIVE ASSEMBLY.

Thursday, 14th September, 1939.

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

## MEMBER SWORN.

Mr. C. M. G. Ogilvie, C.B.E., M.L.A. (Defence Secretary).

## STARRED QUESTIONS AND ANSWERS.

†161\*—165\*.

### RECORDING OF WEATHER CONDITIONS AT NAUSHERO IN SIND.

**166. \*Mr. Lalchand Navalrai :** (a) Will the Honourable the Communications Member be pleased to state which officer is responsible for making weather reports in India specially in the Sind Province ?

(b) Who takes the readings of temperature at Naushero in Sind, and are these temperature taking stations in Sind inspected by any higher official ? If so, by whom and at what intervals ?

(c) Are Government aware that Naushero in Sind records almost always the highest temperature in India even more than Jacobabad, the known hottest place ? If so, what are the reasons for it ?

(d) Are Government aware that misgivings have been expressed as to the correctness of the record of the temperature and the instrument used at Naushero, and do Government propose to verify the temperature there through an expert officer to satisfy the public ?

**The Honourable Sir Andrew Clow :** (a) The Meteorological office at Poona issues an All-India Weather Report and two regional weather reports covering Peninsular India and Central India. Weather reports in respect of north-east India and north-west India (including Sind) are issued by the Alipore and Karachi Meteorological offices, respectively.

(b) The Sub-Post Master, Naushero, who is a part time Meteorological observer. The observatories in Sind are inspected at intervals of one to two years either by the Inspector of Observatories or by a gazetted officer of the Meteorological Department.

(c) Yes. Naushero is nearer the Thar Desert than Jacobabad and is less windy. It is one of a number of desert observatories where temperatures higher than those at Jacobabad are frequently recorded.

(d) No. The thermometers installed at Naushero are exposed in the standard Stevenson screen and have been found on test to record temperatures correctly : the readings are regularly scrutinised by the Meteorologist, Karachi.

**Mr. Lalchand Navalrai :** Was this inspection conducted after notice of this question was sent ?

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†For these questions and answers, see pages 534—540 of these debates.

**The Honourable Sir Andrew Olow :** I have explained that they are subject to tests at periodic intervals. I do not think any inspection would have taken place since the Honourable Member tabled this question.

**Mr. Lalchand Navalrai :** When was the last inspection made ?

**The Honourable Sir Andrew Olow :** I have not got particulars here.

**Mr. Lalchand Navalrai :** May I tell the Honourable Member that Jacobabad is very much far away, about 75 miles away from Naushero ? How is it going to be said that the temperature is rising because it is near Jacobabad ?

**The Honourable Sir Andrew Olow :** I said it was higher.

**Mr. Lalchand Navalrai :** Why was it higher ?

**The Honourable Sir Andrew Olow :** I cannot accept responsibility for the high temperature.

**DRAMA BROADCASTED FROM LAHORE ON THE OCCASION OF THE CENTENARY CELEBRATIONS OF MAHARAJA RANJIT SINGH.**

167. \***Mr. Lalchand Navalrai** (on behalf of Sardar Sant Singh) : (a) Will the Honourable Member for Communications please state whether Government are aware that the broadcasting station at Lahore broadcasted a drama on the 25th June, 1939 on the occasion of the Centenary celebrations of Maharaja Ranjit Singh containing certain references about the Maharaja to which strong exceptions have been taken by the Sikhs throughout the Punjab ?

(b) Are Government aware that Sikh Associations have passed resolutions against the management of the broadcasting station at Lahore ?

(c) Is it a fact that the Director of Broadcasting Station subsequently issued an explanation ?

(d) Are Government aware that this explanation did not satisfy the Sikhs ; if so, do Government propose to make inquiry into the matter ?

**The Honourable Sir Andrew Olow :** (a) Yes. Exception was taken by some Sikhs.

(b) Yes.

(c) and (d). Two explanations were broadcast by the Station Director,—on the 18th and the 29th July,—and so far as I am aware, Sikh opinion was satisfied after the second explanation.

**Mr. Lalchand Navalrai :** May I know if the Sikh Association said that they were not satisfied with the first explanation ?

**The Honourable Sir Andrew Olow :** I think there was some feeling that the first explanation was not adequate.

**CERTAIN INFORMATION IN RESPECT OF BROADCASTING STATIONS AT DELHI AND LAHORE.**

168. \***Mr. Lalchand Navalrai** (on behalf of Sardar Sant Singh) : Will the Honourable Member for Communications be pleased to lay on the table of the House the following information in respect of the broadcasting stations at Delhi and Lahore :

(a) the number of employees giving their designation and community and the salary each drew on the 1st of July, 1939 :

(b) the total number of artistes, musicians, speakers and others employed to give their performances during the period from 1st January, 1939, to 30th June, 1939, and the emoluments paid to each and the community to which they belonged ; and

(c) the time allotted to each community for propagation of religious views ?

**The Honourable Sir Andrew Clow :** (a) and (b). Two statements are laid on the table. Information about the fees paid to individual artists is confidential and cannot be disclosed.

(c) No time is allotted for ' propagation ' of religious views as this is not permitted. Items of religious interest were, however, included in the programmes in response to requests from listeners.

STATEMENT I.

*Statement showing the designation, community and pay of staff (excluding the inferior staff) employed at the Delhi and Lahore Stations of All-India Radio on the 1st July, 1939.*

Designation.	Delhi Station.		Lahore Station.	
	Community.	Pay Rs.	Community.	Pay. Rs.
Station Director ..	1 Hindu ..	750	1 Muslim ..	525
Assistant Station Director ..	1 Hindu ..	350	..	..
Director of Programme ..	1 Hindu ..	260	1 Muslim ..	260
Programme Assistants ..	4 Muslims ..	160	2 Hindus ..	150
	2 Muslims ..	150	2 Muslims ..	150
Announcer, Indian ..	2 Muslims ..	100	1 Muslim ..	100
	1 Anglo-Indian ..	100		
Station Engineer ..	1 Hindu ..	460	1 Hindu ..	265
Assistant Engineer ..	1 Muslim ..	220	1 Hindu ..	210
	1 Hindu ..	220		
	2 Hindu ..	210		
	1 Hindu ..	200		
Technical Assistant ..	7 Hindus ..	100	1 Hindu ..	120
	3 Muslims ..	Do.	2 Hindus ..	100
Mechanic ..	1 Hindu ..	39	1 Hindu ..	33
	1 Muslim ..	33	2 Muslims ..	33
	1 Hindu ..	33		
Motor Driver ..	1 Hindu ..	46	2 Muslims ..	40
	2 Muslims ..	40		
		each.		
Accountant ..	1 Hindu ..	142 +	1 Hindu ..	140
		(Special pay Rs. 8).		
Clerk, Grade I ..	2 Muslims ..	103 each.		
Clerk, Grade II ..	2 Hindus ..	46	2 Muslims ..	40
		each.		each.
	1 Muslim ..	43	1 Hindu ..	40
	1 Muslim ..	40		
	1 Hindu ..	43		
Stenographer ..	1 Hindu ..	50 +		..
		Compensatory Allowance Rs. 30.		
Telephone Attendant ..	1 Muslim ..	40	1 Hindu ..	40
	1 Hindu ..	40		

## STATEMENT II.

Statement showing the number of artists employed at the Delhi and Lahore Station of All-India Radio during the period 1st January to 30th June, 1939, their community and the total payments made to them.

—	Muslims.	Hindus.	Europeans, Anglo- Indians and Indian Christians.	Sikhs.	Others.	Total No.	Total fees paid.	
							Rs.	A. P.
Delhi ..	241	176	68	2		487	42,002	0 0
Lahore ..	184	132	55	31	2	404	32,342	8 0

**Mr. Lalchand Navalrai :** With reference to part (b), may I know whether these artists are selected in consultation with some Committee or with any officer ?

**The Honourable Sir Andrew Clow :** I do not think the Advisory Committee actually selects the artists, because that depends upon giving auditions and there will be other difficulties in the way.

**Mr. Lalchand Navalrai :** Are they selected at any time in any manner ?

**The Honourable Sir Andrew Clow :** Individual artists ?

**Mr. Lalchand Navalrai :** The artists that are taken up ?

**The Honourable Sir Andrew Clow :** I have not got the proceedings of the Committee, I am afraid.

## HOOLIGANISM ON THE RAILWAY PREMISES.

169. **\*Mr. Lalchand Navalrai** (on behalf of Sardar Sant Singh) : (a) Will the Honourable the Communications Member please state if the attention of Government has been drawn to the paragraph published in column number 6 at page 6 of the *Tribune*, dated the 27th July, 1939, under the head "Hooligans Mob Gandhi's Compartment" ? If so, do Government propose to explain how these hooligans got admission to the railway platform and state the number of platform tickets sold on that day as compared with the number of platform tickets sold on each day during the previous week ?

(b) What steps do Government propose to take to stop such hooliganism on the railway premises in future ?

**The Honourable Sir Andrew Clow :** (a) Yes. I understand the article grossly exaggerated the incident and that there was no hooliganism or mobbing of Mr. Gandhi's compartment. The number of platform tickets sold on the date in question was 1938, which is about 600 more than the daily average for the previous week.

(b) Does not arise.

**ENQUIRY AGAINST CERTAIN MUSLIM EMPLOYEES OF THE TICKET CHECKING BRANCH OF THE EASTERN BENGAL RAILWAY.**

170. \***Shaikh Rafuddin Ahmad Siddiquee** : When reference to the reply to my starred question No. 1580, dated the 29th November, 1938, asked in this House, will the Honourable the Railway Member be pleased to state :

- (a) what were the findings of the enquiry set up against a certain set of Muslim employees of the Ticket Checking Branch under the Superintendent, Watch and Ward, Eastern Bengal Railway, who were accused of offences relating to agitation subversive of discipline and provocative of communal discord ;
- (b) whether any kind of explanation sheet or charge sheet was served upon the said Muslim staff before starting an enquiry ;
- (c) how many Hindus were either affected or offended by this agitation ;
- (d) how many witnesses were examined from both the communities to form an opinion that only one community was at fault ; and
- (e) whether Government are prepared to face facts in a public enquiry about their statement embodied in their reply ; if not, why not ?

**The Honourable Sir Andrew Clow** : (a) The enquiries to which reference was made in the information laid on the table in response to the Honourable Member's question of 29th November, 1938, and printed in the debates of this House for 10th March, 1939, were not enquiries made for the purpose presumed by the Honourable Member, but were made by Sir Thomas Stewart in response to a request made by certain Members of the House. I have no information of any formal enquiry of the kind suggested by the Honourable Member having been set up.

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

(c) I am quite unable to say.

(e) No. No punishment was imposed on the employees and there is no reason for reviewing the case.

**Mr. Muhammad Nauman** : With reference to part (a), may I know whether membership of the Muslim League or of any national association amounts to promoting communal discord by members of the railway staff ?

**The Honourable Sir Andrew Clow** : It does not seem to relate to this question at all. I was answering question No. 170.

**Mr. Muhammad Nauman** : I am putting this supplementary question with reference to part (a).

**The Honourable Sir Andrew Clow** : This refers to a particular ticket checking branch. What has the supplementary question got to do with that ?

**Mr Muhammad Nauman :** If a member of the railway staff joins the Muslim League or any National Association, will it amount to promoting communal discord, because my information is that it was on this principle that warnings were issued to the staff on the Eastern Bengal Railway ?

**The Honourable Sir Andrew Clow :** This has no relation to the question which I have answered.

**ENQUIRY AGAINST CERTAIN MUSLIM EMPLOYEES OF THE TICKET CHECKING BRANCH OF THE EASTERN BENGAL RAILWAY.**

**171. \*Shaikh Rafuddin Ahmad Siddique :** Will the Honourable the Railway Member be pleased to state the names, designation and status of the Muslim staff of the Ticket Checking Branch under the Superintendent, Watch and Ward, Eastern Bengal Railway, on whom notices of warnings have been served as a result of creating the agitation referred to in the reply to my starred question No. 1580, asked in this House on the 29th November, 1938 ?

**The Honourable Sir Andrew Clow :** These particulars were not supplied to Government in response to the enquiries to which I referred in the answer to the Honourable Member's previous question, and I do not think it would be desirable to disclose the names of the individuals.

**ALLEGED FAVOURITISM TO HINDU STAFF OF THE TICKET CHECKING BRANCH OF THE EASTERN BENGAL RAILWAY.**

**172. \*Shaikh Rafuddin Ahmad Siddique :** Will the Honourable the Railway Member be pleased to state whether Government are aware of the fact that Hindu staff of the Ticket Checking Branch of the Eastern Bengal Railway, who have been tried or are under trial in the Courts of Law under sections 354 and 342 of the Indian Penal Code, were not even suspended departmentally, and the Hindu staff, who were detected carrying passengers without ticket are reinstated or are still retained in service ?

**The Honourable Sir Andrew Clow :** I understand that only one case of the nature referred to in the first part is traceable and that this case which was not instituted by the railway is now *sub judice*. The employee has not been suspended as in the opinion of the Administration, such action is not called for.

No case of the kind referred to in the latter part of the question can be traced, but the Honourable Member has possibly in mind the removal from service of a Hindu crewman for alleged fraudulent behaviour in connection with ticketless passengers. On appeal, he was given the benefit of the doubt and reinstated.

**Mr. Muhammad Nauman :** Is the Honourable Member aware of one case of a Crew Inspector, Mr. Sinha, who was stationed at Lalmonir Hat on the Eastern Bengal Railway and was guilty of outraging the chastity of a Muslim woman and the case was reported to Government through telegrams by many people, one telegram being sent by myself ?

**The Honourable Sir Andrew Clow :** If the Honourable Member is referring to a case which is *sub judice*, obviously I cannot tell him anything about it.

**Mr. Muhammad Nauman :** It is not *sub judice*.

**The Honourable Sir Andrew Clow :** I am afraid I cannot recollect any such case.

**FRAUD BATCH OF THE TICKET CHECKING BRANCH, EASTERN BENGAL RAILWAY.**

**173. \*Shaikh Rafiuddin Ahmad Siddiquee :** Will the Honourable the Railway Member be pleased to state :

- (a) what is the strength of the " Fraud Batch " of the Ticket Checking Branch, Eastern Bengal Railway, by communities ; what are the dates of appointment, rate of pay, grades and qualifications of the staff ;
- (b) whether the question of seniority is considered in selecting the staff for the said Fraud Batch ;
- (c) what income they have increased from the period they have been working in comparison with the period before they were deputed to work in the Fraud Batch ; and
- (d) how many Muslim staff on the Eastern Bengal Railway have been reported against adversely by the said Fraud Batch with the result that their services have been terminated ?

**The Honourable Sir Andrew Clow :** (a), (b) and (d). Government have no information but I am making inquiries regarding the strength of " the Fraud Detection and Espionage Branch " to which I presume the Honourable Member is referring, and regarding the method of recruitment to this branch.

(c) It is not possible to frame an estimate of this as the main effect of activity in detecting frauds, so far as financial advantage is concerned, is deterrent.

**APPEALS OF THE MUSLIM STAFF ON THE EASTERN BENGAL RAILWAY.**

**174. \*Shaikh Rafiuddin Ahmad Siddiquee :** Will the Honourable the Railway Member be pleased to state :

- (a) why the appeals of the Muslim staff on the Eastern Bengal Railway against their removal from service during the period from 1935 to 1939 have never been considered according to the rules regarding Rights of Appeal and Enquiry by non-gazetted staff ;
- (b) if the reply to part (a) above be in the negative, whether Government will be pleased to state what findings in the cases of appeals by Muslim staff have been recorded by the Appellate authorities ; and
- (c) why the appeals from Muslim staff are returned to their Executive Officers for remarks who were originally responsible for their removal from service or inflicting various punishments ?

**The Honourable Sir Andrew Clow :** (a) I have no reason to believe that the facts are as stated by the Honourable Member.

(b) I regret that Government cannot undertake the research necessary to provide these particulars. The conclusions in an appeal are communicated to the individuals concerned.

(c) I would refer the Honourable Member to rule 20 of the Rules referred to by him in part (a) of the question.

**Mr. Muhammad Nauman :** With reference to part (c) of the question, is it considered right or equitable that a man who is responsible for dismissing a certain employee should practically sit as a judge, and, on his explanation of facts, action should be taken ?

**The Honourable Sir Andrew Clow :** There is no question of his sitting as a judge. The appeal has normally to go through him, and obviously if statements are made in the appeal, on which he is in a position to comment, it is his duty to do so.

**Mr. Muhammad Nauman :** Is it not on his report that action is taken after the appeal is submitted ?

**The Honourable Sir Andrew Clow :** It is the duty of the appellate authority to form his own judgment.

**Mr. Lalchand Navalrai :** After the report is called for, what is the opportunity given to that applicant to contradict what the officer has said ?

**The Honourable Sir Andrew Clow :** There is no question normally of reports being called for, because the appeal has to be presented through the officer in question. We cannot continue the process indefinitely of the officer and the individual appealing replying to each other.

**Mr. Lalchand Navalrai :** The point is, if any remarks are made in forwarding an appeal, how are they to be met by the applicant ?

**The Honourable Sir Andrew Clow :** They can be checked by the appellant. If they relate to observations of opinion, obviously the appellate authority can give what weight he thinks proper to such opinions. If they involve new statements of fact, on which there is no evidence, the appellate authority would obviously disregard them or call for the evidence.

**Mr. Lalchand Navalrai :** Is that procedure being followed by the appellate authorities in the case of appeals ?

**The Honourable Sir Andrew Clow :** There are hundreds of appeals, and I cannot say exactly what happens in every appeal.

**Mr. Muhammad Nauman :** Is it possible that some appeals are not forwarded at all by these officers when they are prejudiced against the individual ?

**The Honourable Sir Andrew Clow :** No officer has a right to withhold an appeal if an appeal lies.

**Mr. Muhammad Nauman :** Will the Honourable Member make inquiries and find out if there are such cases ?

**The Honourable Sir Andrew Clow :** How can I make inquiries without knowing any such case ?

**CHANNEL OF PROMOTION FOR MARKERS EMPLOYED IN THE KARACHI DIVISION OF THE NORTH WESTERN RAILWAY.**

**175. \*Mr. Lalchand Navalrai :** Will the Honourable Member for Railways be pleased to state :

- (a) whether it is a fact that some matriculates are employed in the Karachi Division of the North Western Railway in the commercial service as markers ; if so, what channel of promotion is provided for them ;
- (b) whether it is a fact that the Divisional Superintendent, North Western Railway, Karachi, has made repeated representations to the General Manager, North Western Railway, Lahore, to provide some channel of promotion for this class of employees ; if so, what objection there is to permit the Divisional Superintendents to promote such persons as Relief Clerks, Grade I Guards, or some such posts, on the occurrence of vacancies in their own Divisions ; and
- (c) whether Government are aware of the relevant paragraph in the Railway Board's *communiqué* on the discussions between the Railway Board and the deputation of the All-India Railwaymen's Federation which took place in November, 1937, wherein the Board had promised to do something for the markers, and state what action they propose to take in the matter ?

**The Honourable Sir Andrew Clow :** (a) to (c). I would refer the Honourable Member to the reply I gave to Mian Ghulam Kadir Muhammad Shahban's starred question No. 22 on the 30th August, 1939.

**Mr. Lalchand Navalrai :** Are there any avenues in which these markers will rise ?

**The Honourable Sir Andrew Clow :** I suggest that the Honourable Member might study the reply which I gave. It was in detail and referred to channels of promotion.

**RULES FOR OUT-STATION INDIAN APPRENTICES OF WORKSHOPS ON THE NORTH WESTERN RAILWAY.**

**176. \*Mr. Lalchand Navalrai :** With reference to my starred questions Nos. 1451 and 1452, asked on the 31st March, 1939, in this House will the Honourable Member for Railways be pleased to give the following further information :

- (a) whether the rules applicable to out-station apprentices employed at Sukkur Workshops of the North Western Railway in April, 1926, were altered at any time prior to their discharge in 1931 ; if so, when ; and whether Government propose to lay on the table of the House a copy of the old and revised rules applicable to these men ;

- (b) whether Government propose to lay on the table of the House a copy of the communication addressed to these out-station apprentices by any officer of the Railway Administration bringing them under the revised rules ;
- (c) whether these out-station apprentices at the time of their appointment were warned or made to sign an agreement, that they were likely to come under the revised rules to be issued later ; if so, whether Government propose to lay on the table of the House a copy of such a warning to, or agreement executed by the out-station apprentices ;
- (d) if the reply to first part of part (c) above be in the negative, how could the Railway Administration be justified in bringing the out-station apprentices under the revised rules ;
- (e) whether Government propose to lay on the table of the House a copy of the letter No. P.C.3140, dated the 6th April, 1931, from the Works Manager, Sukkur, to the address of the Superintendent, Mechanical Workshops, North Western Railway, Lahore ; and
- (f) whether the letter referred to in part (e) above gives an indication that the out-station apprentices were discharged because of the general retrenchment campaign in 1931, under which the quota of this class of staff for the Workshops was reduced ; if not, why should the out-station apprentices be deprived of the privilege of old scales of pay admissible to retrenched hands ?

**The Honourable Sir Andrew Clow :** (a) I would refer the Honourable Member to the reply given to his question No. 1451, which appears in the debates of the 30th August, 1939. I lay on the table a copy of the rules issued in 1921.

(b) I am not aware of any such communication. As, however, the apprentices drew the increased rates of stipend admissible under the 1926 rules, it is presumed they accepted these rules.

(c) The reply to the first part is in the negative and the second does not, therefore, arise.

(d) I understand that two apprentices who had started work some months before the revision of the rules were brought under the rules when revised. If they had felt that this was not justified, they would have made a protest. So far as I know they did not do so, and they accepted, throughout the remaining  $4\frac{1}{2}$  years of their apprenticeship, the financial benefit accruing under the revised rules.

(e) No.

(f) The letter recommended that in consequence of reduction of staff the services of one apprentice should be terminated at the close of his apprenticeship. The latter part of the question does not arise.

*Rules for out-station Indian Apprentices (English speaking).*

1. The candidate for engagement as a Literate Apprentice will be required to read, write and cypher in English, he must understand and be able to explain a passage he has himself read from an English book.

2. He must be between 15 and 18 years of age. If he is considered sufficiently literate, which will be decided after an interview with the District Locomotive Superintendent, he will have to appear before the Railway Doctor at the station of employment for medical examination, and if he passes, he will be required to execute an agreement as a bound Apprentice affixing thereto a five rupee stamp.

3. He will be paid a daily wage and will be granted an increase at the close of each year, provided he has given satisfaction, as follows :

First year	..	..	..	..	Rs. 0-14-0 per diem.
Second year	..	..	..	..	Rs. 1-0-0 per diem.
Third year	..	..	..	..	Rs. 1-2-0 per diem.
Fourth year	..	..	..	..	Rs. 1-4-0 per diem.
Fifth year	..	..	..	..	Rs. 1-6-0 per diem.

4. While employed in the Workshops, he will be bound by all the Departmental Rules which may be in force at the time.

5. Apprentices will be allowed 15 days casual leave in one calendar year not exceeding 10 days at a time if they are employed in a shed, but if employed in a shop they will be allowed 16 holidays (fixed) on full pay in a year and all time lost in excess of 23 days will have to be made up before each annual increment is passed. Annual increments may be further deferred for unsatisfactory work or misconduct.

