

22nd August, 1933

LEGISLATIVE ASSEMBLY DEBATES

(Official Report)

Volume V, 1933

(22nd August to 4th September, 1933)

SIXTH SESSION

OF THE

FOURTH LEGISLATIVE ASSEMBLY,
1933



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Legislative Assembly.

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Deputy President :

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SIR ABDULLA-AL-MAMUN SUHRAWARDY, KT., M.L.A.

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MIAN MUHAMMAD RAFI, BAR.-AT-LAW.

Assistant of the Secretary :

RAI BAHADUR D. DUTT.

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

Committee on Public Petitions :

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

MR. GAYA PRASAD SINGH, M.L.A.

KUNWAR HAJEE ISMAIL ALI KHAN, O.B.E., M.L.A.

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LEGISLATIVE ASSEMBLY DEBATES

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

VOLUME V—1933.

LEGISLATIVE ASSEMBLY.

Tuesday, 22nd August, 1933.

The Assembly met in the Assembly Chamber in Simla, at Eleven of the Clock, being the first day of the Sixth Session of the Fourth Legislative Assembly, pursuant to Section 63-D (2) of the Government of India Act, Mr. President (The Honourable Sir Shanmukham Chetty) was in the Chair.

MEMBERS SWORN.

The Honourable Sir Bepin Behary Ghose, Kt. (Law Member) ;
 The Honourable Mr. Alan Hubert Lloyd, C.I.E. (Finance Member) ;
 Mr. Vidya Sagar Pandya, M.L.A. (Madras : Indian Commerce) ;
 Mr. E. Studd, M.L.A. (Bengal : European) ;
 Mr. James Aitchison Milligan, M.L.A. (Assam : European) ;
 Mr. E. H. M. Bower, I.S.O., M.L.A. (Nominated Non-Official) ;
 Sir Lancelot Graham, K.C.I.E., M.L.A. (Secretary, Legislative
 Department) ;
 Major W. K. Fraser-Tytler, C.M.G., M.C., M.L.A. (Foreign Secre-
 tary) ;
 Mr. Tennant Sloan, C.I.E., M.L.A. (Government of India : Nominated
 Official) ;
 Mr. Alexander Ranken Cox, M.L.A. (Madras : Nominated Official) ;
 Mr. Velgapudi Ramakrishna, M.L.A. (Madras : Nominated Official) ;
 Khan Bahadur Shaikh Yakub Vazir Muhammad, M.B.E., M.L.A.
 (Bombay : Nominated Official) ;
 Mr. Jatindra Mohan Chatarji, M.L.A. (Bengal : Nominated Official) ;

Shams-ul-Ulema Mr. Kamaluddin Ahmad, M.L.A. (Bengal : Nominated Official) ;

Rai Bahadur Lala Chimman Lal, M.L.A. (United Provinces : Nominated Official) ;

Mr. Alan Alexander McCaskill Mitchell, M.L.A. (Punjab : Nominated Official) ;

Mr. Dionys John Norris Lee, M.L.A. (Central Provinces : Nominated Official) ; and

Mr. Stanley George Grantham, M.L.A. (Burma : Nominated Official).

QUESTIONS AND ANSWERS.

MAINTENANCE OF THE FAMILY OF HYDER ALI AND TIPU SULTAN.

1. ***Mr. S. C. Mitra :** (a) Are Government aware that a scheme was framed for permanent provision for the descendants of Hyder Ali and Tipu Sultan from generation to generation ?

(b) Is it a fact that the said scheme, i.e., the Capitalization Scheme of 1860, could not be carried into effect ? If so, why ?

(c) Is it a fact that it was approved to make the provision operative for a lifetime only ?

(d) Is it a fact that by the said scheme the grandsons and the then fatherless great-grandsons of Tipu Sultan were recipients of the *corpus* of the fund and, in order to give effect to the same, two trust deeds were duly executed ?

(e) Are Government aware that the said trust deeds were declared invalid by the Honourable the High Court of Judicature and that within a few years the whole of the said funds were squandered by the recipients and that they were left heavily encumbered and that the beneficiaries could not get any benefit out of the capital stock ?

(f) Are Government aware that on account of the loss of capital stock the family of Hyder Ali and Tipu Sultan was absolutely ruined and that even their representation in 1902 was met with feeble response from His Majesty's Government ?

(g) Are Government prepared to consider the desirability of making some provision for the family of Hyder Ali and Tipu Sultan consistent with their position in life and their descent from a sovereign ?