6. Apprentices at the end of their indentures will not be retained in the service unless their work, conduct and time keeping have been satisfactory. Those who are retained will be started as mechanics on Rs. 1-8-0 per day.

J. H. SMELLIE,

*Loco. Superintendent.*

**Mr. Lalchand Navalrai :** With reference to part (f), were these persons, who were discharged on account of retrenchment and re-employed given the old scale ?

**The Honourable Sir Andrew Clow :** I was not aware that they were taken in. but I am prepared to take it from the Honourable Member.

#### RAILWAY SERVANTS' RIGHT OF CROSS-EXAMINATION OF WITNESSES IN DEPARTMENTAL ENQUIRIES.

177. **\*Mr. Lalchand Navalrai :** Will the Honourable Member for Railways be pleased to state :

- (a) whether a provision exists in the Rules Regulating Discipline and Rights of Appeal of non-gazetted railway servants, issued under the Government of India (Railway Department) letter No. E-34/R.G./6, dated 22nd January, 1935, for cross-examination of the witnesses appearing against an employee, during the course of a departmental enquiry ; if not, why not ;
- (b) whether Government propose to refer to rule 34 of the Railway Services (Classification, Control and Appeal) Rules framed by the Secretary of State for India, and state why a similar provision has not been made for the non-gazetted railway servants by the Government of India ;
- (c) whether Government propose to revise the rules to concede to an accused railway servant the right of cross-examination of witnesses in a departmental enquiry ; and

- (d) if not, how Government propose to ensure justice to the employees, in case the evidence against them cannot be tested by cross-examination ?

**The Honourable Sir Andrew Clow :** (a) There is no specific provision to this effect, but Rule 7 of the Rules referred to requires all reasonable facilities to be given for the conduct of a railway servant's defence.

(b) The rules for non-gazetted railway servants were not modelled on the Railway Services (Classification, Control and Appeal) Rules, but on the rules previously in force.

(c) The suggestion will be examined.

(d) Does not arise.

#### PROMOTION OF LOCOMOTIVE STAFF ON THE NORTH WESTERN RAILWAY.

178. \***Mr. Lalchand Navalrai :** Will the Honourable Member for Railways be pleased to state :

(a) whether Grade III Locomotive staff, who are mostly Indians are given Locomotive Foreman's and Locomotive Inspector's posts on the North Western Railway ; if not, why not ; and

(b) whether it is a fact that promotion to Locomotive Foreman's post was made last year but the Indian incumbent was reverted although his successor passed T-13 course (Locomotive Foreman's course) after him ?

**The Honourable Sir Andrew Clow :** (a) They are eligible for promotion to the posts referred to, provided they have passed Course T-13 in the Walton Training School : the other criteria being suitability and seniority.

(b) Yes, the reversion was due to his being junior to the driver who took his place. The date of passing a course does not affect seniority which is based on the date of confirmation.

**Mr. Lalchand Navalrai :** Is there any rule that no discrimination is to be made between Indians and non-Indians if they are equally efficient ?

**The Honourable Sir Andrew Clow :** It is the practice of Government : I am not aware of any particular rule.

#### INDIANS HOLDING LOCOMOTIVE FOREMAN'S AND INSPECTOR'S POSTS ON THE NORTH WESTERN RAILWAY.

†179. \***Mr. Lalchand Navalrai :** Will the Honourable Member for Railways be pleased to state :

(a) the number of Indians who are holding Locomotive Foreman's and Locomotive Inspector's posts on the North Western Railway ;

†Answer to this question laid on the table, the questioner having exhausted his quota.

- (b) whether it is a fact that in 1937-38, promises for due consideration of the cases of Indians were made ; if so, why they are being deprived of these posts ; and
- (c) whether it is a fact that 33 vacancies of Grade III Running staff (firemen and shunters) were held in abeyance on the North Western Railway (for promotions to shunters and drivers) but some vacancies in Grade IV were given to Anglo-Indians, although they were already in excess of their quota ?

**The Honourable Sir Andrew Clow :** (a) Locomotive Foreman—one, Locomotive Inspectors—three.

(b) I am not aware of the promise to which the Honourable Member refers, but in accordance with the undertaking given by Sir Thomas Stewart in his reply to Mr. N. M. Joshi's unstarred question No. 80 on the 18th March, 1938, the General Manager, North Western Railway was asked to examine allegations of discrimination and to take whatever steps were necessary to give effect to the policy of Government. As regards the latter part of the question, the particulars I have given in reply to part (a) do not indicate that there has been any deprivation.

(c) 33 vacancies in grade III held in abeyance in 1934 have been recently restored. Vacancies in drivers grade IV were filled automatically by the promotion of Shunters grade IV.

#### PROMOTION OF LOCOMOTIVE RUNNING STAFF ON THE NORTH WESTERN RAILWAY.

†180. \***Mr. Lalchand Navalrai :** Will the Honourable Member for Railways be pleased to state :

- (a) whether in certain Divisions, viz., Karachi and Lahore, European drivers are making 70 to 80 days overtime per month ; if so, why more drivers are not put to work to bring the overtime to 30 days per month ; whether this does not tell upon the efficiency of the job ;
- (b) whether it is a fact that Grade III Locomotive Running Staff belonging to the educated class are working as firemen for the last 15 to 16 years but have been debarred from promotion for one reason or other irrespective of vacancies in their grade ; and
- (c) whether it is a fact that numerous appeals, memorials and representations have been put in by the Locomotive Running Staff, Grade III, for promotion ; if so, what action has been taken on them ?

**The Honourable Sir Andrew Clow :** (a) Information is being called for and will be laid on the table of the House in due course.

(b) and (c). I have no particulars of the length of service of men in this grade, but understand that an examination of the position, consequent on the representations received by the Administration, resulted in the restoration of the 33 posts to which reference is made in the reply I have just given to part (c) of the Honourable Member's last question.

†Answer to this question laid on the table, the questioner having exhausted his quota.

**ALLEGATIONS AGAINST THE CHIEF CLERK IN THE EASTERN BENGAL RAILWAY OFFICE AT CALCUTTA.**

181. \***Mr. Muhammad Nauman** : Will the Honourable Member for Railways be pleased to state :

- (a) whether it is a fact that the chief clerk at Calcutta has been stationed in that office by the Eastern Bengal Railway for about fifteen years ;
- (b) whether it is a fact that the officers who normally issue orders without any enquiry from the employees are guided by the remarks of the said chief clerk made in the personal files of the employees ;
- (c) whether Government are aware that some original chits written by the said chief clerk with a view to use his undue influence were sent to the General Manager, by the questioner ;
- (d) if the reply to part (c) above be in the affirmative, what is the result of enquiry and who conducted the enquiry ;
- (e) whether it is a fact that the General Manager of the Eastern Bengal Railway received a representation from some Muslim members of the Local Advisory Committee to the effect that Muslim employees do not feel security of service under the present chief clerk at Calcutta ; and
- (f) if the reply to part (e) above be in the affirmative, what steps Government have taken or propose to take to satisfy the Muslim employees ?

**The Honourable Sir Andrew Olow** : (a) I have no particulars of the length of service of this clerk.

- (b) I am not aware of officers issuing orders without inquiry.
- (c) No.
- (d) Does not arise.
- (e) I had not heard of this representation.
- (f) Does not arise.

**Mr. Muhammad Nauman** : May I point out that on my giving the particulars mentioned in part (c) of the question, the Agent of the Railway wrote to me under D. O.-9-Confidential, dated 3rd November, 1938, that he was glad to have them and would have a very thorough inquiry made into the matter ?

**The Honourable Sir Andrew Olow** : I did not cast any doubts on the Honourable Member's words, and I am indebted to him for the information. All that I said was that I was not aware of what he had put down in his question.

**Mr. Muhammad Nauman** : Will the Honourable Member make inquiries and find out what has been done in the case ?

**The Honourable Sir Andrew Olow** : The Honourable Member appears to be already in possession of the facts.

**Mr. Muhammad Nauman** : I do not know what action has been taken. I only had a promise from the Agent that he would make an inquiry.

**The Honourable Sir Andrew Olow** : Then I take it he will do so. I did not give any such promise.

## GRADES OF ASSISTANT STATION MASTERS ON THE EAST INDIAN RAILWAY.

182. \*Mr. H. M. Abdullah (on behalf of Mr. Muhammad Azhar Ali) : Will the Honourable Member for Railways please state :

- (a) the grades of Assistant Station Masters in the East Indian Railway ;
- (b) whether the East Indian Railway has provided all the Assistant Station Master's grades in the Lucknow Division ; if the reply to the above be in the affirmative, what are the names of the stations in which the III and II grades are ;
- (c) whether Government propose to place on the table of the House a copy of the total strength of Travelling Ticket Examiners, Guards, and Assistant Station Masters in the Lucknow Division together with their percentages in the higher grades in the respective branches ; whether it is a fact that the percentage for each branch is not fixed equally ;
- (d) whether the East Indian Railway is following a discriminatory policy in the matter of representation in the higher grades or whether it has some definite and fixed policy for all the branches alike ; and
- (e) whether Government propose to fix ten per cent. for the Assistant Station Master in each higher grade to remove congestion in the lowest grade ?

**The Honourable Sir Andrew Clow :** (a) I lay on the table a statement giving the information required.

(b) I have no particulars of the distribution of the posts into grades on any particular division, the latter part does not arise.

(c) The answer to the first part is in the negative. As regards the latter part the allocation into grades is not based on any arbitrary rule but on the requirements of the service, and this does not necessarily give the same percentage of higher posts in each class of appointment.

(d) I have no reason to believe that any consideration other than the interests and requirements of the service influence the Administration's policy.

(e) No. The grading of posts is dependent on the degree of responsibility attaching thereto. The extent to which a modification in the number of higher grade posts may be made, which incidentally will provide for a reasonable flow of promotions, is being examined by the Administration

*Statement showing the grades of Assistant Station Masters on the East Indian Railway.*

	1928 scales.	1934 scales.
Grade I ..	Rs. 260—10—280	Rs. 230.
Grade II ..	Rs. 120—10—230	Rs. 200.
Grade III ..	Rs. 100—5—110	Rs. 180.
Grade IV ..	Rs. 70—5—95	Rs. 65—5 2—85.
Grade V ..	Rs. 40—4—68	Rs. 30—3—45 5—60.
Relieving Grade V	Rs. 40—4—68	Rs. 30—3—45 5—60.

**EXCLUSION OF MUSLIMS FROM THE EFFICIENCY SECTION OF THE MOGHALPURA WORKSHOPS.**

183. \*Mr. H. M. Abdullah : With reference to his reply to part (c) of my starred question No. 1653, replied on the floor of this House on the 12th April, 1939, will the Honourable Member for Railways please state :

- (a) whether no additional educational, academic, technical or engineering qualifications or workshop apprenticeship condition is necessary for the appointment of chargemen and foremen to the Efficiency Section of the Production Branch of the Locomotive Shops, Moghalpura ;
- (b) what are the educational, academic, technical, engineering qualifications or period of apprenticeship undergone by the present incumbent of the Foreman in charge of this Section ;
- (c) whether it is a fact that all posts of chargemen and foremen in this section are exclusively manned by non-Muslims ; and
- (d) if the reply to part (c) above be in the affirmative, what the reasons are for excluding Muslims from this section when no special qualifications are required for these jobs ?

**The Honourable Sir Andrew Olow :** (a) Technical and educational qualifications and a period of apprenticeship are desirable, but lack of them may be more than compensated for by natural aptitude and experience in the application of the piece-rate system, job costing and workshop statistics.

(b) He is a matriculate and was specially trained for the post under the Production Engineer.

(c) Yes.

(d) I understand that no suitable Muslims were available when the vacancies occurred.

**Mr. Muhammad Nauman :** What efforts were made to procure Muslim candidates at that time ?

**The Honourable Sir Andrew Olow :** I have no particulars.

**RETURNS SHOWING THE ANNUAL COMPOSITION OF STAFF RECRUITED ON RAILWAYS.**

184. \*Mr. H. M. Abdullah : Will the Honourable Member for Railways please state :

- (a) whether it is a fact that periodical returns showing the annual composition of staff recruited direct by the various Railway Administrations are received in the Office of the Railway Board ;
- (b) whether mistakes and irregularities are sometimes detected by the Railway Administration and later even by the Railway Board in the figures contained in these returns ;

- (c) whether it is a fact that the check is in reality incomplete inasmuch as there is no material available with the Railway Administrations or the Railway Board to make sure that the figures showing the number of appointments made are correct ;
- (d) whether returns are prepared mostly by non-Muslim staff who have a hand in making the appointments ; and
- (e) whether Government propose to consider the desirability of issuing necessary orders to ensure that these returns are prepared as far as possible by Muslims and are checked by Muslim Inspectors ?

**The Honourable Sir Andrew Clow :** (a) and (b). Yes.

(c) Mistakes are liable to occur in all statistical compilations, but such checks as are practicable are made to ensure accuracy.

(d) I have no details showing the communal composition of the staff compiling the returns, and have no reason to believe that their accuracy or otherwise is thereby affected.

(e) No.

**Mr. Muhammad Nauman :** May I request the Honourable Member to consider the desirability of entrusting this working of checking the percentage to Labour Inspectors who have got very little work and who have been recently appointed on the different railways ?

**The Honourable Sir Andrew Clow :** I am not sure that Labour Inspectors will be suitable, but I am prepared to consider whether the accounts staff can pay some attention to the matter.

#### FUNCTIONS OF THE ASSISTANT SECRETARY TO THE GENERAL MANAGER, NORTH WESTERN RAILWAY.

185. \***Mr. H. M. Abdullah :** Will the Honourable Member for Railways please state :

- (a) what the functions of the Assistant Secretary to the General Manager, North Western Railway are ;
- (b) whether it is a fact that postings, transfers, confirmations, promotions, etc., of Headquarters staff are controlled by the Assistant Secretary and that he performs all the duties of a Divisional Personnel Officer so far as Headquarters establishment is concerned ; and
- (c) if the reply to part (b) above be in the affirmative, why this post was not counted amongst Personnel Officers in reply to part (b) of my starred question No. 1698, replied in this House on the 12th April, 1939 ?

**The Honourable Sir Andrew Clow :** (a) His duties are to assist the Deputy General Manager in all matters relating to the staff and the organisation for the disposal of work generally in the Headquarters office.

(b) Yes, subject to certain limitations and reservations in regard to the exercise of disciplinary powers, etc.

(c) The term " Personnel Officer " on the North Western Railway applies only to officers who are solely employed on establishment work.

## OFFICE SUPERINTENDENTS ON THE NORTH WESTERN RAILWAY.

136. \*Mr. H. M. Abdullah : Will the Honourable Member for Railways please state :

- (a) whether the duties and scales of pay of the office superintendents of Divisional, Extra-Divisional and Headquarters offices are the same as those of the Superintendent, Lost Property Office, on the North Western Railway, Lahore, and whether these posts are interchangeable ; and
- (b) if the reply to part (a) above be in the negative, what the reasons are for including the post of Superintendent, Lost Property Office, in the posts of Office Superintendents so far as interpellations in this House are concerned, as was done in reply to part (d) of my starred question No. 1652, replied in this House on the 12th April, 1939 ?

\*The Honourable Sir Andrew Clow : (a) No.

(b) Part (d) of the Honourable Member's question No. 1652, referred both to Office Superintendents and to Superintendents in the Headquarters Office. The Superintendent, Lost Property Office, is included in the latter category.

## HEAD CLERKS IN THE PERSONNEL BRANCHES OF DIVISIONAL OFFICES ON THE NORTH WESTERN RAILWAY.

137. \*Mr. H. M. Abdullah : Will the Honourable Member for Communications please state :

- (a) the number of permanent head clerks in the Personnel Branches of the various divisional offices of the North Western Railway on the 30th June, 1938, and 1st July, 1939 ; and
- (b) whether 60 per cent. vacancies in the establishment branches of the North Western Railway are filled by Muslims direct recruited in accordance with the Home Department Resolution of July, 1934 ; if not, why not ?

\*The Honourable Sir Andrew Clow : (a) Eleven, both on the 30th June, 1938, and on the 1st July, 1939.

(b) No. The communal proportions apply to the railway as a whole.

## RECRUITMENT OF MUSLIMS ON THE NORTH WESTERN RAILWAY.

138. \*Khan Bahadur Shaikh Fazl-i-Haq Piracha : Will the Honourable the Railway Member please state :

- (a) whether instances of non-observance of the orders of the Government of India, Home Department Resolution No. F.IX|17-B.33-Establishment, dated the 4th July, 1934, about recruitment of 60 per cent. Muslims on the North Western Railway, have come to the notice of the Railway Board and the General Manager, North Western Railway, Lahore, through the annual returns, through public bodies and through the press ;

- (b) if the reply to part (a) above be in the affirmative, in how many instances action has been taken in accordance with paragraph 10 of the Supplementary Instructions, Government of India, Home Department, Resolution No. F.14|17-B.33-Establishment, dated the 4th July, 1934 ;
- (c) if no action has been taken, why not ; and
- (d) if the action has not been taken in a single instance, whether the Government of India propose to see that the orders of Government are carried out ?

**The Honourable Sir Andrew Clow :** (a) The annual returns indicate a strict observance of the orders to which the Honourable Member refers.

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

**Mr. Muhammad Nauman :** With reference to part (c); if the Government orders are ignored like this, what is the constitutional position of these orders ? Do Government propose to ask for an explanation from those agents for not having accepted those instructions or suggestions ?

**The Honourable Sir Andrew Clow :** They have no reason to suppose that they are ignored.

**Mr. Muhammad Nauman :** The position of the Muslims here is not improving on the whole, and, therefore, it appears that the orders are being ignored in practical working.

**The Honourable Sir Andrew Clow :** I do not agree that they are not improving on the whole.

#### MUSLIM PERSONNEL OFFICERS, ETC., ON THE NORTH WESTERN RAILWAY.

**189. \*Khan Bahadur Shaikh Fazl-i-Haq Piracha :** Will the Honourable the Railway Member please state :

- (a) whether it is a fact that on the 8 divisions of the North Western Railway
- (i) there is not a single Muslim Divisional Personnel Officer ;
  - (ii) there are only two Assistant Personnel Officers ;
  - (iii) there is not a single Muslim Office Superintendent ; and
  - (iv) there is only Head Clerk, Personnel ;
- (b) how this position compares with the position existing in 1932 ; and
- (c) what steps, if any, Government propose to take to see that an adequate number of Muslims is appointed to these posts in the Personnel Branches of the various Divisional Offices of the North Western Railway ?

**The Honourable Sir Andrew Clow :** I would refer the Honourable Member to the reply printed in the debates of the 30th August, 1939, in connection with Mr. H. M. Abdullah's starred question No. 1567, asked on the 5th April, 1939.

**Mr. Muhammad Nauman :** With reference to part (c) may I propose, in order to expedite the adjustment of communal proportions, that they should appoint a Committee including Sir Henry Gidney, Sir Zia-uddin Ahmad and Ishai Parma Nand to look into this and find out whether the Government orders are being followed ?

**The Honourable Sir Andrew Clow :** The Honourable Member appears to be moving a Resolution and not asking for information.

**INCREASE IN THE PERCENTAGE OF MUSLIMS IN THE LOWER GAZETTED SERVICE AND SENIOR SUBORDINATE SERVICE OF RAILWAYS.**

**190. \*Khan Bahadur Shaikh Fazl-i-Haq Piracha :** Will the Honourable Member for Railways please state :

- (a) what action, if any, has been taken or is proposed to be taken to increase the percentage of Muslims in the Lower Gazetted Service and Senior Subordinates Service as a result of the cut motion of Rs. 100 under the head " Railway Board " adopted by this House unanimously on the 22nd February, 1939 ;
- (b) whether it is a fact that the ways and means to achieve this were discussed at the Annual General Meeting of the All-India Railway Muslim Employees Association and copies of the Resolutions passed in the meeting were forwarded to the Railway Board by the General Secretary of the said Association for necessary action ;
- (c) whether it is a fact that the Railway Board forwarded copies of the Resolutions to the General Managers of State Railways, etc., for information and such action as they may consider necessary ;
- (d) whether it is a fact that the General Managers, particularly of the North Western Railway, have taken no action in the matter ; and
- (e) if the replies to parts (b) to (d) above be in the affirmative, what other means are proposed to be adopted to give the Muslims their due share in the Railway services ?

**The Honourable Sir Andrew Clow :** (a) I would refer the Honourable Member to Sir Thomas Stewart's speech in reply to the cut motion to which the Honourable Member refers, which indicates the steps taken and the orders in force to ensure adequate representation of Muslims in direct recruitment to Railway services. The Lower Gazetted Service and senior subordinate posts are normally filled by promotion. The orders regarding communal representation apply only to direct recruitment.

(b) I have seen a copy of the resolutions passed at the meeting.

(c) Yes.

(d) I am not aware of what action was taken.

(e) Does not arise, in view of my reply to part (a).

**MUSLIM OFFICE SUPERINTENDENTS AND HEAD CLERKS ON THE NORTH WESTERN RAILWAY.**

**191. \*Khan Bahadur Shaikh Fazl-i-Haq Piracha :** Will the Honourable Member for Railways please state :

(a) whether it is a fact that the following undertaking was given to the Muslim Members of the Central Legislature, *vide* note referred to in paragraph 1 (ii) of the Railway Board's letter No. 3966-E., dated the 2nd November, 1931 :

“ Undertaking No. 5 :—That the suggestion to place Muslims in the posts of Office Superintendents or Head clerks in the Offices of the Divisional Superintendents will be considered.” :

(b) whether it is a fact that in connection with the above undertaking the following action was taken by the Railway Board, *vide* their letter No. 917-E.G. :

“ The Agents have been instructed to bear in mind the desire of the Board for the employment of an adequate number of Muslims as Office Superintendents or Head clerks in making appointments to such posts. . . . . ” ;

(c) whether it is a fact that at present there is not a single permanent Muslim Office Superintendent or Superintendent out of about 18 such posts on the North Western Railway ;

(d) whether it is a fact that the position has deteriorated rather than improved since the above undertaking was given ;

(e) whether it is a fact that the number of Muslim Head clerks also is still far from being adequate ; in any case what are the comparative figures for 1932 and 1939 ; and

(f) whether Government propose to state the number of vacancies in these cadres which have occurred since the undertaking was given and the number of Muslims appointed to these vacancies in deference to the desire of the Railway Board ?

**The Honourable Sir Andrew Clow :** (a) and (b). Yes.

(c) to (e). I would refer the Honourable Member to the reply printed in the debates of the 30th August, 1939, in connection with Mr. H. M. Abdullah's starred question No. 1567, asked on the 5th April, 1939.

(f) No : I have no information regarding the number of vacancies but am prepared to ascertain what difficulties have stood in the way of the appointment of more Muslims.

**Mr. Muhammad Nauman :** Is it a fact that there is not one Muslim Office Superintendent on the E. I. R., the E. B. R. or the G. I. P., or any other line as a matter of course. Have Government any information to that effect ?

**The Honourable Sir Andrew Clow :** I think if the Honourable Member will refer to the statement, to which reference was made in my reply to part (c), he will get the information he desires.

**EMPLOYMENT OF INSPECTORS FOR CERTAIN PURPOSES ON RAILWAYS AND CHECK ON IRREGULARITIES re RECRUITMENT OF MINORITY COMMUNITIES.**

**192. \*Khan Bahadur Shaikh Fasi-i-Haq Piracha :** Will the Honourable Member for Communications please state :

- (a) whether it is a fact that the Government of India have appointed Inspectors to see that the provisions of
  - (i) Pass Rules,
  - (ii) Hours of Employment Regulations, and
  - (iii) Payment of Wages Act.
 are being observed by all concerned ;
- (b) whether it is a fact that as a result of these checks, many irregularities are being detected and action taken as provided for in the rules ;
- (c) whether any Inspector has been appointed to check and bring to notice irregularities committed on the Railways in carrying out the instructions and rules laid down by the Government of India for the recruitment of minority communities ; and
- (d) if not, whether Government propose to see that some machinery is employed to ensure that the rules laid down by the Government of India for the direct recruitment of minority communities are correctly carried out on Railways ?

**The Honourable Sir Andrew Clow :** (a) Yes, except as regards the Pass Rules.

(b) Irregularities have been noticed, but these are comparatively few.

(c) No.

(d) No. Government have no reason for supposing that there are any substantial inaccuracies in the returns submitted to them.

**APPOINTMENT OF ACCOUNTANTS ON THE NORTH WESTERN RAILWAY.**

**193. \*Maulvi Muhammad Abdul Ghani :** Will the Honourable Member for Railways please state :

- (a) the number of permanent vacancies of accountants on the North Western Railway that have been filled during the years 1937-38 and 1938-39 ;
- (b) the number of Muslims and non-Muslims separately who were appointed as accountants in these vacancies ; and
- (c) whether it is a fact that all these vacancies have been filled by promotion mostly of non-Muslim staff in service ?

**The Honourable Sir Andrew Clow :** (a) Three and one, respectively.

(b) Muslims—none, Non-Muslims—four.

(c) Yes.

**Mr. Muhammad Nauman :** Is it a fact that most of the vacancies are filled by promotion as tactics to eliminate Muslims who might otherwise have met the demand ?

**The Honourable Sir Andrew Clow :** The answer to the first part is in the affirmative.

**Mr. President (The Honourable Sir Abdur Rahim) :** The answers to the next three questions of Mr. H. M. Abdullah will be laid on the table as they are in excess of his quota.

#### FUNCTIONS OF THE ESTABLISHMENT SECTION OF THE MOGHALPURA WORKSHOPS.

†194. \***Mr. H. M. Abdullah :** With reference to his reply to part (b) of my starred question No. 1653 replied to on the floor of this House on the 12th April, 1939, will the Honourable Member for Railways please state what the functions of the Establishment Section are and whether a section which deals with the payment of piece work and has to report as to whether the workmen are efficient or inefficient, may or may not be considered as an establishment section ?

**The Honourable Sir Andrew Clow :** The functions of an Establishment Section are to maintain the personal records of the staff, including the regulation of their emoluments and service conditions, the preparation of salary bills and similar cognate matters. As regards the latter part of the question, the Honourable Member will observe from the extract from the North Western Railway Mechanical Workshop Manual I laid on the table, in reply to the question to which he refers, that the functions of the Efficiency Section are materially different from those of an Establishment Section.

#### RECRUITMENT OF MUSLIMS AS LABOURERS, ETC., ON THE NORTH WESTERN RAILWAY.

†195. \***Mr. H. M. Abdullah :** Will the Honourable Member for Railways please state :

- (a) the number of Muslims and non-Muslims recruited direct by the Sub-Divisional Officers Nos. 4, 5 and 6 at Lahore and Moghalpura in the following categories during the last six months :
  - (i) Coolies,
  - (ii) Semi-skilled artisans, and
  - (iii) Skilled artisans ;
- (b) whether the minimum percentages reserved for the minority communities in the direct recruitment of inferior staff, *vide* the General Manager, North Western Railway, Lahore, letter No. 813-E.281|III, dated the 18th September, 1935, and labourers, apply to each of the above categories separately or as a whole ;
- (c) if the percentages are intended to apply to each category, whether Government propose to ask the General Manager, North Western Railway, Lahore, to issue clear instructions on the point to all subordinate offices ; and

†Answer to this question laid on the table, the questioner having exhausted his quota.

- (d) if not, whether Government propose to issue necessary instructions on the subject to meet the grievance of Muslims that their claims are overlooked in the recruitment of semi-skilled and skilled labourers and that they are recruited mostly as coolies ?

**The Honourable Sir Andrew Clow :** (a) I have called for the information required in regard to the recruitment by the Sub-Divisional Officers Nos. 4 and 5 and will lay a statement on the table when it is received. There is no officer designated "Sub-Divisional Officer No. 6" either at Lahore or at Moghalpura.

(b) The percentages apply to each category separately.

(c) I understand that necessary instructions have been issued by the Administration.

(d) Does not arise.

**WORKING OF THE METER SHOP IN THE POWER HOUSE, MOGHALPURA WORKSHOPS.**

†196. \***Mr. H. M. Abdullah :** Will the Honourable Member for Railways please state :

- (a) what is the monthly expenditure incurred by the North Western Railway for Meter Shop in the Power House, Moghalpura ;
- (b) what was the monthly output of the Meter Shop for the month of July ;
- (c) what is the average repair charge for each meter ;
- (d) whether it is a fact that the outturn for the month of July is nil ; and
- (e) whether the work of this shop has been job-analysed by the Deputy Agent, Organisation ; if not, whether Government propose to direct the North Western Railway Administration to look into the working of this shop and reduce expenditure in accordance with the actual outturn ?

**The Honourable Sir Andrew Clow :** (a) Rs. 1,600 approximately.

(b) 106 meters were repaired, calibrated and tested.

(c) Rs. 3-8-0.

(d) and (e). No.

**MUSLIMS RECRUITED IN THE ENGINEERING DEPARTMENT OF THE EAST INDIAN RAILWAY.**

197. \***Mr. Muhammad Nauman :** Will the Honourable Member for Railways be pleased to state :

- (a) the total number of employes in the Engineering Department of the East Indian Railway, in Grade I, (Rs. 525—25—600), Grade II, (Rs. 325—25—500) and Grade III (Rs. 160—20—300) ;

(b) what is the number of Muslims in each of those grades ; and

†Answer to this question laid on the table, the questioner having exhausted his quota.

- (c) what is the number of total recruitment in this Department on the East Indian Railway between January, 1934 and June, 1939, in Grade III and what is the number of Muslims recruited during this period ?

<b>The Honourable Sir Andrew Olow :</b>	(a) Grade I	..	25
	Grade II	..	74
	Grade III	..	72
	(b) Grade I	..	1
	Grade II	..	Nil.
	Grade III	..	4

(c) Grade III is not filled by direct recruitment, but by promotion. The number promoted to this grade during the period specified was 17, of whom two were Muslims.

**Mr. Muhammad Nauman :** Are all these recruitments made by promotion or directly ?

**The Honourable Sir Andrew Olow :** I believe it is by promotion entirely.

ABSENCE OF MUSLIM OFFICE SUPERINTENDENTS ON THE EAST INDIAN RAILWAY.

198. **\*Mr. Muhammad Nauman :** Will the Honourable Member for Railways be pleased to state :

- (a) whether it is a fact that a list of selected candidates for the post of Office Superintendents has been prepared and kept at the Head Office of the East Indian Railway ;
- (b) whether it is a fact that no name of Muslims is included in that list ; and
- (c) whether it is a fact that there are no Muslim Office Superintendents on the East Indian Railway ; if not, why not ?

**The Honourable Sir Andrew Olow :** (a) Yes, for such posts in Divisional offices.

(b) Yes.

(c) There is a Muslim Office Superintendent in one of the Divisional Offices.

**Mr. Muhammad Nauman :** What is the procedure for maintaining these lists of selected candidates ?

**The Honourable Sir Andrew Olow :** I suppose the object is to give the officer selecting a list from which to choose when a vacancy occurs.

**Mr. Muhammad Nauman :** Is it done by a Committee or certain officers or by the Divisional Superintendent ?

**The Honourable Sir Andrew Clow :** I am afraid I do not know how the list is prepared.

#### SIGNAL AND PERMANENT WAY INSPECTORS ON THE EAST INDIAN RAILWAY.

190. **\*Mr. Muhammad Nauman :** Will the Honourable Member for Railways be pleased to state :

- (a) the total number of Block Signal Inspectors, Permanent Way Inspectors and Signal Inspectors in the East Indian Railway on the 30th June, 1939, and the number of Muslims in each grade with their graded pay ;
- (b) who were the officers who sat for selection during the recruitment to the posts mentioned in 1937 and 1938 ; and
- (c) whether the Muslim quotas were recruited for these posts ?

**The Honourable Sir Andrew Clow :** (a) The total number is 102 of whom four are Muslims. The latter are all Permanent Way Inspectors in Grade III which carries a pay of Rs. 165—15—375.

(b) and (c). Government are not aware of any recruitment for these posts in 1937 and 1938. These posts are normally filled by promotion, and communal quotas apply only to direct recruitment.

**Mr. Muhammad Nauman :** With reference to part (b), is it not possible for the Honourable Member to give the names of any Muslims sitting on the Selection Board ?

**The Honourable Sir Andrew Clow :** I said that, so far as I am aware, there was no direct recruitment in those years.

**Mr. Muhammad Nauman :** They were all by promotion ?

**The Honourable Sir Andrew Clow :** I said the posts were normally filled by promotion.

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#### TRANSFERRED QUESTIONS AND ANSWERS.†

##### INDIAN TROOPS SENT ABROAD.

161. **\*Sardar Sant Singh :** (a) Will the Defence Secretary please state if it is a fact that Indian troops have been moved out of India ? If so, what is their number and the place to which they have been sent ?

(b) Which country will bear the expenses of the transport of the troops and the emoluments they receive during the period they serve outside India ?

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†The meeting of the Assembly that was to be held on the 18th September, 1939, having been cancelled, the answers to starred questions for that day were, in pursuance of convention, laid on the table of the House today.—*E. of D.*

(c) Has any extra allowance been sanctioned for such troops during such period? If so, what?

**Mr. C. M. G. Ogilvie :** (a) Yes, to Egypt and Malaya and Aden. It is not in the public interest to reply to the remaining part of the question.

(b) Normal charges are being borne by the Government of India with the exception of the Indian troops in Aden, the whole expenditure on whom is being met by His Majesty's Government. The question of extra costs is still under consideration.

(c) Yes, Field Service Scale of Rations and expatriation allowance.

#### USE OF FOREIGN MONEY TO CREATE INTERNAL TROUBLE IN INDIA.

**162. \*Sardar Sant Singh :** Will the Honourable the Home Member please state :

- (a) whether it is a fact that foreign money is being used in India to create internal trouble if and when war breaks out in future ;  
if so, who are the persons who are being paid and by which Governments ; and
- (b) whether Government are prepared to publish the names of such receivers of foreign monies in the public interest ?

**The Honourable Mr. J. A. Thorne :** (a) and (b). While there is evidence to the effect that certain forms of propaganda in India are being financed from external sources, it is not in the public interest to divulge the nature of that evidence.

#### STEPS TAKEN UNDER THE REGISTRATION OF FOREIGNERS ACT.

**163. \*Sardar Sant Singh :** Will the Honourable the Home Member please state the steps taken under the Foreigners Registration Act together with the following information :

- (i) the nationalities of the foreigners who have been registered ;
- (ii) the number of foreigners of each nationality so far registered ;  
and
- (iii) foreigners exempted from registration and the reasons for exemption ?

**The Honourable Mr. J. A. Thorne :** I would refer the Honourable Member to the Registration of Foreigners Rules, 1939, and to the Declarations of Exemptions made under section 6 of the Act on the 21st June and 28th July, 1939, of which copies have been placed on the table of the House.

(i) and (ii). I lay a statement on the table.

(iii) The principal exemptions are of subjects of His Majesty and of Asiatics belonging to States which have a common boundary with India. The main ground for these exemptions is that there are at present no sufficiently strong economic or political reasons for maintaining registers of such persons.

Statement of foreigners registered under the Registration of Foreigners Act, 1939, compiled from the information received from Provinces up to 31st August, 1939.

Country.	Provinces.													Total.			
	Madras.	Bombay.	Bengal.	U. P.	Punjab.	Bihar.	C. P. & Berar.	Assam.	N. W. F. P.	Orissa.	Gand.	Delhi.	Coorg.		Almer-Kawera.	Baluchistan.	Panab Piploda.
Belgium	..	71	81	Nil	61	68	4	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil	304
France	..	413	68	10	5	2	74	2	7	7	4	2	Nil	43	2	Nil	694
Germany	..	189	254	145	64	110	30	1	8	27	28	21	Nil	2	Nil	Nil	1,550
Greece	..	9	33	2	1	Nil	Nil	Nil	Nil	Nil	6	Nil	Nil	Nil	Nil	Nil	83
Holland	..	84	65	24	6	9	21	1	2	2	39	2	Nil	Nil	1	Nil	331
Italy	..	223	127	193	76	44	7	20	Nil	Nil	8	15	Nil	1	Nil	Nil	740
Poland	..	5	38	10	4	3	1	Nil	Nil	Nil	2	Nil	Nil	Nil	Nil	Nil	63
Portugal	..	7	20	Nil	Nil	1	1	Nil	1	Nil	Nil	Nil	Nil	Nil	Nil	Nil	30
Romania	..	1	7	11	Nil	5	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil	24
Russia	..	5	42	55	8	10	1	Nil	47	Nil	6	Nil	Nil	Nil	Nil	Nil	173

Sweden	102	42	28	32	2	8	21	1	NH	NH	NH	2	NH	NH	NH	236
Spain	20	110	20	2	1	6	NH	NH	NH	25	NH	NH	NH	NH	NH	184
Switzerland	71	129	62	16	16	NH	16	2	NH	1	19	1	NH	1	NH	394
Czechoslovakia*	NH	60	116	5	8	5	NH	2	1	NH	5	2	NH	NH	NH	204
Hungary	4	46	30	2	13	1	1	1	NH	NH	3	1	NH	2	NH	104
Denmark	NH	NH	13	4	1	10	1	1	NH	4	3	2	NH	NH	NH	39
Yugoslavia	5	4	18	1	NH	4	1	NH	1	NH	NH	NH	NH	NH	NH	34
Bulgaria	NH	3	NH	NH	NH	NH	NH	NH	NH	NH	NH	NH	NH	NH	NH	2
Other European countries including Luxembourg, Latvia, Estonia, Lithuania, Finland, Danzig, Norway, etc.	4	8	31	2	2	14	NH	NH	NH	NH	1	NH	NH	NH	NH	63
Americas	347	442	261	346	90	110	137	53	4	11	79	15	NH	5	NH	1,903
Asiatic Subjects of—																
France	3	22	1	NH	1	1	NH	NH	NH	NH	1	NH	NH	NH	NH	29
Russia	NH	71	NH	NH	NH	NH	NH	NH	NH	NH	4	NH	NH	3	NH	78
Saudi Arabia	3	162	3	NH	NH	NH	NH	NH	NH	NH	14	NH	NH	1	NH	183
Turkey	1	55	15	1	NH	NH	NH	NH	NH	NH	1	NH	NH	NH	NH	73
Iraq	6	641	243	2	2	NH	NH	NH	NH	NH	56	NH	NH	NH	NH	950
China	NH	NH	NH	NH	NH	NH	NH	NH	NH	NH	2	NH	NH	NH	NH	2
Japan	21	350	275	2	4	1	2	NH	1	NH	35	NH	NH	NH	NH	691

Country.	Provinces.													Total		
	Madras.	Bombay.	Bengal.	C.P.	Punjab.	Bihar.	C.P. & Berar.	Assam.	N.W.F.P.	Orissa.	Sind.	Delhi.	Coorg.		Ajmer-Merwar.	Baluchistan.
Other States ..	2	136	20	20	1	1	1	1	1	1	3	2	1	1	1	162
Stateloss ..	1	1	1	1	1	1	1	1	1	1	1	2	1	1	1	3
<i>African subjects of—</i>																
Egypt ..	3	6	1	1	1	1	1	1	1	1	1	1	1	1	1	12
France ..	1	2	1	1	1	1	1	1	1	1	1	1	1	1	1	9
Italy ..	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1
Portugal ..	1	3	1	1	1	1	1	1	1	1	1	1	1	1	1	9
<b>TOTAL</b> ..	1,600	3,329	1,906	685	341	376	317	84	72	79	316	65	62	9	9,241	

The Czechoslovakians seem to have been registered as " Germans " in some Provinces.

## PAY OF PEONS IN THE UNITED PROVINCES INCOME-TAX DEPARTMENT.

**164. \*Mr. Muhammad Azhar Ali :** Will the Honourable the Finance Member be pleased to state :

- (a) whether it is a fact that the peons in the Income-tax Department in the United Provinces are paid only Rs. 10-8-0 as pay and one warm coat for uniform once in four years ;
- (b) whether it is a fact that a number of peons in the Income-tax Department have come from the Revenue Department (Collectorate) ;
- (c) whether it is a fact that the rates of pay for peons mentioned in part (a) above were the same as were granted to the peons in the Revenue Department ;
- (d) whether it is a fact that the Revenue Department in the United Provinces have recently given increments to the peons at Re. 0-8-0 in two years up to a maximum of Rs. 14 and Re. 1 to Rs. 2 as city and bill allowances, and have given these increments retrospective effect ; and
- (e) whether Government have considered or propose to consider the advisability of granting increments similar to those of the United Provinces Government to the peons of the Income-tax Department and give them some relief ?

**The Honourable Sir Jeremy Raisman :** (a) The pay of office peons in the Income-tax Department, United Provinces, is Rs. 10-8-0 and Rs. 12 per mensem and their cold weather liveries are renewable after every third year.

(b) Yes.

(c) It is understood that the pay of the peons attached to Deputy Collectors was Rs. 10-8-0 per mensem.

(d) Yes.

(e) The matter is under consideration.

## INDIAN CLERKS EMPLOYED IN THE ROYAL AIR FORCE UNITS.

**165. \*Bhai Parma Nand :** Will the Defence Secretary be pleased to state :

- (a) the total number of Indian clerks employed in the Royal Air Force Units ;
- (b) the total number of Upper Division clerks employed in the Royal Air Force Units ;
- (c) whether it is a fact that British clerks are designated as Upper Division clerks ; and
- (d) if the reply to part (c) above be in the affirmative, the position the Indian Upper Division clerks retain in the office in comparison with the British clerks ?

**Mr. C. M. G. Ogilvie :** (a) 116.

(b) Six.

(c) British clerks are not designated Upper Division Clerks but are considered to be the equivalent of Upper Division Clerks.

(d) Does not arise.

### THE INDIAN OATHS (AMENDMENT) BILL.

#### PRESENTATION OF THE REPORT OF THE SELECT COMMITTEE.

**The Honourable Mr. J. A. Thorne** (Home Member) : Sir, I present the Report of the Select Committee on the Bill further to amend the Indian Oaths Act, 1873, for a certain purpose.

### THE INDIAN AIRCRAFT (AMENDMENT) BILL.

**The Honourable Sir Andrew Clow** (Member for Railways and Communications) : Sir, I move for leave to introduce a Bill further to amend the Indian Aircraft Act, 1934, for certain purposes.

**Mr. President** (The Honourable Sir Abdur Rahim) : The question is :

“ That leave be granted to introduce a Bill further to amend the Indian Aircraft Act, 1934, for certain purposes.”

The motion was adopted.

**The Honourable Sir Andrew Clow** : Sir, I introduce the Bill.

### THE PANTH PIPLODA COURTS (AMENDMENT) BILL.

**The Honourable Mr. J. A. Thorne** (Home Member) : Sir, I move for leave to introduce a Bill to amend the Panth Piploda Courts Regulation, 1931, for a certain purpose.

**Mr. President** (The Honourable Sir Abdur Rahim) : The question is :

“ That leave be granted to introduce a Bill to amend the Panth Piploda Courts Regulation, 1931, for a certain purpose.”

The motion was adopted.

**The Honourable Mr. J. A. Thorne** : Sir, I introduce the Bill.

### THE DEFENCE OF INDIA BILL.

**The Honourable Sir Muhammad Zafrullah Khan** (Law Member) : Sir, I move :

“ That the Bill to provide for special measures to ensure the public safety and interest and the defence of British India and for the trial of certain offences, as reported by the Select Committee, be taken into consideration.”

Sir, in the Select Committee several changes were made in the Bill, and most of them were material changes. I am extremely sorry to observe in the minute of dissent appended by Sardar Sant Singh to the Report,—for which, incidentally, I may say, I had to pay extra postage as it was sent to me by post underpaid,—he makes a grievance that most of the amendments sought to be moved by the Nationalist Party and the Muslim League Party were defeated in the Select Committee by the exercise of my casting vote. I do not say that ordinarily there would be any harm in that, but I am afraid that is a misstatement. In the Note appended by the two Honourable Members from the Muslim League Party in the Select Committee, they say :

“ We are glad that the Select Committee was able to see its way to accept most of our amendments.”

Sardar Sant Singh wrote his note of dissent in a running train, and I am prepared to make allowances for the misstatement in his minute. I shall, Sir, draw the attention of the House to some of the amendments that have been effected in the Bill by the Select Committee and which, from the point of view of Honourable Members, are distinct improvements in the Bill. May I first draw attention to paragraph (iii) of sub-clause (2) of clause 2 where a very material amendment has been made? The paragraph originally ran :

“ preventing any attempt to tamper with the loyalty of persons in, or to dissuade persons from entering, the service of His Majesty ” ;

The amendment made is that the dissuasion should be “ otherwise than with advice given in good faith to the person dissuaded for his benefit or that of any member of his family or any of his dependents ”. That must be recognised to be a very material change in this clause. Then, sub-paragraph (b) of sub-clause (4) originally ran thus : “ acquisition, possession and publication of information likely to assist the enemy ”, and a material change has been made here by the Select Committee. It now runs “ acquisition, possession without lawful authority or excuse and publication of information likely to assist the enemy ”. A similar restriction has been introduced in paragraph 5 of the same sub-clause of clause 2 where the spreading of false reports has been restricted to “ spreading without lawful authority or excuse ”, but a more material change in that paragraph is the addition of the explanation which has been taken from section 153-A of the Indian Penal Code to the effect that, without malicious intention and with an honest view to their removal, matters which are producing, or have a tendency to produce, feelings of enmity or hatred between different classes of His Majesty's subjects does not amount to promoting such feelings within the meaning of this clause ”.

With regard to paragraph (xxx) of the same sub-clause, a point was raised that this paragraph was too general, and in deference to the wishes of some Members of the Committee, an assurance was given that the rules issued under the paragraph would be restricted in a certain manner and the amended rules have already been gazetted. A similar restriction has been introduced in paragraph (xxxi) of this clause which originally ran “ preventing or controlling the use of uniforms, flags and insignia and of anything similar thereto ”. The amended paragraph now runs as follows :—“ preventing or controlling any use, calculated to prejudice the

[Sir Muhammad Zafrullah Khan.]

public safety, the maintenance of public order, the defence of British India or the prosecution of war, of uniforms, flags and insignia and of anything similar thereto". Later on, with regard to the composition of Special Tribunals, there have been material changes. Originally the relevant clause, clause 8 (3) proposed, that at least two members of the Special Tribunal shall be persons who are qualified either under clause (a) of sub-section (2), or under clause (b) (i) of that clause. That has now been split so as to ensure that at least one member shall be a person who is qualified to be a High Court Judge, and another member shall be qualified as laid down in paragraph (b) (1) of sub-clause (2) of clause 8. And the most important concession which even Sardar Sant Singh acknowledges is that, whereas originally clause 13 provided that there shall be no appeal or revision against any sentence passed by a Special Tribunal and that any sentence passed by a Special Tribunal, shall not require the confirmation of any authority, it is now provided that against a sentence of death or transportation for life there shall be an appeal to the High Court within whose jurisdiction the sentence is passed, and, consequently, the provision that a sentence passed by a tribunal shall require no confirmation of any authority has been deleted.

These, Sir, are some of the changes which the Select Committee has made. Another very important change was made with regard to the jurisdiction of the Special Tribunals. Originally clause 9 provided that a Special Tribunal might try any offence or class of offences which the Provincial Government might notify as being triable by a Special Tribunal. Now, that power has been restricted to trying offences under any rule made under section 2 or offences punishable with death, transportation or imprisonment for a term which may extend to seven years.

Sir, I venture to think that the House will find that from the point of view of Honourable Members who were anxious to have the matter referred to a Select Committee, very material improvements have been made in the Bill. I, therefore, hope that Honourable Members will find it possible to implement the assurances conveyed on behalf of the various Parties in the House—that this Bill will be treated as a special measure after it emerges from the Select Committee and that no very considerable time will be spent on passing it in this House. Sir, I move.

**Mr. President** (The Honourable Sir Abdur Rahim) : Motion moved :

" That the Bill to provide for special measures to ensure the public safety and interest and the defence of British India and for the trial of certain offences, as reported by the Select Committee, be taken into consideration."

**Mr. Akhul Chandra Datta** (Chittagong and Rajshahi Divisions : Non-Muhammadan Rural) : Sir, as a matter of fact, there is war. That being so, we must have some emergency measures to control the situation. During the last war also we had a similar measure, the Defence of India Act of 1915. In spite of some improvements made by the Select Committee—it would be ungracious for me to say that there were no improvements made by the Select Committee,—there have been some improvements—in spite of those improvements, my grievance is this that there are

a good many provisions still which go beyond the exigencies of the war ; the restrictions proposed in the Bill are more drastic than necessary to meet the war situation. I want to prove my contention in this way.

Let us compare this emergency measure with the Defence of India Act passed in 1915. I want to show two things. In the first place, the circumstances under which the Act of 1915 was passed were quite different. There were special circumstances which rendered it necessary to pass such an emergency measure, and those circumstances do not exist now. My second point is that, even apart from the non-existence of those circumstances, the provisions of the present Bill are far more comprehensive, far more drastic, far more severe than the provisions of the Act of 1915.

What are the circumstances which led to the Defence of India Act of 1915 ? That Act was not the result of the outbreak of war only. That legislation was introduced about nine months after the outbreak of the war. For nine long months that measure was not considered necessary at all in India. Why was the measure introduced ? It was because there was organised lawlessness at that time in different parts of India. Those disturbances came into existence after the outbreak of the war. That was the state of things which led the Government to introduce emergency legislation nine months after the outbreak of the war.

**The Honourable Sir Muhammad Zafrullah Khan :** Does the Honourable the Deputy President think that we should have introduced this legislation in the next Session ?

**Mr. Akhil Chandra Datta :** Is that the only conclusion that the Honourable Member can draw from the statement that I have made ?

**The Honourable Sir Muhammad Zafrullah Khan :** No, that is one. It would not have made much difference because Ordinances are in force.

**Mr. Akhil Chandra Datta :** If the Honourable the Leader of the House will have some patience during the time I make my point, he will see.

**The Honourable Sir Muhammad Zafrullah Khan :** I do not think the Honourable the Deputy President will ever succeed in making his point.

**Mr. Akhil Chandra Datta :** That is a matter of opinion. Even if I succeed in making my point, even then my Honourable friend will never admit it. I am quite sure about this. I shall read only a portion of the speech of the Home Member at the time which he made on the 18th March, 1915, when he introduced the emergency Bill. He said :

“ Certain disturbers of the general tranquillity in a few parts of the country have taken advantage of the opportunities which the state of war has created to break the peace.”

Then, he said :

“ This party, which may be conveniently described as the Ghadar party, saw in the Great European War their best opportunity for attempting to translate their doctrines into action.”

But what is very important is this :

“ Large numbers of deluded men intoxicated with this poison have been returning to India during the last few months.....”

[Mr. Akhil Chandra Datta.]

Nine months after the outbreak of the war, this was said.

Then, he said :

“ But some of these, together with their sympathisers already in the country, have been committing or attempting to commit acts of violence, and it is therefore of the greatest importance that this mischief should be most promptly suppressed.....”

—he was speaking about the Punjab.

Then, about Bengal, he said :

“ Closely akin to this movement is the anarchist movement in Bengal....and at the present time there has, as the Council is aware, been a severe recrudescence. These two movements in the Punjab and Bengal are more closely connected than might be supposed. They may attract different kinds of followers and they may pursue slightly different methods ; but their ultimate aims are the same, and the security of loyal India requires that they should be suppressed.”

The Home Member proceeded :

“ Thirdly, we come to a class of disorder which has characterized recent disturbances in the Western Punjab.”

Then, Sir, after describing at length the state of lawlessness which prevailed in India a few weeks before this legislation was introduced, the Honourable the Home Member says this :

“ These, My Lord, are the causes which have led the Government to introduce this legislation. The disturbances have developed rapidly during the last few weeks and power to check them and to stamp out at once this lawless spirit has become a matter of great urgency.”

I do not think it will be pleaded by anybody in this House that that state of things exists now in India. There is no internal disturbance, no lawlessness and no anarchist movement now in India to justify this measure.

Then, Sir, it is significant, as I have already submitted, that the Bill was introduced nine months after the outbreak of the war. What is the present position ? The proclamation under section 102 of the Government of India Act was made and published by His Excellency the Governor General on the 3rd September. The Ordinance issued by His Excellency the Governor General is dated the 3rd September. The rules under the Ordinance were published in the Gazette on the 3rd September. War was declared on the 3rd September. The rules are contained in pages 15 to 72 of the Gazette of India. So, it is perfectly clear that it must have taken a lot of time to prepare these things, if at all any human agency was in charge of it. These rules had to be drafted and printed. There is no doubt that all this must have been done before the war. This reminds me of a saying in our part of the country that the life of Rama was written before the birth of Rama. I have told the House the conditions that prevailed in India at the time of the passing of the last Act and the conditions that prevail now are quite different.

My point is that the last Act was not introduced simply because of the war but because of internal conditions which existed then and which do not exist now. Apart from that, my second point is that the present Bill, as reported by the Select Committee, is more drastic than the Act of 1915. The most glaring instance is to be found in sub-clause (2) of clause 2 which gives power to the Central Government to empower any authority or person to make orders providing for all or any of the matters enumerated here. This is really giving a blank cheque to the

Executive. Another important thing is the provision relating to the time when the Act will come into operation. I would refer in this connection to sub-clause (3) of clause 1 of the previous Act. The present provision is that it shall come into force on such date as the Central Government may, by notification in the official Gazette, appoint in this behalf. In the previous Act the provision was that sections 1 and 2 shall come into operation at once but the Governor General in Council may by notification in the Gazette of India direct that the rest of the provisions shall come into operation in any Province or part thereof on such date as may be specified in the notification. I have already submitted that the provisions of the old Act, other than those in sections 1 and 2, were provisions which had not so much to do with the War as with the recrudescence of lawlessness in Bengal and the Punjab and, therefore, obviously, it was not necessary that those provisions should come into operation in all parts of India at once. On this point, may I again refer to the speech of 1915 :

“ The Judges of the Chief Court of the Punjab have themselves authorised the Lieutenant-Governor to say that, in the opinion of the Judges, the ordinary judicial machinery will not be equal to dealing with the heavy cases which the outbreak of lawlessness in parts of that province has entailed. Furthermore, the greatest check upon the spread of crime of this kind is the prompt punishment of the offenders.... The Council will readily recognise that the ordinary machinery of law and order in this country is based upon the average volume of crime ; when crime increases considerably, that machinery is strained ; if the increase is still larger, the machinery may break down. Justice is proverbially slow and the system which has grown up in this country by its nature interposes so large an interval between crime and its punishment that the ordinary procedure is quite unequal to the suppression of violent crime whenever crime threatens to become of an epidemic character.”

All these things have nothing to do with the War but with the outbreak of lawlessness in Punjab and Bengal. Therefore, you will find that the rules framed under the old Act in almost every case began with these words—wherever the Governor General in Council by any direct or special notification thinks it necessary that any particular rule shall come into operation and so on.

Another departure from the old Act is to be found in the provision to which reference has been made by the Honourable  
12 Noon. the Leader of the House, that is part (b) of sub-clause (iv) of sub-clause (2) of clause 2—“ acquisition, possession without lawful authority or excuse and publication of information likely to assist the enemy ”. The words “ without lawful authority or excuse ” have been added by the Select Committee. My submission is that even with the addition of these words, this is a dangerous innovation. Before I proceed further, may I point out what the provision in the old Act was ? That was the very first rule under clause 2 (1) :

“ preventing persons from possessing or obtaining information which may be used for that purpose.....”

Not mere possession of information, but obtaining information. Here also the word “ obtaining ” is there though the word actually used is “ acquisition ”, and to that has been added the word “ possession ”, the possession of any information.....

**Mr. President** (The Honourable Sir Abdur Rahim) : The Honourable Member is dealing too minutely with the clauses.

**Mr. Akhil Chandra Datta** : Sir, my contention is that the provisions are more drastic in this Bill than in the previous Act.

**The Honourable Sir Muhammad Zafrullah Khan :** Surely it is admitted that this Bill is a considerable improvement upon the Act of 1915 ?

**Mr. Akhil Chandra Datta :** Yes, from your point of view, i.e., more drastic than that of 1915. It is some improvement on the original Bill, that is true, but even as it is amended by the Select Committee, it is far more reactionary than the corresponding Act of 1915. Well, Sir, I shall not deal with all that at this stage but apart from all this, there is a more fundamental objection, and that is that provision has been made under this Bill for the efficient prosecution of the war, as it appears from clause 2 (1). My submission is this that in fact all these provisions for the efficient prosecution of the war are really outside the scope of this Bill which is a Bill for the defence of British India. It was suggested in another place when I raised this point that the defence of India involves the efficient prosecution of the war. That, Sir, is a fallacious contention. If it really is so, then why have it in addition ? There are five distinct subjects mentioned under which these rules are to be enacted. Of them the very first one is the defence of British India. No. 2 is " public safety ". No. 3 is " maintenance of public order ". No. 4 is " the efficient prosecution of the war ". No. 5 is " maintaining supplies and services essential to the life of the community ".

Now, if it is suggested that the defence of India involves the efficient prosecution of the war, why then there is here the expression " the efficient prosecution of the war " in addition to " the defence of British India " and separated by two other objects ? Sir, I shall deal with all this also later on. I shall draw the attention of the House to this fundamental departure from the Act of 1915. There was no such provision in the Act of 1915. Therefore, Sir, I have a misgiving that some of these provisions may be enforced drastically,—it may be quite unwittingly, it may be not deliberately, it may be in their over-anxiety to maintain peace and order in this country, but all the same I do apprehend that under the cloak of a war measure some of these provisions are calculated to make a serious invasion upon the private rights of citizens which may be abused by the irresponsible bureaucracy to put down our constitutional activities in prosecution of the freedom movement and the movement for the rehabilitation of the economic structure of our country. I shall conclude with this observation, Sir, that no doubt measures which are really *bona fide* war measures must be taken ; we have no quarrel with that, but it is equally important that care must be taken that they do not go beyond the necessities of the situation.

**Sir Abdul Halim Ghaznavi (Dacca cum Mymensingh : Muhammadan Rural) :** Mr. President, we have to realize that this legislation is intended to provide for special measures to ensure public safety and the defence of British India. Sir, I have read very carefully the four Notes of Dissent and I will deal with those Notes of Dissent first. But before I proceed to deal with those four Notes of Dissent, I want to give a short answer to my Honourable friend, the Deputy President, who, I find, is not in his seat here.

**Mr. President (The Honourable Sir Abdul Rahim) :** The Honourable Member must not carry on conversations like that.

**Sir Abdul Halim Ghuznavi :** Sir, the Deputy President stressed one point, namely, why have you brought forward this measure immediately—why did you not wait for nine months, as you did in 1915? Nine months had passed, said he, and it was only after that that this emergency legislation was brought forward? Why is it that you bring in this legislation immediately the war is started?

**Mr. Akhil Chandra Datta :** You have not understood a word of mine.

**Sir Abdul Halim Ghuznavi :** You did not make your point clear, how can I understand your point?

**Mr. Akhil Chandra Datta :** I have not made my point clear to you only.

**Sir Abdul Halim Ghuznavi :** Sir, in 1914, Great Britain did not know that the war was coming. They were not prepared.

**Mr. N. M. Joshi (Nominated Non-Official) :** How do you know that?

**Sir Abdul Halim Ghuznavi :** I know because I suffered most on that historic day, the 4th of August, 1914. When the war was declared, I know what it cost me. They were not prepared, they never knew.

**An Honourable Member :** What was your grievance?

**Sir Abdul Halim Ghuznavi :** You will hear me in the lobby.

Sir, a certain Duke was murdered, and then the great Emperor of Germany started that war.....

**Mr. President (The Honourable Sir Abdur Rahim) :** The House does not want the history of that war.

**Sir Abdul Halim Ghuznavi :** Sir, I have to mention that war because of the nine months which the Deputy President has been stressing from the very beginning.....

**Mr. President (The Honourable Sir Abdur Rahim) :** It is not necessary to go into that.

**Sir Abdul Halim Ghuznavi :** Sir, as soon as the war broke out, we were not in a position to realise the requirements of the situation, and it took the authorities a little time to do that. Mr. Deputy President said that the condition of 1914 is not the condition of 1939. My answer is that the present condition is worse than what it was in 1914.

**Mr. N. M. Joshi :** No.

**Sir Abdul Halim Ghuznavi :** You will hear it now. That Hitler of Germany.....

**Mr. N. M. Joshi :** He has not come to India.

**Sir Abdul Halim Ghuznavi :** He wants also to come here, and I want you to go there.

**Mr. President (The Honourable Sir Abdur Rahim) :** The Honourable Member had better address the Chair.

**Sir Abdul Halim Ghuznavi :** So, I have disposed of his one objection about nine months. His next objection was that the measure is more drastic than what it was in 1914. It is more drastic because this war has created a tremendously more difficult position.

**Mr. N. M. Joshi :** Where is the war ?

**Sir Abdul Halim Ghuznavi :** You will see it if you take off your glasses. We do require drastic measures to meet the contingency.

I will now deal with the minutes of dissent. My Honourable friend, Mr. Joshi, as usual, will never be serious. On principle, he opposes the Bill. He said the same thing when the Bill was introduced and he has written the same thing in his note of dissent. But the House agreed with the principle of the Bill when it committed the Bill to the Select Committee. Therefore, that opposition does not hold good any longer.

**Mr. N. M. Joshi :** Join the Muslim League now.

**Sir Abdul Halim Ghuznavi :** There is no question of joining the Muslim League now. Surely one can share their view on a particular occasion without joining the League.

**Sir Muhammad Yamin Khan (Agra Division : Muhammadan Rural) :** Do you agree with the first part of the minute of dissent also ?

**Sir Abdul Halim Ghuznavi :** I agree with that part where they say :

“ We regret we could not get the following amendments accepted : (1) The deletion of the provision in sub-clause (2) of clause 2 of the Bill to empower any ‘ person ’ with authority to legislate.”

This is a serious matter.

**Sir Muhammad Yamin Khan :** Where is that in the Bill ?

**Sir Abdul Halim Ghuznavi :** You are empowering any person to legislate. That is a very serious matter, and I hope the Government will consider that point.

Their second amendment was :

“ The deletion of the provision in sub-clause (2) of clause 10 that ‘ it shall not be necessary to take down the evidence at length in writing ’.”

You have given the power of appeal and yet you will not allow the evidence to be recorded in the first instance. What is the use of that appeal ? How will the accused person be able to defend himself before an appellate court when the evidence as adduced in the case is not in writing.

**The Honourable Sir Muhammad Zafrullah Khan :** The Honourable Member had better read the original clause and he will know what the provision is.

**Sir Abdul Halim Ghuznavi :** This is what sub-clause (2) of clause 10 says :

“ In trials before a Special Tribunal it shall not be necessary to take down the evidence at length in writing, but the Special Tribunal shall cause a memorandum of the substance of what each witness deposes to be taken down in the English language, and such memorandum shall be signed by a member of the Special Tribunal, and shall form part of the record.”

That is exactly what I object to. Of what use is the substance recorded according to the discretion of the Judge ? That does not help the accused person. The Appellate Court must have before it the evidence in full with a view to understand the significance of the bearing

of it. Therefore, I do hope that the Government will accept the suggestion that has been made in the note of dissent of my Honourable friend, Syed Ghulam Bhik Nairang and Mr. Essak Sait.

Then, there are two other notes of dissent, one by my Honourable friend, Sardar Sant Singh, and the other by my Honourable friend, Mr. A. C. Datta. Mr. Datta's objection is that the 18th March, 1915, was the first day when that legislation was introduced. Why have you introduced this legislation now immediately after the war? His next objection is that it is too drastic. I have already dealt with them. Then, of course, he says that the provisions which are unduly severe under the cloak of a war measure are calculated to make serious inroads upon the primary rights of citizens. I wish he had seen the provision that has been made by the Nazi Government and then he would have realised that this legislation is nothing at all in comparison with the provisions of the Nazi Government made for the Nazi people there. There, the provision is to shoot you down straightaway: nothing short of that. That is the Nazi rule and not the trial and appeal and all those sorts of things. They believe in direct action and thus end the whole thing. That is the rule. So, in comparison with that rule, this Bill is not at all drastic. Sardar Sant Singh has sung the same song and he has also said in his note of dissent that the Bill is drastic and premature. In his opinion also nine months ought to have elapsed and the conditions of 1939 are not the same as those of 1914. But for these four notes, Members are all agreed.....

**Pandit Lakshmi Kanta Maitra** (Presidency Division : Non-Muhamadani Rural) : Who says that ?

**Sir Abdul Halim Ghumavi** : The report of the Select Committee says that.

Sir, every Member of the House should realise that we are passing through very serious and critical times. There is no question of haggling, no question of raising technical objections such as this law will not fit in or that law won't apply. It must be remembered this is a war measure. We know it is a drastic measure, but we cannot help it. One has of course to realise the seriousness of the position and one must understand that at a time when there is a war of the present dimensions, we shall have to submit to many things which we would not otherwise have done. Otherwise we cannot go on prosecuting successfully the war that is on us.

One thing I would say that India whole-heartedly supports Great Britain in this war. There is not a man, Hindu or Muslim, Congress or non-Congress, but he stands by the British Empire in this great crisis, and the evidence for the same is accumulating day in and day out. Look here what Bengal has done. Bengal stands by the British Empire. Bengal pleads, "give us the right to fight side by side with the British soldiers."

**Mr. N. M. Joshi** : Will the Bengalis get it ?

**Sir Abdul Halim Ghumavi** : They will.

**An Honourable Member** : They are a non-martial race.

**Sir Abdul Halim Ghumavi** : That question does not arise. Who says that Bengalis are a non-martial race? I challenge and dispute that proposition.

**Mr. M. M. Joshi :** Ask the Government of India.

**Sir Abdul Halim Ghuznavi :** The Government of India overlook the fact, as to who defended Bengal and who fought on the side of Clive. Did the Punjabis come and fight on either side? They fought on the five-rivers of the Punjab and defended the gates on the west. Circumstances have made it necessary that the Eastern Frontiers bordering on Bengal and Assam should be more closely guarded and efficiently defended. Who will do it? The people of Bengal and Assam. What do they say today? Give us the right to enlist and you will see hundreds and thousands of Bengalis coming forward to join your regiment. What do we find today? The Bengalis all want to join the army and be trained practically, intensively in all arms of the war.

**An Honourable Member :** What about Mr. Akhil Chandra Datta?

**Sir Abdul Halim Ghuznavi :** Even though he does not join the army, his sons will join.

**Mr. President** (The Honourable Sir Abdur Rahim) : The Honourable Member had better address himself to the motion before the House.

**Sir Abdul Halim Ghuznavi :** We have in Bengal a University Training Corps and the 5th Urban (Bengal) Infantry. The latter is a unit of the Indian Territorial Force. These boys in the Territorial desire to render effective service and are anxious to have the intensive training of a soldier—handling of the machine gun, anti-aircraft machinery, etc., so that they can play the role of an effective defence force just as their brethren in the Auxiliary Forces who are being given all this training.

**Mr. President** (The Honourable Sir Abdur Rahim) : The Honourable Member need not go into all that. It has nothing to do with the motion before the House.

**Sir Abdul Halim Ghuznavi :** I will conclude my speech by wholeheartedly supporting this Bill and at the same time I would ask the Government to give Bengal the right to fight effectively side by side with the British soldiers for their King and the land of their birth.

**Mr. President** (The Honourable Sir Abdur Rahim) : Sir Muhammad Yamin Khan. But before the Honourable Member addresses the House, the Chair wishes to point out that the Muslim League Party have not given the Legislative Assembly Office any seating arrangements for their own Members. It is the parliamentary practice that Members can address the House only from their seats, and if any Party does not allot seats to its Members, it will be very difficult for the Chair to call upon any Member of that Party to address the House. The Chair hopes that the Muslim League Party will lose no further time in giving notice of the seating arrangement for their Members. All other Parties have given such notice.

**Sir Muhammad Yamin Khan :** Sir, we are faced with a serious situation when we are dealing with this Bill. My Party has given full and unconditional support to this measure. We have already promised that we will not move any other amendments after the amendments which we suggested the other day were fully considered by the Select Committee. We stand by that pledge. We do not want to change the undertaking given by the spokesman of our Party on a former occasion. We only want

now to contribute towards the general discussion and support this Bill in the light of our previous declarations. It is always necessary on such occasions that the Executive should be armed with full powers to deal with emergencies that arise from time to time. We do not think that the Government will use all these powers at once that are embodied in the provisions of this Bill. I do not think they will use all the drastic rules and regulations which they may make under this law, because, I find that at present the situation has not arisen when Government will be obliged to have recourse to that action. But we fear that when the House is not sitting, there might arise the necessity when the Government may be confronted with a serious situation in the country when they may require such drastic powers in order to protect India and to maintain law and order. When a serious situation does actually arise, it may not be possible for a representative House like this to meet and give powers to the Government.

We see that great improvement has been made in the Select Committee and the Bill as it has emerged from the Select Committee is a great improvement, it is a great advance on the original Bill that was introduced in the House. I find that two amendments have been suggested by Honourable Members of my Party. They deal with two different questions. I am sure that my Party will not press the first point, namely, the deletion of the provision in sub-clause (2) of clause 2 of the Bill to empower an authority to legislate. I think this proposed amendment was tabled under some misunderstanding. We find that there is no power to legislate given to any authority. The only power that is given under that rule is to make orders providing for that. So, that power is not given to make legislation but the word 'person' is ambiguous. With regard to the other point I think Government were guilty of culpable neglect in not seeing that law proposed to be made is consistent. Under the original clause 13 the evidence was not required to be taken down. But having accepted an amendment giving the right of appeal in cases of death or transportation for life orders, they should have been consistent and ought to have said that in cases involving these punishments the evidence should be recorded in full. Of course, in cases where the punishment falls short of death or transportation for life it is not necessary to record it because no appeal lies and it will be mere waste of time to record the evidence. But this will be a kind of summary trial. The Honourable the Law Member said that the tribunal will consist of a man who is fit to be a High Court Judge. I see the force of that argument but a judgment has to be written and unless the case is finished in one day and the evidence remembered, any human being is liable to forget what was said ten days before. If the trial is protracted for a month or more it is not fair that the procedure for summary trials should be laid down for these cases where the punishment may be death or transportation and an appeal has been agreed to. It may be that after a month particular judges may differ in their impression of the evidence; who is to decide which of them is right and which is wrong?

**The Honourable Sir Muhammad Zafrullah Khan :** A memorandum of the substance of the evidence will be made at the time when the witness is deposing.

**Sir Muhammad Yamin Khan :** That may be so, but the procedure that is being laid down is the procedure for summary trials.

**Mr. President** (The Honourable Sir Abdur Rahim) : The Honourable Member should not discuss particular clauses in detail now. He can move amendments when individual clauses are taken up.

**Sir Muhammad Yamin Khan** : I am not discussing the clauses but my point is that the Judges should not be brought into a conflict if the trial goes on for some time and one Judge remembers the evidence in one way and the other Judge remembers it in another way. This is a loophole left by the Select Committee which should be rectified by this House, and if there is no amendment brought forward by the Members, Government themselves should move an amendment that in cases punishable with death or transportation for life, the evidence should be recorded in full. Sir, I hope the Bill will be speedily gone through and passed into law as quickly as possible.

**Mr. N. M. Joshi** : Sir, the Honourable the Leader of the House has explained the changes made by the Select Committee in the original Bill. I feel that most of the changes are improvements ; but they are changes of detail and they have not changed the principles of the Bill. Therefore, my objection to this Bill remains. In my speech when the Bill was sent to the Select Committee, I pointed out that there was need for some kind of special legislation after the declaration of war, such as legislation for controlling prices and some other provisions. I would go further and state that if the provisions of this Bill had been restricted only to matters of defence I would not have objected to this Bill. But the Bill, original and as amended by the Select Committee, goes beyond matters of defence. It provides for ordinary safety, maintenance of order : it provides for controlling of meetings and processions ; it provides for control over the press ; and I feel that these restrictions placed upon the citizens of this country, at a time when the country is peaceful, are unjustified. I fear that these restrictions will be used against the citizens of this country in such a way that their ordinary avocations of life will be circumscribed.

It is admitted on all hands that the powers given by this Bill are extremely wide, and they are given at a time when their need is not obvious. These powers will be conferred upon officers of the Government of India and of the Provincial Governments and, as a matter of fact, on any person on whom the Government of India choose to confer these powers. Generally speaking, it is the experience of us all that when powers are conferred upon officers, when they are not needed, whether there is occasion for the use of those powers or not, the powers are used. There is a temptation to those people on whom these powers are conferred to use those powers even when their use is not justified. It is like the vernacular saying about the unemployed barber. The barber is accustomed to use his skill every day ; and when he is not employed he feels tempted to use it on somebody. If he uses his skill on some inanimate object, his action may not be mischievous ; but if you confer powers on officers of the Central and Provincial Governments and on anybody whom the Government of India choose, and if there are no proper occasions for the use of these powers, then I am sure they will feel tempted to use these powers on innocent even when there is no need.

In my speech on the last occasion, I have stated that the working classes of this country will be the first to suffer from the provisions of this legislation.

**The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar** (Member for Commerce and Labour) : They were the first to benefit at least by control of prices !

**Mr. N. M. Joshi** : I would like the Honourable Member for Labour to listen to what I am going to say.

I have stated that on account of this war the prices will go up—the cost of living will go up. Wages will not rise in proportion to the cost of living. There will be agitation by the working classes notwithstanding the Ordinance and the Bill which we are considering just now ; and I have no doubt in my mind that the officers of the Government of India and of the Provincial Governments and all those on whom these powers will be conferred may utilise those powers to prevent the working classes getting their due. Last time I made a prophecy. I said that the first use of the Ordinance will be against the working classes of Digboi ; and my prophecy has come true. I do not know if it was actually the first or second use but as soon as the Ordinance was proclaimed it was used at Digboi. At the time I spoke I did not know exactly what was happening there. But the next day I got a letter from Digboi from which I shall read one or two sentences. This is from the Secretary of the Labour Union at Digboi :

“ This is to advise that emergency Ordinance and also section 144 of the Criminal Procedure Code have been promulgated here and at Tinsukia this morning by the special magistrate of Digboi. The strikers are now prohibited from holding meetings, wearing any uniforms and gathering together on the roads in batches of five : they have also been debarred from picketing, moral persuasion, etc., etc.”

The prophecy which I had made was based upon my experience of the Government of India and the Provincial Governments and their officers. I also prophesied that day that the next turn would come to Cawnpore and after that Bombay. I am sorry that my prophecy has gone wrong a little bit—instead of Cawnpore coming second, Bombay has come second.....

**The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar** : May I ask the Honourable Member whether he has received information from the Secretary of the Digboi Labour Union that the Labour Union passed resolutions whole-heartedly supporting the Government in its endeavour to prosecute the war ?

**Mr. N. M. Joshi** : My surprise is that in spite of that resolution the Ordinance is promulgated against them. That shows how dangerous it is to give powers to a Government which has not got the ordinary decency not to use these powers against people who go out of their way to show their loyalty to the Government. I stated that Bombay would come third, but it has come second.

Yesterday, I received a letter from Bombay from one of my colleagues who is working among the seamen of Bombay. This is what he writes :

“ I hope you are aware of the demands made by the Bombay seamen in connection with their signing on during war time. The demands are not met and ships are being held up in port. There were persistent rumours throughout the last week that drastic steps would be taken against the Seamen's Union in general and against one of our workers in particular. They have now subsided, but after all one does not know. Some say that the Government are waiting for the publication of the official policy of the Congress on this issue.”

[Mr. N. M. Joshi.]

If the Congress orders the Bombay Government to abdicate, then there is no necessity for taking action on their part :

“ Our ordinary trade union activities are being associated with a camouflaged anti-war propaganda and it is said that Government also would take the same view if the Union goes on at this rate.”

You know, Sir, that if seamen go on ships at this time, they are taking grave risks. Not only has the cost of living gone up, but on account of the war, if they go on ships they take grave risks. It is quite natural that they should ask for better conditions of work and service at this time. Instead of understanding the need of the working classes, the employers who know all the tricks of the trade say that all the agitation that is carried on by the Union is anti-war propaganda so that the Government of India should take notice of this. Sir, at present among the seamen in Bombay there is great excitement, and it is feared that the Government of Bombay would take action against those who are helping the seamen of Bombay. Sir, in the first place those people who work among the working classes, ordinarily, always take risks. It is easy for the employers or the officers of Government to call people communists and try to hang them. They do so, and they are doing so in this instance also ; but in this particular case of the seamen, there is a special difficulty.....

**Mr. President (The Honourable Sir Abdur Rahim) :** The Honourable Member need not go into details.

**Mr. N. M. Joshi :** I shall not deal with it very long.

**Mr. President (The Honourable Sir Abdur Rahim) :** The Honourable Member must confine himself to the motion before the House.

**Mr. N. M. Joshi :** My point of criticism is this, that this Bill will be abused and misused, and I am giving an instance.

**Mr. President (The Honourable Sir Abdur Rahim) :** The Honourable Member has mentioned that instance, but he cannot discuss it in detail.

**Mr. N. M. Joshi :** All right, Sir ; I shall not deal with this matter further, but I would like the Government of India to consider this matter very seriously. On account of this war, I am sure, whatever be the result,—whether the British win,—I hope they will win,—or the Germans win, there are some classes of people who will gain. The other day my friend, the Leader of the European Group, said that some people who are self-seeking try to exploit the poorer classes and make profits ; but I have no doubt in my mind that during the present war, as it was in the previous war, there are some classes of people who will profiteer more than any others. Whatever may be the result, the people whom my friend, the Leader of the European Group, represents will not be poorer but will be richer at the end of the war. It is a prophecy which will come true, and I make it based upon past experience. Mr. President, the working classes. I have no doubt in my mind, will suffer on account of this war, but there are classes, even of Government officers, who have begun to make some profit on account of the war. New departments are being created.

and people who were getting a thousand rupees are given jobs on Rs. 1,500, people who were getting Rs. 4,000 are now provided with jobs on Rs. 5,000.....

**Mr. President** (The Honourable Sir Abdur Rahim) : What has that got to do with the motion before the House ?

**Mr. N. M. Joshi** : This Bill is intended to check profiteering.

**Mr. President** (The Honourable Sir Abdur Rahim) : Does that include the salaries of officials ?

**Mr. N. M. Joshi** : My point is that although Government may try to check profiteering, there are some classes of people who will profiteer, who will make money out of this war.....

**The Honourable Sir Muhammad Zafrullah Khan** : That is an argument for making the provision more drastic.

**Mr. N. M. Joshi** : The only classes of people who are likely to suffer are the working classes.....

**Sir Cowasji Jehangir** (Bombay City : Non-Muhammadan Urban) : What percentage of increase did the working classes get during the last war ?

**Mr. N. M. Joshi** : I would suggest to the Government of India to keep a close watch, and I would suggest to the Honourable Member in charge of the Department of Labour that he should keep a close watch and try his best to help the working classes in their efforts to prevent exploitation. The working classes of this country have not got sufficient protection. They themselves are not educated ; want of education prevents their organizing themselves. If there are people who try to help them, they are being libelled and difficulties are placed in their way. I would, therefore, like the Government of India to consider that it is their duty to protect these classes. Efforts will be made by some people who are interested in exploiting them, to call them names, to make an appeal to the Government saying that the agitation of the working classes is anti-war agitation. But I would like the Government of India to consider this, that on account of the cost of living going up and the wages not going up proportionately, it is the natural human right of the working classes to fight and see that they will not lose.

Mr. President, I do not wish to deal with the other aspects of the Bill, but before I close, I must say that I have a great fear that this Bill, instead of doing any good to the people of this country, will do a great deal of harm. It provides a weapon to the officers of Government to use their powers when they are not needed, and they may misuse or abuse these powers. That itself will create discontent in the country. I also fear that if the officers of Government, provincial or Central, begin to make use of these powers in an unjustifiable manner, the poor people in this country will be terrorised. I hope, Sir, it is not the intention of the Government of India to produce that result. Mr. President, I am afraid I cannot support this Bill.

**Mr. F. E. James** (Madras : European) : The two main arguments used by my Honourable friend, the Deputy President of the House, appear to me to be based upon a complete fallacy. His first argument was that there was no urgent need for

[Mr. F. E. James.]

this measure and he supported it by the fact that the Defence of India Act of 1915 was only introduced, nine months after the outbreak of the war and for the ostensible reason of dealing with unrest in the country. But he must surely be aware, and I think the period which has elapsed since the last war will make it easier for me to say this in public—he must be aware that the history of the Government of India during the last war was one of unpreparedness, incompetency and muddle. As my Honourable friend, the Leader of my Party, said in his speech the other day, we are glad that on this occasion the Government of India certainly cannot be accused of being unprepared. There is no particular virtue in the period of nine months. I would rather have preparations made on the day the war is declared than wait for trouble to arise in the country. I would point out to my Honourable friend that he appears to have forgotten the story of Munich a year ago which gave a year's clear indication, not only to this country but practically to the whole world, that every country in the Empire and every country prepared to fight for democratic principles would have to prepare against the inevitable day of war.

**Mr. Akhil Chandra Datta :** A word of personal explanation, Sir. I never intended to suggest and I never suggested that this legislation ought to have been introduced nine months after. What I want to say, all I did say was this, that all the provisions of that Act were due not merely to the outbreak of the war but the lawlessness which were going on in the country,—in the Punjab, in Bengal and so on. That was all my contention. I have never said that it was too early and that it should have been postponed eight or nine months.

**Mr. F. E. James :** My answer to that is, why wait till lawlessness breaks out ?

**The Honourable Sir Muhammad Zafrullah Khan :** The Honourable Member's argument was that we should have devised a remedy only after the mischief had arisen.

**Mr. F. E. James :** There is also one further point which I should like to make and that is this. Conditions have enormously changed since 1914. My Honourable friend, the Deputy President, appears to have been asleep during the last 24 years like Rip Van Winkle and to have suddenly wakened up to the fact that we are now in the midst of another emergency ; he turns suddenly to what happened in the last emergency which happened 24 years ago and says that what we are doing now is different from what was done then and is a mistake. But, if I may say so, that is an argument which cannot hold water. The world has travelled fast since 1914, and the present war is an entirely different war from the last war. It is waged by a totalitarian nation, and, as has been pointed out more than once, when a totalitarian nation goes to war it can only be fought by equally totalitarian methods. There is the further point referred to by my Honourable friend, the Deputy President of the House, and that is as to the exact meaning of the phrase, "defence of India". It appeared to me that he argued that these powers in the Bill were so extensive that they went beyond the necessities of the case so far as the defence of India was concerned. In his Minute attached

to the Report of the Select Committee, he argues this particular point at considerable length. He says :

“ If an efficient prosecution of the war is brought within the scope of the Bill, then it becomes in effect a Bill for defence of the British Empire and all the allied countries. It becomes a Bill for the defence of United Kingdom, France, Poland, Canada, Egypt and Iraq and several other countries in the different parts of the globe.”

What about the Defence of the Realm Act passed by the House of Commons recently ? Is that not a Bill for the defence of India also ? What about the Defence of the Realm Acts passed in all the Dominions in much less time than this Bill takes to pass through this Assembly ? Are they not equally Bills for the defence not only of their own country but of India ? Let me tell my Honourable friend that in this matter the defence of the Empire, in fact, the defence of the democratic countries is one and indivisible ; it cannot be divided. I would ask him to study more carefully the appreciation of the situation, which is far more real than it is in his case, of eminent persons in this country like Mahatma Gandhi and Dr. Rabindranath Tagore who have seen the point. And in this matter it is not the defence of one particular country that counts, it is the defence of principles that are common to many countries. We are not fighting for Poland ; we are fighting for something bigger than that. Therefore, the defence of India must be interpreted in its widest possible aspect.

Now, I come to my Honourable friend, Mr. Joshi. He dislikes this Bill root and branch ; he opposed its reference to a Select Committee ; he sat on the Select Committee ; now he opposes the consideration of the Bill. But one can respect his views. No one has ever denied that the powers given under this Bill are very wide indeed, and if they were sought to be given either to the Central Government or to the Provincial Governments in times of peace, some of the strongest opponents to that would be on these Benches. But we believe that the emergency which the war has created has justified the handing over of very wide powers to the executive either of the Central Government or of the Provincial Governments. And let me remind the House that a very large proportion of the powers which this Bill gives to the executive is given to the executive under the control of Provincial Governments. Many of the arguments used by my Honourable friend, Mr. Joshi, should have been directed in the first instance to some of the Provincial Governments, and, particularly, the latter part of his argument to the Provincial Government of Bombay. I hope that he will see that his words are understood and appreciated by that Government. Mr Joshi said that the need for this Bill was not obvious. I find it very difficult to argue with anybody who takes that view at this stage. War has broken out and war has created the need and any one who denies that is hiding from himself the actual realities of the situation. Mr. Joshi is living in a fool's paradise.

Now, Sir, he apprehended that the powers conferred by this Bill might be used particularly against the working classes of this country. That was an apprehension based upon absolutely no foundation except speculation.

**Mr. N. M. Joshi : Experience.**

**Mr. F. E. James :** Experience of the last war certainly did not show that to be the case. As a matter of fact, in India and the United Kingdom, the working classes during the last war registered an enormous advance both in the level of wages and in conditions of labour.

**Mr. N. M. Joshi :** Not without fight.

**Mr. F. E. James :** And if we are to go by experience, then Mr. Joshi's argument is really of no account. He referred, for example, to profiteering in time of war. Of course, there is profiteering ; but he made the unpleasant suggestion that the people who profited most were the people who were represented by the Leader of the European Group. I absolutely deny that suggestion. My Honourable friend, the Leader of the European Group, represents a general European constituency. Who have been the first to volunteer for active service in this war ? It is the European community who will suffer most in the way of casualties if the war is continued. It is true that there is profiteering. In every war there is bound to be. It is not confined to one community only. Nor is it limited to one class. The working classes profiteer just as much as the capitalist, and we are quite prepared to see even more stringent provisions put in this Bill, if Mr. Joshi wants to curtail the opportunities for profiteering in this country. My Honourable friend referred to Digboi. I am sorry he referred to Digboi.

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

**Mr. F. E. James :** Because if there is one instance of a labour dispute in this country where labour has been thoroughly exploited, it is Digboi. If Mr. Joshi really wants to inquire into the position in Digboi, let him go there and use his undoubted influence in the direction of a satisfactory settlement. This is the one dispute that I have known in recent months which has proved what the Honourable the Labour Minister in Madras recently said—that the greatest enemy of labour is not the capitalist but those who exploit labour for their own personal ends.

Finally, I say that as far as our Party is concerned, we support this Bill. We share the view expressed by the Muhammadan Members in the Select Committee that the greatest amount of care should be exercised on the part of the Central Government and the Provincial Governments in framing the rules and sanctioning action under the very wide powers given to them by the provisions of this Bill. We have already had one assurance from the Honourable the Leader of the House in that regard. We welcome that assurance and we hope that that assurance will be carried into effect not only by the Central Government but also by the Provincial Governments in the months that are to come. With that assurance, we are prepared to give these wide powers in the hope that their wise use will lead to the efficient prosecution of the war and the triumph of the cause in which every one believes.

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

The Assembly re-assembled after Lunch at Half Past Two of the Clock, Mr. Deputy President (Mr. Akhil Chandra Datta) in the Chair.

**Dr. P. N. Banerjee** (Calcutta Suburbs : Non-Muhammadan Urban) : Sir, the Bill, as it has emerged from the Select Committee, does not appear to me to be satisfactory. The very fact that four notes of dissent have been appended to the report is a proof that the Select Committee report has not given satisfaction to the different Parties in the House. Sir, if we look at the notes of dissent, what do we find ? We find that Mr. N. M. Joshi, the leader of the labouring community, takes a fundamental objection to the principles of the Bill. The two representatives of the Muslim League Party also raise very important objections to this Bill. They say that the greatest amount of care on the part of the Central Government and the Provincial Governments should be taken in framing the rules and sanctioning action under the very wide powers given under this Bill. They also make further suggestions for the deletion of certain clauses. But the two notes of dissent which appear in the names of Sardar Sant Singh and Mr. A. C. Datta go very much further. They enter into details of the Bill and point out the various provisions of the Bill which are likely to cause mischief in the country. Sardar Sant Singh says that the Congress Nationalist Party and the Muslim League Party urged many important amendments but they were not accepted. He adds :

“ The Bill confers powers on the executive, both Central and Provincial, vast powers of legislation, power to supersede the jurisdiction of ordinary civil courts of the land, to create new offences, power to radically change the normal procedure in the trial of such offences, power to set up new Tribunals with powers to pass any sentence authorised by law without the safeguard of appeal or revision or full record of evidence of the witness and power to curtail liberties of people in almost all spheres of human activity.”

Sir, you in your note of dissent say,—I mean my Honourable friend, Mr. Akhil Chandra Datta, in his note of dissent, says :

“ Apart from this fundamental objection, the provisions go very much beyond the exigencies and requirements of the war. The provisions are far more comprehensive, far more repressive and restrictive, far more drastic and severe than those of the corresponding Act of 1915, though the internal condition of India is absolutely peaceful now.” *He further observes* : “ The Bill proposes to give the Central Government power to empower any authority (civil, military or police) to make orders providing for those identical matters for which the Central Government themselves are empowered to make rules. Not only this, even a single individual, whether a public servant or not, is invested with that dictatorial power.”

In concluding his note of dissent he says that this Bill is :

“ Calculated to make a serious invasion upon the primary rights of citizens and that the powers may be abused by the irresponsible bureaucracy ”.

Sir, this shows that the representatives of the different Parties are not satisfied with the Bill as it has come out of the Select Committee.

Now, what are the reasons for this unsatisfactory character of the report of the Select Committee ? It appears to me, in the first place, that the Select Committee acted in too much of a hurry. Only one day was devoted to the consideration of such an important Bill. I do not know what was the cause of this undue haste. In this connection I may be permitted to point out that the remarks which fell from my Honourable friend, Mr. Akhil Chandra Datta, who is now in the Chair, have been mis-understood and mis-interpreted. He said that nine months elapsed after the commencement of the war before the Defence of India Act of

[Dr. P. N. Banerjea.]

1915, was passed, and he made certain other remarks with regard to the provisions of that Act. Now, Sir, it has been interpreted,—I am sorry to say 'misinterpreted',—that it was his intention to say that we should wait for nine months before taking any legislation in hand. He did not suggest anything of that kind. What he suggested was that there should not be any undue haste in rushing this Bill through the Select Committee and through this House. That was a very justifiable point to take up. Then, another point he emphasized was that the circumstances in which the Act of 1915 was passed were very different from the circumstances which exist at the present moment. His third point was that even then the provisions of the Act of 1915 were not so drastic as the provisions of the present Bill are. Now, these were the three points urged by Mr. Datta, and I think there is full justification for holding these views.

Sir, the second reason for which the Select Committee was unable to produce a satisfactory report was the unbending attitude of the Government.

**The Honourable Sir Muhammad Zafrullah Khan :** Certainly not.

**Dr. P. N. Banerjea :** Sir, when I sought to move an amendment the other day to the effect that this Bill be referred to a Select Committee, the Honourable the Leader of the House took exception to it. He said that he would object to that motion. When the proposal came from the Muslim League Group the Honourable the Leader of the House was then also not in a mood to accept the proposal. But, he softened when the proposal was supported by the European Group.

**The Honourable Sir Muhammad Zafrullah Khan :** I was given an assurance that reference to the Select Committee would save time and that was my main object.

**Dr. P. N. Banerjea :** But you did not ask for any assurances from the other Parties in the beginning. So, it comes to this that when a proposal emanates from the European Group, the Government are very anxious to accept it ; but when the same proposal emanates from the Congress Nationalist Party or from the Muslim League Party, the Government lend a deaf ear to it.

**The Honourable Sir Muhammad Zafrullah Khan :** On a point of personal explanation, Sir. I think the Honourable speaker has forgotten what really happened on that morning. He has said that when he sought to move an amendment, I said I would oppose it. Nothing of the kind happened. He never sought to move any amendment at all. In my opening speech I did deprecate the moving of amendments of that kind from any side of the House. The amendment was actually moved by Mr. Abdur Rasheed Chaudhury to begin with. Then, there was another motion moved from the Muslim Group. During the course of the discussion it was made perfectly clear that all Parties in the House desired that there should be a reference to Select Committee and they were unanimous in giving expression to the view that if there was a reference to the Select Committee, every endeavour will be made to save time. That was quite satisfactory to me. I accepted those assurances and agreed to the Bill being referred to the Select Committee. It had absolutely nothing whatever to do with whether the motion for reference to Select Committee was moved by Mr. Abdur Rasheed Chaudhury or whether it was made

on behalf of the Muslim League Party or was supported by the European Group or the Nationalist Group.

**Dr. P. N. Banerjee :** The Honourable the Leader of the House does not deny that in his opening speech he deprecated the moving of a motion for referring the Bill to the Select Committee. That is an admission and it serves my purpose. That showed his attitude at that moment. I, therefore, say that the attitude of the Government from the very beginning was one of not acceding to the proposals which might emanate from the Opposition.

I do not know what transpired in the Select Committee and I am not expected to know it. But here, I find in the Note of Dissent submitted by one Member of the Select Committee that the Government's attitude was unbending and that when voting took place, the Chairman of the Committee, who is no other person than the Leader of the House, defeated some of the motions by giving his casting vote.

**The Honourable Sir Muhammad Zafrullah Khan :** Is there anything wrong about that ?

**Dr. P. N. Banerjee :** I did not say that. The Chairman was perfectly entitled under the law to act as he did. But that showed that the attitude of the Government was unbending.

**Mr. F. E. James :** No. I can say, as another Member of the Select Committee, that I entirely deny that statement of Sardar Sant Singh.

**Dr. P. N. Banerjee :** Sardar Sant Singh is not here, and I am sure if he had been here he would have given the proper replies to the remarks which fell from the Honourable the Leader of the House and from my Honourable friend, Mr. James. But whatever might have been the discussions in the Select Committee, is it not right to say that if the Government had adopted a more conciliatory attitude,—a more reasonable attitude,—a larger number of amendments would have been accepted by the Select Committee. They had notices of amendments before them and if they had taken up an attitude of conciliation,—an attitude of sweet reasonableness,—they would have accepted many more of those amendments. I do admit that one great improvement has been made in this Bill, namely, that the amendment to the effect that there should be an appeal against a sentence of death or transportation was accepted by the Government. A few other amendments of a minor character were also accepted. But I do maintain that improvements which have been made in the Bill have not gone far enough. The obnoxious character of the Bill still remains to a very large extent.

This Bill gives very large powers to the executive. Indeed, the provisions of the Bill are of a very drastic character. In this country, even at the present moment, civil liberties are on a very low level, and it is sought to make serious inroad on these civil liberties. This cannot be accepted with equanimity by Members sitting on this side of the House. From our experience we know that when wide powers are vested in the executive and proper safeguards are not provided against an abuse of these powers, it often happens that the executive misuses these powers. In this Bill we find that it is not merely the Provincial Government or the authorities under the Central Government who are entrusted with the exercise of vast powers but that powers may be entrusted under the rules to any persons whether they be in the service of the Government or not. This Bill pro-

[Dr. P. N. Banerjee.]

vides for the enactment of rules, and I believe those rules will be on the lines of the rules which have been made under the Ordinance that has already been enacted. If that be so, then you will find that these rules will, in effect, cover all the aspects of the normal life of the people of India. I strongly protest against the desire of the Government to put undue restraint on the activities of the people of this country. Is there any guarantee in this Bill or in the rules that constitutional activities will not be put down in the existing situation of the country? Is there any guarantee that freedom of association, freedom of speech and freedom of the press will not be unduly curtailed under the rules framed under the Act?

**Lieut.-Colonel Sir Henry Gidney** (Nominated Non-Official) : It must be.

**Dr. P. N. Banerjee** : My Honourable friend suggests that whatever little freedom we enjoy at the present moment—I must emphasize once again that the freedom which we enjoy is very little—even this limited freedom is to be curtailed under the provisions of the Act and the Rules to be made thereunder.

**Sir Cowasji Jehangir** : What is the war fought for? Is it for the freedom of the press or the freedom of the individuals?

**Dr. P. N. Banerjee** : I should like the Honourable the Baronet from Bombay to enlighten this House as to what he means by the objective of this war. He evidently suggests that this war is to be conducted in the interest of freedom. And what else? What was this war for?

**Lieut.-Colonel Sir Henry Gidney** : This war was for "Warsaw"! Liberty, equality and fraternity.

**Dr. P. N. Banerjee** : These are mere catchwords. We heard similar words between the years 1914 and 1918. In those days we heard a good deal about freedom and self-determination. But when the time came for the application of those principles to India, what happened? We had the Jallianwala Bagh massacre, we had the Rowlatt Act.

**Mr. Deputy President** (Mr. Akhil Chandra Datta) : We need not go into all that.

**Dr. P. N. Banerjee** : It was not my intention to go into all that, but the interruptions of my Honourable friend the Baronet from Bombay and my Honourable friend Col. Gidney urged me to refer to them.

**The Honourable Sir Muhammad Zafrullah Khan** : The Honourable Member should not be so easily upset by these interruptions.

**Dr. P. N. Banerjee** : I am not at all upset, but what I think it necessary to do is to give a suitable reply to these Honourable Members.

Sir, I strongly urge that the provisions of the Bill should be less rigorous and more restricted in scope, and that safeguards should be provided in the Bill itself and in the rules framed thereunder in order to prevent abuse of powers which are vested in the executive. That is my proposition. I want to make it quite clear that if this is not done and if the powers are misused, there is likely to be a great intensification of the discontent which already exists in the country. From that point of view the Government should do everything in their power to limit the exercise

of the powers vested in the Central as well as the Provincial Governments. I strongly urge that the Indian D. O. R. A. should not be more cruel or more oppressive than her sister in Britain.

Before I conclude, I wish to ask a question of the Honourable the Leader of the House. Is it the wish of the Government that there should be willing co-operation on the part of the people? Or, do the Government want to force co-operation on them?

**An Honourable Member :** Force co-operation.

**Dr. P. N. Banerjea :** My Honourable friend belonging to the Muslim League Party suggests that there is to be forced co-operation. Is it the intention of the Government to get co-operation at the point of the bayonet or by force?

**The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar :** No ; by persuasion.

**Dr. P. N. Banerjea :** If it be the desire of the Government to secure the willing co-operation of the people, they should revise their present policy and their present attitude. But if it be the desire of the Government to force co-operation on the people, I feel bound to say that that way lies disaster.

**Lieut.-Colonel Sir Henry Gidney :** Sir, I desire to refer to some of the remarks made by the last speaker, Dr. Banerjea. The last speaker made three important statements among many very unimportant ones. One question he asked was : what is the need of this haste? I am sure that if Hitler or the German army had been behind him, he would have finished this Bill in less than one day and even then he would have said the Bill was not put through with enough haste. The next question was : " what was this war fought for ? " Of course, he should realise that the " war " was fought for Warsaw.

The next point he talked about was discontent throughout India. Where is this discontent? Does it truly exist in India? Perhaps it exists within Dr. Banerjea's fold of acquaintances or political friends who hail from that part of India—Bengal—about which it was once said " What Bengal thinks today, India does tomorrow ". But which would today more truly be said : " What bombs Bengal makes today India is given to fire off tomorrow " ; again I ask, where is the discontent he talks of? Why does he introduce into this debate this virus of discontent? It is all moonshine and is to be found in the imagination of Dr. Banerjea. If there is real discontent, the Congress would have said so by now. They have not, and so the Congress is apparently satisfied with this Bill ; the Muslim League is satisfied with it. Why does Dr. Banerjea, because he has nothing else to say, indulge in his usual slang against Government and cry discontent? Surely, this is not the time to create this false alarm and give the public and the world this feeling of discontent amongst us. As my Honourable friend, Mr. James, rightly said, this is the time when every community should unite and pull together. We want to show to the rest of the world what India feels towards this arch-miscreant Hitler and his crowd. We want to show to the rest of the world that India is united as it certainly is and is definitely on the side of Britain in the war.

**Dr. P. N. Banerjea :** I only want to prevent discontent by asking the Government to change the policy which they have pursued hitherto.

**Lieut.-Colonel Sir Henry Gidney :** I agree, prevention is better than cure, but why imagine a disease ?

Now, I wish to refer to the remarks made by my Honourable friend, Mr. Joshi, who, I am sorry to see, is not in the House. My Honourable friend, Mr. James, referring to Mr. Joshi said that he was living in a " Fool's paradise ". I would say that Mr. Joshi is living in a Joshi-Hitler's paradise—a Paradise Lost. We all know and we all appreciate very much the great services which my Honourable friend, Mr. Joshi, has done for labour. At the same time, I may tell the House that I am also a representative of labour. I am a representative of labour of more associations than most people in the House realise. I am a representative of seven or eight labour associations out of which some are entirely Indian. Therefore, I feel I can talk with some authority on the feelings of the labourer to this Bill. I should like to know from my Honourable friend, Mr. Joshi (if he were here), what union with which he is connected has passed a single Resolution decrying and objecting to this Bill. If he had that support, one would listen to him today with some authority. I am yet to know what authority, except his personal views, he has to state before the House that labour would be oppressed and labour unions would be greatly prejudiced if this Bill were passed.

Now, Sir, the House must know that the newspapers are full of meetings of various labour unions. Only yesterday  
 3 P.M. there was a large meeting held in Calcutta of the Indian Telegraph Association containing many Indian members which passed a vote of full confidence in Government including this Bill. There have been frequent other resolutions passed by other labour unions such as the North Western Railway Labour Union, etc. So I am really surprised, much as I admire Mr. Joshi's representation of labour in this House, that he should come and introduce this element into this Bill. He emphasised two points. One was that if this Bill were passed, it will be ill-used and abused as far as labour is concerned. When this Bill was discussed the other day, he specifically referred to the effect it would have as an antidote to railway strikes. But, I ask, Sir, what sane Government during a war would allow any strike to take place ? I care not who occupy the front Benches, but would they allow a labour strike of any nature to develop when they were in a state of war ? This Bill will certainly have a deterrent effect on discontents, not only of Dr. Banerjea's type, but certainly against labour strikes. On the other hand, I realise that if labourers put forth their grievances in a constitutional manner, Government would not be so foolish as to take exception to it or gag it. But, is a strike on railways, impeding the movements of troops, a constitutional move ? This privilege to strike was at the very bottom of Mr. Joshi's argument the other day, and may I tell him, this Bill has been introduced to stop such strikes. I know very well that this Bill will ultimately affect the freedom in normal times, of the press, of the labourer and the red flag public orator, but it is the bounden duty of Government to stop these when it is at war. But even these can be tactfully stopped and without creating any hostility and feelings of discontent. But Dr. Banerjea forgets that this control of labour, this demand for orderly Government by the people, will devolve on the Congress Governments in the eight provinces which they control today and not on the Central Government that has promulgated the Bill. It is one thing to order, another thing to carry out.

The Central Government will pass a law which the Provincial Governments will administer, and, I ask in all seriousness, will any Congress Provincial Government accept any Bill that oppresses the labourer or the freedom of the people? Mr. Joshi stated that the salaries of the labour people are today very inadequate and they are agitating, and quite rightly agitating, against this ruthless cutting down of salaries by Government especially when faced with a rise in prices of food stuffs. I entirely agree with him in denouncing Government on this matter. I call this cutting down of salaries dishonest economy on the part of Government. Most Labour Unions are agitating now against this, and I know this Bill will prevent them from agitating or threatening a strike as has recently been announced by the Federation of Railway Unions, because that will be a non-constitutional movement. But let us take the history of the past war. What happened then? Was there any agitation about salaries? There was none, and, yet, the salaries were 50 per cent. lower than they are today. These salaries remained the same till about two years after the war started when they were increased by about 20 per cent. The prices of food-stuffs grew higher and it was not till 1921 or 1922 that the salary of every one in every department was raised from 50 to 120 per cent. These are the rates of salaries that are now being cut down to their pre-war level, although the cost of living today remains about 47.5 per cent. of the 1914 prices. Sir, this fear of labour being oppressed and prejudiced in any constitutional demands and movements and that this Bill will be ill-used against the labourer is more imaginary than real. But apart from all else this control of labour is one of the essential terms of this Bill, because Government must have their lines of communication safe for the movement of troops, etc., and so it must have the power to stop strikes.

The other matter Mr. Joshi talked about and, with great emphasis, was profiteering. In doing so, he turned round and blamed the Leader of the European Group that, as the labour would suffer, so the European community would profit. I have no brief for the European community or those who profit; but who in this House will deny that all commercial people profit during such times? They profit honestly or dishonestly, but how does that affect the labourer and labour unions? Does the labourer go to the European Group or firms for his daily commodities? He certainly does not. He goes to the *bania* and the small holder; he goes to the small shops that sell him his foodstuffs, and it is these *banias* who will fatten as they always do by profiteering. But how can this be stopped? There are two very easy ways and the Bill provides for it. The Government of India will certainly issue a warning to the Provincial Governments advising them to exercise this Bill with moderation and yet with firmness. That is what Dr. Banerjea wanted, and I do not doubt that the Government of India will do it, because they surely could not carry on a war in which India will be implicated, very deeply in time, without the co-operation of all communities. This will be one of the ways in which undue oppression and curtailment of present day privileges will be stopped, and the other is for the Government of India and all Provinces to take immediate and drastic action to stop profiteering in the whole of India. Profiteering, as we are witnessing it today, even in Simla, is a disgrace and a crime. The profiteering that is going on today in the chemicals and medical supplies is a downright disgrace.

[Lieut.-Colonel Sir Henry Gidney.]

What is Government doing to stop this inhuman profiteering on the life and death of the sick people? If Government are prepared to help the people against this oppressive and cruel profiteering and to eradicate any fears from the minds of the labourers, it is in their hands effectively to do so and I submit this must be done at once. We know that certain drugs manufactured in and coming from Germany will not be procurable, and, therefore, they will be sold at higher prices. But with respect to the commodities of ordinary life and other medicines to save life it is in the hands of Government to stop these mal-practices and I am sure Government will take this action. These are the two objections that Mr. Joshi mentioned against this Bill. In any case, I do not believe that in the present India,—and we are living in the year 1939—not in 1914,—there will be any misuse of power permitted. I have this belief because I know that India today is more democratic than it was ever before. There was a time when in our efforts to mix democracy with autocracy in disproportionate quantities, the precipitate was inevitably hypocrisy. In my belief there is no such fear today; because India is more democratic, and nothing, not even this Defence Bill, can stem this wave of democracy.

**Dr. P. N. Banerjee :** In the Central Government there is hypocrisy still.

**Lieut.-Colonel Sir Henry Gidney :** May be it is to be found in the narrow limits of a Province called Bengal from which Dr. Banerjee hails. In my own mind I have no fear that any Government servant will misuse these powers given in this Bill, because, after all, who are our Government servants, I mean operating officials, today? In the Railways, of those below ten years of service, nearly 90 per cent. of the officials are Indians. Take the total railway officials today and you find that 76 per cent. of these are Indians. The same applies to almost all services, particularly Provincial services. With this condition, surely the small microscopic number of English officials are not going to misuse these powers. They won't be allowed to do so especially by Congress Governments? So, why anticipate oppressive action on the part of your own people—Indian officials? It is all a canard and has no foundation in fact, except in the imaginations of certain well-known Members of this House. The chief object of this Bill, as I said a little while ago, is to prevent strikes, and to give Government the power to control unconstitutional discontent and action, and if it effectively accomplishes this alone, it deserves the united support of this House. For, no Government can function during a war unless it has power to prevent such disturbances, particularly in the protection of its lines of communications, railways and posts and telegraphs.

Sir, I support the Bill whole-heartedly.

**Mr. Muhammad Nauman (Patna and Chota Nagpur cum Orissa : Muhammadan) :** Sir, I rise with a sense of great responsibility to speak on this Bill. My Party has already signified full support to it and have stated the views that we hold on this Bill.

This Bill has been necessitated by the emergency under which we are today and we share the anxiety of the Government: it is time for action rather than for words as the Premier of England said the other

day. I shall not take much time in dealing with the points in detail. War has overtaken the world, or at least a major part of it and a feeling of insecurity has been created in the minds of people everywhere, even in those places where shells and bombs have not begun to destroy humanity. Some friends have argued that this Bill is too early because India is not in any state of emergency as yet. But when totalitarianism and brute force are having their sway there is no knowing which country can be considered safe : and, as such, when the British Government have decided to enter the war, we are at war with Germany, and when all the Dominions are legislating on practically the same lines as has been proposed here, I think we have to keep pace with the Dominions and do what they are doing. The Honourable the Leader of the House has made it absolutely clear that the powers given under this Bill are wide and extensive—he has made no secret of it. Defence measures are necessarily such as cannot be tolerated at other times. But as we are placed the time is of emergency and the situation demands it. There may be differences of opinion but the majority of the people think the situation warrants this legislation and the Government have to be armed with these exceptional and extensive powers. It is a painful thing to have to resort to such measures, but I am glad that the Bill as reported by the Select Committee is better than the original one. I am not suggesting that the amended Bill as it has emerged from the Select Committee is something ideal and that no more improvements could be made ; but looking to the time that we devoted to it, we have done the best we could and every Member was sincere in giving co-operation and doing his best to make the Bill as good as it was possible under circumstances.

Dr. Banerjea who spoke just before me has remarked that Government did not adopt a conciliatory attitude and did not show their willingness to refer the Bill to a Select Committee when he or other Members of the Opposition suggested it. We ought to be a little more generous towards the Government and we should remember that if the Government, as constituted it is at present, did not desire it, the Opposition could not have compelled them to refer the Bill to a Select Committee. The Government certainly showed all possible anxiety to have our willing co-operation and not forced co-operation as somebody suggested during the debate. If at all we have to blame any one in this connection it is our own representatives : the Congress Group who knew the present emergency and have absented themselves purposely, with motives which they hardly can explain or justify to their constituencies or the country. Their absence is certainly deplorable and they have chosen to shirk their responsibility at a moment which is most important in the history of Assembly. I do not desire to say anything more but I hope they will realise that their absence has been responsible for no further improvements as they might have made some suggestions to improve the present Bill still better. I am certainly glad that the Government have not taken this opportunity to rush through the Bill against a weakly constituted opposition when the opposition does not possess ample strength and could not win in any division. Government have accepted all the good amendments we could suggest. Considering the importance of this Bill and the wide powers it proposes to give and dangers of the abuse of such powers by Provincial Governments and other authorities, the Muslim League and the Nationalist Group and the European Group suggested that the Bill should be referred

[Mr. Muhammad Nauman.]

to a Select Committee and the Government accepted the suggestion without a division as they sought willing co-operation and not forced co-operation of this House. If I had any idea that the Government wanted to get the forced co-operation of our people, I would say that this Bill should not have at all been brought before us and Government could make use of Ordinances.

The Report of the Select Committee contains four Dissenting Minutes. With all respect to Sardar Sant Singh and the Honourable Mr. Akhil Chandra Datta, I may say they have argued their point of view very well in the Dissenting Minutes of the Bill. It is not for me to justify or criticise what they have said—it is for the Government to justify their own position and criticise the Dissenting Minutes in reply. As the Honourable Sir Muhammad Zafrullah Khan pointed out this morning, the remark made in the Dissenting Minute by Sardar Sant Singh that all motions were defeated by the casting vote of the Chairman is no part of fact, I should think this is deplorable if it was at all a wrong statement. It was also denied by another Honourable Member, Mr. James, who was also a member of the Select Committee. The Muslim League Party feels that its important amendments have been accepted and as such we do not propose and will not probably move any amendments at all—we have only suggested amendments on the lines on which our Members have made comments in the Note of Dissent. In the first instance we are glad that our suggestions have been accepted and our advice appreciated with a full sense of co-operation and goodwill but, on the other hand, we hope that Government will accept two more amendments that may be proposed, and they should consider that we are doing it in absolute good faith and with full sense of co-operation to the Bill and with the defence policy of the Government of India. The members of the Muslim League Party have co-operated with the Government to the best of their ability, but we were compelled to append a Note of Dissent regarding the deletion of the provision relating to empowering “any person or authority to legislate, or to act on the rules so made”. In fact the deletion of this provision has been proposed this morning by other people also. Sir Abdul Halim Ghuznavi, who belongs to no Party, has supported us in this view, so also has Mr. James of the European Group though not to the extent that we expected him to do.

Then, the other thing which the Muslim League Party wanted is the deletion of the provision in sub-clause (2) of clause 10 “that it shall not be necessary to take down the evidence at length in writing”. The House will realise that both these amendments of ours are modest and reasonable. The delegation of this power to “any person” is not only dangerous but may even prejudice the feelings of a great majority of the population if that person exceeds normal limits, which people normally do. There are always personal equations working in the human mind which compels a man to abuse the powers delegated to him either for or against a certain individual. I hope the House does realise that the civil liberties of the people of this country should not be curtailed in a manner which may cause strong resentment in the country and its people. The mere fact that “a person” is authorised by legislation to use certain emergency powers is itself a sufficient

weapon for him to abuse the rules so made. The suggestion made by my Party for the deletion of this provision is not at all made in any hostile spirit, but in absolute good faith, and I do hope that the Government will be better advised to accept it.

Now, Sir, we do feel that the clauses of this Bill were not very closely sifted in the Select Committee and that is why we have been compelled to suggest the two more amendments. Other Parties too have suggested certain amendments, but I do not wish to speak about their merits at this stage, as I shall do so when they come up for discussion. My only submission is that the Bill as it has emerged from the Select Committee is certainly better than the one proposed and has come out in an improved form, and I appeal to the Government that our suggestion for the deletion of two clauses may be accepted. Sir, with these observations I take my seat.

**An Honourable Member :** The question may now be put.

**Mr. Deputy President (Mr. Akhil Chandra Datta) :** The question is :

“ That the question be now put.”

The motion was adopted.

**The Honourable Sir Muhammad Zafrullah Khan :** Sir, there has been one general criticism levelled against the provisions of this Bill, namely, that the powers which this Bill vests in Government are too wide and drastic. I am afraid the mere repetition of a criticism like that does not invest it with any greater force or strength. It is admitted on all hands that the powers are wide, they are drastic, but they are wide and drastic in order to meet an emergency, the like of which has probably never arisen before.

[At this stage, Mr. President (The Honourable Sir Abdur Rahim) resumed the Chair.]

The only reply that I can make to that criticism is to express the hope that those who will actually be invested with the carrying of these powers into effect will use them with discretion, and will use them humanely and in such a manner as to cause the minimum of inconvenience.....

**Pandit Lakshmi Kanta Maitra :** You are only expressing a hope, but you do not give an assurance.

**The Honourable Sir Muhammad Zafrullah Khan :** It is no use trying to satisfy people like the Honourable Member who has interrupted. He wants me to give an assurance. I gave an assurance as far as I could give it on the first day on which this Bill came before the House for discussion. But if by an assurance the Honourable Member means that I must here and now guarantee that nothing will be done to which anybody could possibly take any objection, it would not be honest of me to do so. All that I can say is that it is the intention of the Government and it is their desire that these powers should not in any manner be abused.

[Sir Muhammad Zafrullah Khan.]

Now, Sir, I pass on to the other criticisms of the Bill which do not relate to the drastic character of the Bill. It was first suggested that the Bill was premature, that on the last occasion.....

**Mr. Akhil Chandra Datta :** You may accept my word that I did not suggest it.

**The Honourable Sir Muhammad Zafrullah Khan :** I did not say that the Deputy President said that. I said that there has been criticism that the Bill is premature. If the cap fits him, he is welcome to it.

**Mr. Akhil Chandra Datta :** I don't mind that ; but I give the assurance that I never said it. There the matter ends.

**The Honourable Sir Muhammad Zafrullah Khan :** Sir, when he was speaking this morning, he advised me to be patient. I think he should have heard me fully before interrupting me and saying that he did not mean to say what I was going to say he had said....

**Mr. Akhil Chandra Datta :** I can only repeat.....

**The Honourable Sir Muhammad Zafrullah Khan :** I understood the criticism to mean that this is a kind of Bill which should not have been brought before the Legislature till the kind of emergency had arisen which necessitated the enactment of the Defence of India Act in 1915, and, so far as I could follow the Honourable the Deputy President, his line of argument was that it was not the mere fact of the war that necessitated special legislation on that occasion,—the war had been on for several months before the necessity of such legislation was felt,—that there were certain other factors which had arisen in the country which necessitated legislation on that occasion, and that therefore Government should have waited till those or similar factors had arisen on this occasion before this legislation was brought before this House. That, Sir, if I may say so, is a fair presentation of the case on that point as the Deputy President sought to make it. If that is so, then briefly put, the criticism is, why don't you wait till the mischief has arisen before enacting legislation of this character. I would say, Sir, that I am quite certain that the Deputy President will find himself in a very small minority on a question like that. He would advise Government that they should let the factors arise which caused all that mischief on the last occasion before trying to devise a remedy. I should have thought that the Government had deserved approval and praise for their action on this occasion, that they had not been so tardy as they had been on the occasion of the last war with respect to these matters, that they had taken power in time to prevent the mischief arising which necessitated legislation of the kind of the Defence of India Act, 1915. But, apart from that, I was sorry to observe that the Honourable the Deputy President had been entirely ignorant of the fact that before the Defence of India Act, 1915, was placed on the Statute-book several Ordinances had already been issued. There were, I think, at least six in 1914 alone after the outbreak of the war, and, therefore, though there was no legislation of that character, Ordinances issued by the Governor General were in existence to secure that certain kinds of mischief did not arise or that Government and its officers had certain powers which might be conducive towards the better prosecution of the war. Again, he forgets that today there are Ordi-

nances in force and that the mere fact that this Bill is brought in this Session instead of being brought in the next Session will not make any actual difference to the situation, except this that modifications which might be made in the Bill by this House will have the effect of modifying the Ordinances *pro tanto* in the sense that as soon as this Bill is brought into effect the Ordinances will be withdrawn, this Bill will replace the Ordinances, and to the extent to which the provisions of this Bill might be improved in this House, that would be a relief. Then his next criticism was that this Bill is wider than the Act of 1915. That is perfectly true. This Bill is designed to deal with an emergency and with conditions of a far different character than the emergency and the conditions with which the Act of 1915 had to deal. I really do not see what the point behind this criticism was. One specific instance given by the Honourable the Deputy President in that connection was that the Defence of India Act of 1915 was designed to secure the defence of India whereas this Bill goes much further and it is also designed to secure the efficient prosecution of the war. He objected to that both in his Minute of Dissent and in his speech here this morning. He says that the defence of India against direct aggression would be a perfectly legitimate object of legislation of this kind, but he does not see the necessity of having legislation of this kind the scope of which is wider, that is to say, the efficient prosecution of a war in which there may be several countries fighting on the side of Great Britain. He said in his Minute of Dissent :

“ If an efficient prosecution of the war is brought within the scope of the Bill, then it becomes in effect a Bill for defence of the British Empire and all the allied countries. It becomes a Bill for the defence of United Kingdom, France, Poland, Canada, Egypt, and Iraq and several other countries in the different parts of the globe.”

Even if that interpretation is to be given to the expression “ efficient prosecution of the war ”, I do not see what the real criticism is. I suppose the Honourable the Deputy President’s idea is that India should be defended by doing whatever may be necessary to secure it against direct aggression, but we should permit activities to be undertaken in India which might cause direct injury to Great Britain, to other parts of the Empire and to the allies of Great Britain during the war. If that is the idea of the Honourable the Deputy President. . . . .

**Mr. Akhil Chandra Datta :** That is not the idea.

**The Honourable Sir Muhammad Zafrullah Khan :** I am very glad that the Honourable the Deputy President has now amended his views on the matter.

**Mr. Akhil Chandra Datta :** No. I have not changed my views. I am still being misunderstood.

**The Honourable Sir Muhammad Zafrullah Khan :** I can only try to answer the criticism as it would be understood by people, who have some familiarity with the English language. I do not claim a very deep familiarity with it myself, and I would be glad to be set right on the matter. I have read out a portion of the Honourable the Deputy President’s Minute of Dissent from the printed Report. The meaning is perfectly clear to me. The argument is, “ Do whatever is necessary to secure India against direct aggression, but the moment you proceed to do something which might help Great Britain or the rest of the Empire or the allies of Great Britain, then I object because that is not

[Sir Muhammad Zafrullah Khan.]

necessary for the defence of India". I suppose the defeat of Great Britain and the allies in the war, so long as during the war there was no direct aggression against India, would not affect the defence of India in the eyes of the Deputy President. However, I shall not labour the point any further.

Then he said, this Bill might be brought into force on such date as may be notified by the Central Government, and somehow he had some objection to that. He read out a section from the Defence of India Act, 1915, which I believe provided that sections 1 and 2 would come into force at once and the rest of the Act would be brought into force by notification of the Governor General in different parts of India on such dates as he thought fit. In the first place, there is really no practical difference between the two. The actual position is this. Suppose this Bill passes into law and then it is not brought into effect, say, for three months after it becomes law. What will be the practical result? The practical result of that will be that in the meantime the Ordinances will continue in force. I suppose the Deputy President would prefer that to the Act being brought into force at once.

With regard to the two matters which have been pressed very strongly upon the attention of the Government with regard to the provisions of the Bill, that is to say, the proposal to authorise any authority or person to frame rules with regard to matters which are set out in clause 2, and, secondly, with regard to the recording of the evidence *in extenso*, particularly in trials relating to offences in which there is a chance of appeal under the amended clause 13, Government are prepared to consider those sympathetically, and when we come to the clauses, I hope I shall be able to satisfy those Honourable Members who are interested in those two matters.

My Honourable friend, Mr. Joshi's speech really had no reference either to the principle of the Bill or its detailed provisions. All that he was concerned with was to fight out his battle with the European employers of labour, and as he was answered on their behalf it is not necessary for me to take up any of the points raised by him. He was also answered by Col. Sir Henry Gidney who incidentally claimed that he was a much better representative of labour than Mr. Joshi could claim to be.

I believe it is not necessary to take up any more time of the House at this stage. I do not think there was any Honourable Member, barring perhaps Mr. Joshi, who suggested that we should not proceed with the consideration of the clauses of the Bill. Therefore, it is not necessary for me to go into greater detail with regard to the clauses. Occasion for that will arise when amendments are moved.

Mr. President (The Honourable Sir Abdur Rahim) : The question is :

"That the Bill to provide for special measures to ensure the public safety and interest and the defence of British India and for the trial of certain offences, as reported by the Select Committee, be taken into consideration."

The motion was adopted.

Mr. President (The Honourable Sir Abdur Rahim) : The question is :

"That clause 2 stand part of the Bill."

**Pandit Lakshmi Kanta Maitra** : Sir, I move :

“ That in sub-clause (1) of clause 2 of the Bill, the words ‘ the maintenance of public order or ’ be omitted.”

Sir, the reason for this amendment is very simple. I am ready to concede that the duty of every civilised Government is to maintain law and order and public tranquillity, but we have already in this country a vast body of legislation ostensibly directed towards this very purpose. I cannot see why under the garb of this measure a fresh set of offences should be created in the trial of which jurisdiction will be ousted from ordinary courts and placed before special tribunals. There are comprehensive provisions in the Indian Penal Code and the Criminal Procedure Code dealing with public order. Under the Criminal Procedure Code there are substantive and preventive sections by which any menace to public order can be effectively checked. I say again that there is adequate provision in the ordinary law of the land and, therefore, we should see that there is no multiplication of statutes on the same subject. As the ordinary machinery of the Administration are enough, the hands of the executive should not be further strengthened with these powers. Sir, I move.

**Mr. President** (The Honourable Sir Abdur Rahim) : Amendment moved :

“ That in sub-clause (1) of clause 2 of the Bill, the words ‘ the maintenance of public order or ’ be omitted.”

**The Honourable Sir Muhammad Zafrullah Khan** : Sir, I oppose the amendment. This is a very essential part of the clause.

**Mr. N. M. Joshi** : I support this amendment; in order not to waste the time of the House and to secure economy of time, I did not want to move my amendment, but as a similar amendment has been moved, I rise to support it. This amendment is intended to make the officers of Government depend more upon justice and fair play than increase of penalties. I know public officers like to make their work very easy by having a Draconian Code of Law and very big penalties, but it is not right that we should make the keeping of public order so very easy by this method. If public order is to be maintained, it should be maintained by justice and fair play, not by the rule of the rod. I, therefore, feel that this amendment is a good amendment and should be accepted by the House.

**Mr. President** (The Honourable Sir Abdur Rahim) : The question is :

“ That in sub-clause (1) of clause 2 of the Bill, the words ‘ the maintenance of public order or ’ be omitted.”

The motion was negatived.

**Mr. President** (The Honourable Sir Abdur Rahim) : Amendment No. 3 in Supplementary List No. 1 is the same as the one just now rejected. It is barred.

**Mr. Akhil Chandra Datta** : Sir, I move :

“ That in sub-clause (1) of clause 2 of the Bill, the words ‘ or the efficient prosecution of war ’, be omitted.”

There has already been some discussion on this. Before I proceed further, let me refer to the definition of war which has been given in the rules under the Ordinance. It says—any war in which His Majesty may for the time being be engaged. What I apprehend is this—though it may be remote possibility—yet it is not an impossibility—supposing

[Mr. Akhil Chandra Datta.]

there is a war started by Great Britain against any country other than Germany for capturing the market of that country or against a weak neighbour in pursuance of the Hitlerian policy of aggression and supposing there is no danger to India from that quarter, what will be the position? Under this definition of war, even in that case, India may be called upon to render active help for the efficient prosecution of the war. The definition given is too wide and too elastic. This war is bound to be long. The present estimate is three years or more. Supposing it lasts five or ten years and the resources of Great Britain are exhausted, under the present definition India may still be asked to give men and money in that hypothetical war which I have described above. Is it the intention of this Bill that we should give men and money for that war also and that compulsorily. It has been repeatedly said that "defence of India" involves automatically "the efficient prosecution of the war". I shall accept your interpretation. But may I in that case ask as why, in addition to the expression "the defence of British India" in clause 2 (1), there is also this expression, "the efficient prosecution of the war"? Sir, look at the structure of the sentence. The first object for which rules are to be made is "the defence of British India", the second is, "public safety", then "the maintenance of public order", and then, and not till then, comes this provision, "the efficient prosecution of the war". Therefore, my contention is that it certainly follows that "the efficient prosecution of the war" is something absolutely different from "the defence of British India". They are not convertible terms, and I say that there is an admission in the clause itself, by implication at all events, that the "defence of India" does not involve "the efficient prosecution of the war". The latter covers a larger ground than the former. Now Indians must be, naturally, inclined to make any amount of sacrifice in men and money for "the defence of India", but for "the successful or efficient prosecution of the war" in some other parts of the world not only in this war but in some other, well, there Indians will naturally feel disinclined to make any sacrifice. Now, Sir, I would like to say this that it is this definition of "war" which has been uppermost in my mind, and I think that if war is defined as "the war that is now going on"; such a definition would be less obnoxious and less offensive. Sir, I move.

**Mr. President** (The Honourable Sir Abdur Rahim) : Amendment moved :

"That in sub-clause (1) of clause 2 of the Bill, the words 'or the efficient prosecution of war', be omitted."

**Pandit Lakshmi Kanta Maitra** : Sir, I rise to a point of order at this stage. I want to submit that this particular phrase, "the efficient prosecution of war" is not relevant and is not permissible within the frame-work of this Bill. This Bill is designed to provide for special measures to ensure public safety and interest and for the defence of British India and for the trial of certain offences. That is all that is said at the top of the Bill. Now.....

**Mr. President** (The Honourable Sir Abdur Rahim) : The scope of the Bill is not to be judged merely from the preamble; the Honourable Member must look at the provisions of the Bill also. The Honourable Member must look at the whole of the provisions.

**Pandit Lakshmi Kanta Maitra** : Sir, from what is given in the Statement of Objects and Reasons, it would appear.....

**Mr. President** (The Honourable Sir Abdur Rahim) : That is not sufficient. We are not to be confined to that. The scope of the Bill is not to be judged from the Statement of Objects and Reasons alone, but from all the provisions of the Bill.

**Pandit Lakshmi Kanta Maitra** : Sir, you will be pleased to note that there is no provision in the Bill for the effective prosecution of war. All that the Bill provides is that certain emergent powers are to be conferred on the executive for meeting the emergency caused by the existing war and also how certain offences are to be tried. Throughout the Bill you will be pleased to see that there are provisions for certain powers to make rules covering almost every field of human activity, but there is no provision anywhere in the body of the Bill itself to indicate how the war is to be prosecuted on behalf of India, or how we are to help in the prosecution of the war ; no legislative proposal in respect of that is made in any of the clauses and sub-clauses in the body of the Bill and this is the only isolated sentence occurring in clause 2. There is also the provision for trial of offences, the constitution of special tribunals, penalties. There is also a chapter dealing with supplemental provisions. In none of these is any reference or mention of " prosecution of war " to be found.

**Mr. President** (The Honourable Sir Abdur Rahim) : The Honourable Member means no military measures are provided for here ?

**Pandit Lakshmi Kanta Maitra** : What I say is that it is not germane to the consideration of this Bill, because this Bill is apparently designed, as would appear from the Statement of Objects and Reasons and the Preamble, for the defence of India and public safety.

**Mr. President** (The Honourable Sir Abdur Rahim) : The Chair understands the Honourable Member's point. The Chair does not think there is any force in the point of order raised by the Honourable Member. There can be no doubt that the whole conception of this Bill is based on the fact that India is at the present moment at war, along with Britain and France, with Germany and it is in the design of the measure that is now before the House to ensure such conditions as will enable the country to successfully help in the prosecution of the war. The Chair holds that the clause is in order.

**Pandit Lakshmi Kanta Maitra** : Do I understand your ruling to mean that the phrase as it stands, " the prosecution of any war ", is relevant ?

**Mr. President** (The Honourable Sir Abdur Rahim) : Yes.

**Mr. Suryya Kumar Som** (Dacca Division : Non-Muhammadian Rural) : Sir, I rise to support this amendment, and on this ground. Sir, after the exuberance of loyalty and spirit of co-operation, it is for the House to consider the gravity of these three words. Sir, do not be carried away too much by exuberance of loyalty and co-operation. I want to extend full co-operation in putting down Hitlerism, but, look here, if the clause is allowed to stand as it is, then the Governor General by notification can make any rules for the efficient prosecution of war.

[Mr. Suryya Kumar Som.]

Now, Sir, take this clause. Here, the Governor General is being given the power to make an order like this that India should supply twenty lakhs of soldiers yearly or twenty crores of rupees monthly for the efficient prosecution of the war. Now, do you mean to do it? Do you seriously propose to give such a blank cheque to the Governor General? Sir, I remember in 1914 when the question of giving help to Britain to carry on the war successfully came up, there was a proposal, I believe, for granting one hundred and fifty crores or thereabouts to the war fund for the efficient prosecution of the war. There was a discussion for three or four days in which Pandit Madan Mohan Malaviya took a prominent part, and I think his speech took up the whole day. It appears he opposed that sort of grant, because, as he said, while he was quite prepared to grant some reasonable monetary help, he was not prepared to be able to afford help to that extent, and when he felt that it was carried by a bare majority, in disgust Panditji resigned the membership of the Assembly on that issue. And now I find that more general and more dangerous power is being given to the Viceroy. I think that this Government of India should not be invested with a power like this. If you invest the Government of India with powers like these, you had better cease to be Members of the Assembly. You can give a blank cheque to mortgage the whole of India for the prosecution of this war with which India is not directly but only indirectly connected. There might be some responsibility of the Indian people, because they like democracy.....

**Mr. President** (The Honourable Sir Abdur Rahim) : The Honourable Member must confine himself to the amendment before the House.

**Mr. Suryya Kumar Som** : I am speaking on the implications of the words contained in the Bill. I am asking the Members to realise what power they are giving to the Government.

**Mr. President** (The Honourable Sir Abdur Rahim) : That would have been a proper speech at another stage, but not now.

**Mr. Suryya Kumar Som** : I warn the Assembly not to give such a power to the Government. With these words, I support the amendment.

**Mr. President** (The Honourable Sir Abdur Rahim) : The question is :

“ That in sub-clause (1) of clause 2 of the Bill, the words ‘ or the efficient prosecution of war ’, be omitted.”

The motion was negatived.

**Dr. P. N. Banerjee** : Sir, I beg to move :

“ That in sub-clause (2) of clause 2 of the Bill, the words ‘ or may empower any authority or person to make orders providing for ’ be omitted.”

Sir, the provision relating to ‘ empowering ’ does not occur in the Act of 1915 and I do not see any reason why in the present Bill we should give power to other persons to make orders. It is the Government which should give orders and the Government should not authorise other persons, who may or may not be connected with the Government, to give orders. As the provision did not find a place in the Act of 1915, I do not think there is any justification for inserting it in the present Bill.

**Mr. President** (The Honourable Sir Abdur Rahim) : Amendment moved :

“ That in sub-clause (z) of clause 2 of the Bill, the words ‘ or may empower any authority or person to make orders providing for ’ be omitted.”

**Pandit Lakshmi Kanta Maitra** : Sir, I rise to support this amendment. I do not really understand what is exactly meant by “ empowering any authority or person to make orders ”. What is exactly contemplated by this and what is meant by authority ? Does it cover the Municipal authority, the District Board authority, the Union Board authority ? They are all local authorities. Authority has not been defined anywhere. The Bill is notorious for its clumsy draftsmanship and I cannot imagine how the Government of India could bring such a momentous Bill drafted in such a clumsy manner before this House. A Bill like this was never introduced in the history of this Assembly before. This Bill has been drafted in a most slipshod manner. All sorts of words have been introduced in it without giving their definition. What is exactly meant by those words, we do not know. When we are moving amendments with regard to these particular parts of the Bill, it should not be understood that we are opposed to the Bill tooth and nail. What I mean to say is that the Bill has been drafted in such a clumsy manner that its expressions are not clear to us who are practising lawyers. I cannot support a measure whose terms are not clear and precise. What is exactly meant by the word ‘ empower ’ ? Is it meant by the Government that this Legislative Assembly will empower the Central Government with certain powers and they in their turn will delegate those powers to the Provincial Governments and they in their turn will delegate those powers not only to their own officers but also to the men in the street ? There are loyalists who are in the good books of Government and who might be invested with these emergency powers and thus they will have enormous powers in their hands to make or mar the fate of this country. I do not understand what is seriously meant by the Government in investing or authorising private persons with these enormous powers. There should be some sense of decency even when they demand extraordinary powers. I therefore, ask the House to support this amendment because once the principle is accepted that the man in the street who carries favour with the officials can be entrusted with this tremendous power, we do not know where we will stop. Sir, I support the amendment.

**Mr. Akhil Chandra Datta** : Sir, it has already been pointed out by the Honourable the Mover of the amendment that these words do not find place in the old Act. It must be admitted that this is rather a sweeping departure from the old Act.

**The Honourable Sir Muhammad Zafrullah Khan** : It is an improvement on the old Act.

**Mr. Akhil Chandra Datta** : It is based on the lines of the old Act with certain adaptations to meet the present conditions, but it is very vague. We naturally thought that wherever there is a departure like this on a very fundamental point from the old Act, in view of the present conditions we would be enlightened by the Honourable Member in charge of the Bill what those present conditions are which should require the introduction of this new provision. The blank cheque which

[Mr. Akhil Chandra Datta.]

the Government want for themselves leads to this position. The Legislature delegates all the powers to the Central Government to make rules. Then, under sub-clause (2), the Government in their turn delegate practically all the identical powers to any undefined authority or to any person. Therefore, we have a right to know what those conditions are. In any case, this is giving practically a blank cheque to the executive and this is more than we can support. Sir, I support the amendment.

**Mr. Muhammad Nauman :** Sir, I support the amendment and I hope the Government will co-operate with us in this small matter as the Nationalist Party have also made it clear that the amendment has been moved with a full sense of co-operation and without any feeling of hostility. We only want an explanation of the word 'authority' so that the chances of abuse may not be so great as we imagine them to be. As it is, "the powers which are delegated to the Central Government will in due course be delegated to the Provincial Governments and then to any person or authority". This at least to our mind is somewhat ambiguous. I pointed this out in my speech today in the consideration stage as well. I hope the Honourable the Leader of the House will carefully consider this matter once again and meet our demand in this respect. Sir, I support the amendment.

**The Honourable Sir Muhammad Zafrullah Khan :** Sir, I am rather surprised to find that the Muslim League Party are fast receding from the assurance which they had given. To begin with the assurance was given by the Muslim League Party that if the amendments of which they had given notice were duly considered in the Select Committee—they would not press any other amendment. Then the Members of the Muslim League Party in their Minute of Dissent made certain suggestions and I indicated that I was prepared to accept those suggestions. Now they suggest that Government should co-operate by accepting an amendment of a much wider scope. Be that as it may, I must point out that the word 'authority' is essential. It does mean as one of the Honourable Members pointed out, a Municipal or District Board or a Union Board authority. It may also mean bodies like the Port Trusts which may have to be authorised to secure certain matters under these Rules. I am, however, willing to accept the amendment which stands in the name of my Honourable friend, Mr. Lalchand Navalrai, namely, to knock out the words "or person" which may, of course, mean 'private person', though the Government did not intend to authorise any private person to make rules—yet there may be that apprehension. I am quite willing to accept that amendment but I am afraid I must oppose the present amendment.

**Mr. Muhammad Nauman :** On a personal explanation, Sir. My explanation is that this was the very thing we of the Muslim League desired. It was in this spirit that I supported the amendment, that is, deletion of "a person".

**Mr. President (The Honourable Sir Abdur Rahim) :** The question is :

"That in sub-clause (2) of clause 2 of the Bill, the words 'or may empower any authority or person to make orders providing for' be omitted."

The motion was negatived.

**Mr. Lalchand Navalrai** (Sind : Non-Muhammadan Rural) : Sir, I beg to move :

“ That in sub-clause (2) of clause 2 of the Bill, the words ‘ or person ’ be omitted.”

**Mr. President** (The Honourable Sir Abdur Rahim) : The question is :

“ That in sub-clause (2) of clause 2 of the Bill, the words ‘ or person ’ be omitted.”

The motion was adopted.

**Mr. Akhil Chandra Datta** : Sir, I move :

“ That in part (iii) of sub-clause (2) of clause 2 of the Bill, after the word ‘ the ’, occurring in the sixth line, the words ‘ military or police ’ be inserted.”

Sir, I am thankful to the Government for having slightly modified this provision in the Select Committee. My complaint however is still there. The clause as it is drafted in the Bill says :

“ to dissuade..... persons from entering service of His Majesty.”

This means any service of His Majesty. Whereas in the previous Act the words were “ entering military or police service ”. That makes a lot of difference. The present provision is far more comprehensive. Supposing I advise my son not to accept such and such an appointment in a certain place where I think life would be very bad and where there will be danger to life.....

**The Honourable Sir Muhammad Zafrullah Khan** : That would be covered by the part of the clause added by the Select Committee.

**Mr. Akhil Chandra Datta** : We can very well understand and appreciate why it should be made an offence to dissuade people from entering the military or the police service. I do not understand the justification for making it a penal offence if a person dissuades another from entering the civil service. Sir, I move.

**Mr. President** (The Honourable Sir Abdur Rahim) : Amendment moved :

“ That in part (iii) of sub-clause (2) of clause 2 of the Bill, after the word ‘ the ’, occurring in the sixth line, the words ‘ military or police ’ be inserted.”

**The Honourable Sir Muhammad Zafrullah Khan** : Sir, I am surprised that the Honourable the Deputy President cannot understand why it should be necessary to secure that the ordinary administrative machinery of Government should not be brought to an end during the war. Sir, I oppose the amendment.

**Mr. President** (The Honourable Sir Abdur Rahim) : The question is :

“ That in part (iii) of sub-clause (2) of clause 2 of the Bill, after the word ‘ the ’, occurring in the sixth line, the words ‘ military or police ’ be inserted.”

The motion was negatived.

**Pandit Lakshmi Kanta Maitra :** Sir, I beg to move :

“ That to part (iii) of sub-clause (2) of clause 2 of the Bill, the following proviso be added :

‘ provided that this rule shall not apply to the case in which advice is given in good faith for the benefit of the individual to whom it is given, or for the benefit of any member of his family or any of his dependants.’ ”

**The Honourable Sir Muhammad Zafrullah Khan :** It is already there in the clause as amended by the Select Committee.

**Pandit Lakshmi Kanta Maitra :** But mine is more specific.

**The Honourable Sir Muhammad Zafrullah Khan :** The clause already contains this proviso.

**Pandit Lakshmi Kanta Maitra :** But the wording is different. Anyhow, I do not move the amendment.

**Mr. Akhil Chandra Datta :** Sir, I beg to move :

“ That in part (iv) (b) of sub-clause (2) of clause 2 of the Bill, the words ‘ possession without lawful authority or excuse ’ be omitted.”

This is rather an important matter. In the previous Act these words were not there at all. The words there were “ acquisition and publication of information likely to assist the enemy ”. Here possession by itself is made an offence, of course with the qualification “ without lawful authority or excuse ”. Much depends on the definition of the words “ information likely to assist the enemy ”. We find that this is explained in Rule 34 (5) as “ any information, whether true or false, or any document or other record whatsoever containing or purporting to contain, or calculated, directly or indirectly, to convey any information, whether true or false, with respect to any of the following matters... ” Then follow various matters—I shall take one or two by way of illustration. One is “ the condition of His Majesty’s subjects or of any class thereof or the sympathies of such subjects or class as regards matters relating to the war ”. The words are as comprehensive as human ingenuity can possibly make it. If you analyse it it comes to this. Having regard to the very comprehensive nature of the words “ any information true or false, etc., etc. ”, suppose—I am in possession of the *Statesman* of yesterday—which contains the following information :

“ According to a Latvian journalist who has arrived in Riga, the entire route from Poland is marked by burning towns and villages and fleeing masses. Dense clouds of smoke indicated the sites of towns and villages now in ashes. The destruction caused by German incendiary bombs, he said, was terrible. The inhabitants are seeking sanctuary in the forests and village streets are strewn with dead.

The Commander of the Polish Army stated in a broadcast that on Sunday night Warsaw was raided fifteen times.... Passengers aboard an evacuation train from Warsaw were obliged to leave the carriages seventy-two times to take shelter from bombing.”

This is information which may very probably be interpreted to assist the enemy in that it will inevitably encourage and hearten the German people and damage the morale of their adversaries. It may certainly be construed to mean “ assisting the enemy ”. The wording of the rule is so very wide.

'Then, as regards the word "sympathies" in this sub-rule, suppose a meeting was held at Simla expressing sympathy with Great Britain, I would ask any lawyer to tell me whether that will not be covered by the very comprehensive language used in this sub-rule. A complaint in regard to this was voiced yesterday by the *Statesman* which said :

" We see in short the Empire's leaders doing all in their power to awaken the world and the British Commonwealth of Nations to the great issues that are at stake, to steel our wills, and to prepare us for a long struggle and inevitable sacrifice, while a bureaucratic department in Simla is doing its misguided best to choke the channels."

Information likely to assist the enemy must be prohibited. I accept that principle. But I would point out here what the Prime Minister has said yesterday in the House of Commons :

" I have already declared the desire and intentions of government to give the fullest information to the public and to do all we can to prevent any feeling in the minds of the public that they will be kept in the dark. That is the principle to which through the ministry of information we shall seek to give effect."

I only hope that that principle enunciated in the House of Commons will be accepted by the Government of India in making these rules.

**Mr. President** (The Honourable Sir Abdur Rahim) : Amendment moved :

" That in part (iv) (b) of sub-clause (2) of clause 2 of the Bill, the words ' possession without lawful authority or excuse ' be omitted."

**Mr. Lalchand Navalrai** : Sir, I must frankly say that I do not understand the meaning of this para. It reads like this :

" Without prejudice to the generality of the powers conferred by sub-section (1), the rules may provide for, or may empower any authority or person to make orders providing for, all or any of the following matters, namely :

acquisition, possession without lawful authority or excuse and publication of information likely to assist the enemy,"....

**The Honourable Mr. J. A. Thorne** (Home Member) : No.

**Sir Muhammad Yamin Khan** : This is not the rule : rules will be made for this.

**Mr. Lalchand Navalrai** : I am concerned only with this subparagraph (b). If these rules are going to be made in this sense, there will be very great difficulty. How is one going to assist the enemy unless what is in his possession is in writing or any thing which can be seen ?.....

**Sir Muhammad Yamin Khan** : That will not be possession which is merely in your mind. Possession means something which can be seen or felt.

**Mr. Lalchand Navalrai** : That may be your very clever reading of it. But I submit the clause is misleading.

If he is in possession of that information and publishes it I can understand it. If you refer to a certain document containing that information it would be clearer. But otherwise on the point of mere mental possession of any such information no rule can be made to make one liable and in that view of the case the amendment should be accepted.

**Pandit Lakshmi Kanta Maitra :** Sir, this phrase is certainly open to the interpretation which was put upon it by my Honourable friend, Mr. Lalchand Navalrai. It comes to this that for this first time we are going to legislate for possession *per se* ; and this possession, not of any tangible or material thing but of something intangible, ethereal or transcendental, which cannot be predicted, in terms of matter, becomes an object of legislation. It may raise a smile here and there but we know the actual way in which such things are interpreted in summary courts. This is not the first time that summary courts are going to be installed in this country and when the ordinary judicial machinery of the country is going to be superseded. We have seen in the days of the Civil Disobedience Movement that judges were poor creatures who could not have their own say but were made to do things according to the dictates of police officers. So the suspicion is uppermost in the mind of every one of us that this will open the flood gates of the activities of the C. I. D. people. After all can anyone in the House tell me what is exactly meant by possession of information without lawful excuse ? Is it like the possession of stolen goods or explosive material or some other material and tangible thing ? It goes to the length of saying that if you happen to receive some information, some intangible thing, either from a friend or from a man in the street or from any one else, the possession of that information *per se* becomes an offence. If a man gets some information and by publishing it assists the enemy I can understand the purpose of the provision ; but that has not been made clear. The clause as it stands has been drafted in such a way that it is open to that kind of interpretation and certainly we cannot be a party to this kind of provision. Therefore, I think the possession of an intangible thing of which the senses can take no cognisance should be eliminated from the purview of this all-comprehensive measure. After all they are going to legislate for our bodies and for all our actions of which cognisance can be taken by the senses, and certainly not for our thoughts and mental activities which do not find outward expression. It is a ridiculous thing and I, therefore, support the amendment.

**The Honourable Sir Muhammad Zafrullah Khan :** Sir, I am afraid there is some misapprehension. Honourable Members are treating these sub-clauses as if they were the actual rules but they are not. The offence will be the contravention of any rules which may be framed in order to give effect to these things and in order to secure these objects. This sub-clause merely lays down the object to be secured ; and nobody can deny that mere possession, for instance, of plans or models of fortifications or harbours and such like things, unless they are kept with an honest motive or intention, may be a very dangerous thing. So that, the rules will clarify what exactly is prohibited under this paragraph ; the paragraph must necessarily be couched in wide terms.

**Mr. President (The Honourable Sir Abdur Rahim) :** The question is :

“ That in part (iv) (b) of sub-clause (2) of clause 2 of the Bill, the words ‘ possession without lawful authority or excuse ’ be omitted.”

The motion was negatived.

**Pandit Lakshmi Kanta Maitra :** Sir, I move :

“ That in part (v) of sub-clause (2) of clause 2 of the Bill, after the word ‘ reports ’, occurring in the second line, the words ‘ knowing the same to be false ’ be inserted.”

I propose by this amendment to specifically lay down that the person or persons disseminating false reports should know them to be false. That is a principle which has been accepted and acted upon for nearly 75 years. It has found legislative embodiment in the Indian Penal Code which still holds the field. The expression “ without lawful authority or excuse ” is vague. A report may be received from a friend in the ordinary course ; and in these war days all manner of people have become politicians, overnight, and they start talking international politics and indulge in a lot of political speculations which would not be done in normal times. In the course of such conversation, or discussion which may not at all be serious, something may crop up and some one may say something which may be construed as a report. If this report is false, the person making it may be penalized. Of course, if a man deliberately spreads a report knowing it to be false which might create a disturbance in the order of things, action may be justified. But it may eventually turn out that the report disseminated by a person is false but it was absolutely unintentional and without any motive on his part for spreading such report. In such a case action against him would not be justified. Therefore to fix a man with the guilt there should be that essential safeguard provided in the Indian Penal Code, *viz.*, the element of knowledge that the thing itself is false. This is a very essential safeguard and I hope the Leader of the House will accept it. Sir, I move.

**Mr. President** (The Honourable Sir Abdur Rahim) : Amendment moved :

“ That in part (v) of sub-clause (2) of clause 2 of the Bill, after the word ‘ reports ’, occurring in the second line, the words ‘ knowing the same to be false ’ be inserted.”

**Mr. Akhil Chandra Datta :** Sir, “ spreading without lawful authority or excuse of false reports ” knowledge is essential. A report may be false in point of fact, and yet it may not be false to his knowledge. Therefore, the words in the old Act are “ reports which he has no reasonable grounds to believe to be false ”. I don't understand why the present Government should go a step further than what their predecessors had put in in 1915. Sir, this is a reasonable amendment, and I support it.

**Mr. Lalchand Navalrai :** Sir, I don't want to say much with regard to this amendment. I find the Government professes to seek the co-operation of the public in this matter of defence, but if they ignore the very first principle of justice and common sense, I do not think their desire to get our co-operation is genuine. The first principle of justice and common sense is that, if any man comes to know of certain information, he believes it, and there is no reason for him to suppose it to be untrue and knows it not to be false, if he happens to give out that information, he is not amenable, but according to this clause in the Bill this man will be punished. This will be against all canons of justice and common sense. Therefore, the amendment that it must be proved that the information he divulged was to his knowledge false must be accepted.

**The Honourable Sir Muhammad Zafrullah Khan :** I thought the Honourable the Deputy President referred to the old Act.

**Mr. Akhil Chandra Datta :** I referred to the old rule 25 (1) (a).

**The Honourable Sir Muhammad Zafrullah Khan :** So far as the rules are concerned, you may be sure that if there is any necessity for precautions to be taken, they will be taken. In any case "lawful excuse" would cover a good deal of what Honourable Members want.

**Mr. Akhil Chandra Datta :** May I have your assurance then that these words will be added in the rules ?

**The Honourable Sir Muhammad Zafrullah Khan :** I am prepared to consider that.

**Mr. Akhil Chandra Datta :** Thank you.

**Mr. President (The Honourable Sir Abdur Rahim) :** Does the Honourable Member want to press this amendment ?

**Pandit Lakshmi Kanta Maitra :** No, Sir, I withdraw it.

**Mr. President (The Honourable Sir Abdur Rahim) :** Has the Honourable Member the leave of the House to withdraw his amendment ?

**Some Honourable Members :** Yes, yes.

The amendment was, by leave of the Assembly, withdrawn.

**Pandit Lakshmi Kanta Maitra :** Sir, I move :

" That in part (v) of sub-clause (2) of clause 2 of the Bill, all the words occurring after the words ' likely to cause disaffection ' be omitted."

Now, Sir, the word " disaffection " is one of the most difficult and much abused expression in Indian legal phraseology.....

**The Honourable Sir Muhammad Zafrullah Khan :** The amendment is to omit everything after the word " disaffection ".

**Pandit Lakshmi Kanta Maitra :** I am coming to that. Sir, knowing as I do the trend of legal decisions from the earliest times down to the present day on the expression ' disaffection ',—which has been variously interpreted by various High Court Judges, I have my doubts that it will, with the words that follow after it, be interpreted to the prejudice of the party concerned by these Special Tribunals. Sir, in order to leave it at the stage at which the interpretation of the expression has reached by recent judicial interpretations, I suggest this amendment. Sir, I move.

**Mr. President (The Honourable Sir Abdur Rahim) :** Amendment moved :

" That in part (v) of sub-clause (2) of clause 2 of the Bill, all the words occurring after the words ' likely to cause disaffection ' be omitted."

**The Honourable Sir Muhammad Zafrullah Khan :** I am afraid, Sir, I cannot accept this amendment, as it will make a very serious inroad into the object of this paragraph.

**Mr. President (The Honourable Sir Abdur Rahim) :** The question is :

" That in part (v) of sub-clause (2) of clause 2 of the Bill, all the words occurring after the words ' likely to cause disaffection ' be omitted."

The motion was negatived.

**Pandit Lakshmi Kanta Maitra** : Sir, I move :

“ That in part (v) of sub-clause (2) of clause 2 of the Bill, the words ‘ or alarm ’ be omitted.”

Sir, the word “ alarm ” is a very vague expression. It depends on the extent to which a class of people or a number of people get alarmed or frightened. It cannot be definitely laid down how and when a stage is reached when you can say that an alarm has been caused. It is a very vague and indefinite expression. It will not serve any useful purpose except that it will lead to abuse. There are other words which will serve the purpose which can be inserted. I, therefore, move for its deletion.

**Mr. President** (The Honourable Sir Abdur Rahim) : The question is :

“ That in part (v) of sub-clause (2) of clause 2 of the Bill, the words ‘ or alarm ’ be omitted.”

The motion was negatived.

**Mr. N. M. Joshi** : Sir, I move :

“ That part (vi) of sub-clause (2) of clause 2 of the Bill be omitted.”

This sub-clause gives Government the power to compel a newspaper to publish whatever news the Government want that paper to publish. It is quite possible, Sir, that Government in these days want the newspapers to publish false reports, and I do not wish to give power to Government to ask a newspaper to publish anything that the Government wants it to publish. It may ask a newspaper to publish an absolutely false thing. So in the interests of morality, I do not want to give this power to Government.

**Mr. President** (The Honourable Sir Abdur Rahim) : The question is :

“ That part (vi) of sub-clause (2) of clause 2 of the Bill be omitted.”

The motion was negatived.

**Mr. Akhil Chandra Datta** : Sir, I move :

“ That part (viii) of sub-clause (2) of clause 2 of the Bill be omitted.”

That requires any person or class of persons to comply with any scheme of defence. After reading it several times, I could not understand the exact scope of this provision. You say “ requiring any person or class of persons to comply with a scheme of defence ”,—what is that scheme that you are thinking of ? “ Any scheme of defence ” is the phrase used here like the words “ any information ” which incurs in another provision. Therefore, Sir, if we can get some idea as to what is exactly contemplated by them, we may be in a position to express our opinion on it. As the words stand, it is impossible to understand what is really contemplated by them. What is a scheme of defence ?

**The Honourable Sir Muhammad Zafrullah Khan** : Nobody can say what it may be.

**Mr. Akhil Chandra Datta** : If nobody can say, then what is the object of keeping such a sub-clause ?

**Mr. President** (The Honourable Sir Abdur Rahim) : The question is :

“ That part (viii) of sub-clause (2) of clause 2 of the Bill be omitted.”

The motion was negatived.

**Pandit Lakshmi Kanta Maitra** : Sir, I beg to move :

“ That part (xxiv) of sub-clause (g) of clause 2 of the Bill be omitted.”

Part (xxiv) reads :

“ the requisitioning of any property, movable or immovable, including the taking possession thereof and the issue of any orders in respect thereof.”

The language of the part speaks for itself. I think it is difficult to beat this in point of its drastic and also its absolutely indefensible character. Do the Government think that by a resort to mere drastic provisions they can further the cause of the Bill? It is not really an occasion for running a competition between loyalists. It is rather an occasion for giving real support to the Government, giving real, substantial, intelligent support with as little disturbance to the normal life of the people as possible. If this provision is enacted into law, it may be operated by an unscrupulous man in any way he likes. Take the case of a Municipality, or a Union Board or a District Board. In our country these institutions may be dominated by one particular set of people. They may work havoc on those who are opposed to them.

**The Honourable Sir Muhammad Zafrullah Khan** : They must pay compensation.

**Pandit Lakshmi Kanta Maitra** : What compensation? If you take away my gold watch or my pen for which I may have a special attraction and you pay four annas for it, I am not adequately compensated. Supposing you are deprived of your present job and are paid a higher salary, elsewhere you will not be adequately compensated, because in your present position you are enjoying a unique status. I can imagine people coming to my house, or stationed about my house pretending that they are watching aerial raid, and so on their demand I must give them my belongings, and then you will give me four annas as compensation! Property—here means all manner of property, movable and immovable. You may demand of me my belongings, my bed, coat, shawl, typewriter, or anything else that I may possess on this earth. Do you really want that kind of power now for the defence of India? If you are called upon to exercise that kind of power you must realise what it will amount to and what it will mean for us. If you want us to make that hardest kind of sacrifice, you must do something other than mere propounding of some dictum in justification of what you will do. So, you will do well now to pursue the line of least resistance; if for military or naval purposes some such provision is necessary, then make it specific and we will give you that power, but certainly not in these indefinite and extravagant terms which will mean disaster to us. It is an absurd and outrageous provision and I want its deletion. Sir, I move.

**Mr. President** (The Honourable Sir Abdur Rahim) : Amendment moved :

“ That part (xxiv) of sub-clause (g) of clause 2 of the Bill be omitted.”

**Mr. Akhil Chandra Datta** : In this part (xxiv) power is given for the seizure of any property, etc., without mentioning the purpose for which this power can be exercised.

**The Honourable Sir Muhammad Zafrullah Khan :** The purpose is mentioned in the first part of the sub-clause.

**Mr. Akhil Chandra Datta :** The purpose is definitely specified in the earlier Act of 1915, and that purpose is " naval or military purpose ". If the power is to be given without any qualification, without mentioning the purpose, that will be too much. You may have power to requisition all movable or immovable property including the bedding of my Honourable friend, Pandit Lakshmi Kanta Maitra. All that this amendment seeks is to restore the language of the old Act, nothing more, nothing less.

**The Honourable Sir Muhammad Zafrullah Khan :** The amendment is to omit the whole part. The purpose of these paragraphs is governed by the first sub-clause, which runs thus :

" The Central Government may, by notification in the official Gazette, make such rules as appear to it to be necessary or expedient for securing the defence of British India, the public safety, the maintenance of public order or the efficient prosecution of war, or for maintaining supplies and services essential to the life of the community."

You cannot requisition property for purposes other than these.

**Mr. Akhil Chandra Datta :** What is the harm in making it clear ?

**The Honourable Sir Muhammad Zafrullah Khan :** We cannot make anything clear by omitting the paragraph.

**Mr. President (The Honourable Sir Abdur Rahim) :** The question is :

" That part (xxiv) of sub-clause (2) of clause 2 of the Bill be omitted."

The motion was negatived.

**Pandit Lakshmi Kanta Maitra :** Sir, I beg to move :

" That for part (xxiv) of sub-clause (2) of clause 2 of the Bill the following be substituted :

' for enabling any naval or military authority to take possession of any property, movable or immovable, for naval or military purposes, and to issue such orders and do such acts in respect of any property as may be necessary to secure the public safety or the defence of British India or any part thereof '."

This is a *verbatim* transcript from the provision in the old Defence of India Act and I do not think that any sensible objection can be taken to it.

**Mr. President (The Honourable Sir Abdur Rahim) :** Amendment moved :

" That for part (xxiv) of sub-clause (2) of clause 2 of the Bill the following be substituted :

' for enabling any naval or military authority to take possession of any property, movable or immovable, for naval or military purposes, and to issue such orders and do such acts in respect of any property as may be necessary to secure the public safety or the defence of British India or any part thereof '."

**Mr. Akhil Chandra Datta :** As to the object of this part there is no controversy. It is conceded by the Honourable the Leader of the House that the powers given are required only for naval or military purpose. If that be so, why not make it clear ? It was made clear in the Act of 1915. In spite of the fact that there is no controversy about the intention, if it is still thought desirable not to remove the doubt—a doubt which we at all events on this side are feeling—then we begin to feel that there is some ground for the doubt about the intention itself.

**The Honourable Sir Muhammad Zafrullah Khan :** The whole difference amounts to this, that whereas the old Act confined itself to the defence of British India the present clause adds the efficient prosecution of the war. That must govern all these clauses. To that extent I have already admitted that these powers may be wider, but that applies to all these clauses. Otherwise, there is no practical difference between the amendment and the sub-clause as it stands.

**Mr. President (The Honourable Sir Abdur Rahim) :** The question is :

“ That for part (xxiv) of sub-clause (2) of clause 2 of the Bill the following be substituted :

‘ for enabling any naval or military authority to take possession of any property, movable or immovable, for naval or military purposes, and to issue such orders and do such acts in respect of any property as may be necessary to secure the public safety or the defence of British India or any part thereof ’.”

The motion was negatived.

**Dr. P. N. Banerjee :** Sir, I move :

“ That part (xxx) of sub-clause (2) of clause 2 of the Bill be omitted.”

Sir, this part relates to prohibiting or regulating meetings, assemblies, fairs and processions. In India, at the present moment, we enjoy very few civil liberties and in the present situation we are going to give power to the rule-making authorities to make rules relating to the prohibition of meetings, assemblies, fairs and processions and so forth. Thus, the very slender rights which we possess at the present moment are going to be taken away from us. At least there is the apprehension that all these slender rights may be taken away. In this connection I beg to point out that a provision corresponding to this did not exist in the Act of 1915, because at that time it was thought proper and desirable to regulate meetings and associations and so on under the ordinary laws of the land. If you make this provision here, then a special method of trial will take place and the rights of citizens will be greatly jeopardised. Therefore, I move.

**Mr. President (The Honourable Sir Abdur Rahim) :** Amendment moved :

“ That part (xxx) of sub-clause (2) of clause 2 of the Bill be omitted.”

The Assembly then adjourned till Eleven of the Clock on Friday, the 15th September, 1939.