(h) Is it a fact that under the Mysore Treaty an annual sum of rupees seven lakhs had been set apart from the revenues of certain districts which had been incorporated in the dominions of the East India Company to provide effectually for the suitable maintenance of the whole family of Hyder Ali and Tipu Sultan and also on the basis of various resolutions, despatches, etc., issued by the authorities with reference to the Mysore family ?

Major W. K. Fraser-Tytler : With your permission, Sir, I will answer questions Nos. 1 and 2 together. In reply to the Honourable Member's first question, the Government of India have under their consideration a memorial from the descendants of Hyder Ali and Tipu Sultan in which, among other points, the questions (a) to (h) raised by the

Honourable Member have been put up for the consideration of Government. As no decision has yet been reached on this memorial the Government consider that they cannot appropriately answer the questions raised by the Honourable Member without prejudicing any decisions to be arrived at on the memorial.

In reply to part (a) of the Honourable Member's second question, I would refer him to the answer I have just given.

(b) The case of Mohammad Nasiruddin, great great-grandson of Tipu Sultan, will be considered in connection with the general question of the treatment of the descendants of Hyder Ali and Tipu Sultan which is under consideration of Government with reference to the memorial presented by these descendants.

Mr. Lalchand Navalrai : Will the Honourable Member be pleased to say what was the original scheme by which certain help or subsidy was given to the descendants of Hyder Ali and Tipu Sultan and whether any funds were passed over to their descendants to be squandered ?

Major W. K. Fraser-Tytler : I shall require notice of that question.

Kunwar Hajee Ismail Ali Khan : Will Government lay on the table a copy of the original scheme ?

Major W. K. Fraser-Tytler : I should require notice of that question also.

Mr. Amar Nath Dutt : What was the contribution of Hyder Ali and Tipu Sultan towards the building up of Indian civilisation and culture ?

Major W. K. Fraser-Tytler : I think the Honourable Member can perhaps judge that best for himself.

Mr. Amar Nath Dutt : I could not find anything in history. I thought Government might have something on that subject in their archives.

Mr. Lalchand Navalrai : We will not put any supplementary question if the Honourable Member is not in a position to answer them, but I would like to know if any funds were provided for the descendants ?

Major W. K. Fraser-Tytler : I can only repeat that I cannot give this information at present. I should require notice of that question.

MAINTENANCE OF THE FAMILY OF HYDER ALI AND TIPU SULTAN.

†2. ***Mr. S. C. Mitra :** (a) Are Government aware that the members of the third and fourth generations of Tipu Sultan submitted a combined memorial to Government on the 16th October, 1930, laying their grievances before Government and praying for certain relief on the grounds that their claim was based on the distinct pledges given by Government to maintain and provide for the Mysore family at least upto the fourth generation and even beyond, and more particularly on account of the failure and frustration of the Capitalization Scheme of 1860 for which the beneficiaries were not responsible ? If so, are Government prepared to consider it favourably ?

(b) Are Government aware that Sahebzada Mohammad Nasiruddin of the fourth generation (a great great-grandson of Tipu Sultan and one of the

†For answer to this question, see answer to question No. 1.

memorialists) is in receipt of a poor pension of Rs. 50 per month only from Government ? If so, do Government propose to raise his pension and also treat other members of the Mysore family standing in the same degree of relationship to Tipu Sultan in the same way ?

STATE PRISONERS IN CUSTODY.

3. ***Mr. B. N. Misra** : Will Government be pleased to state :

(a) the total number of State Prisoners in custody

(i) under Regulation III of 1818, and

(ii) the Bengal Ordinance ; and

(b) (i) the total number of State Prisoners getting no allowance at all for their families and dependants ;

(ii) the total number of prisoners getting upto Rs. 600 per annum ;

(iii) the total number of State Prisoners getting Rs. 500 to Rs. 1,000 per annum for the upkeep of their families and their dependants ;

(iv) the total number of prisoners getting Rs. 1,000 to Rs. 2,400 per annum for the upkeep of their families and their dependants ; and

(v) the total number getting more than Rs. 2,400 per annum ?

The Honourable Sir Harry Haig : (a) (i) 36.

(ii) The Honourable Member presumably refers to the Bengal Criminal Law Amendment Act, 1930. The number of persons detained under the Act was 1,439 on the 31st July.

(b) (i) 16. One case is under consideration.

(ii) 9.

(iii) 4.

(iv) 3.

(v) 3.

The figures relate to State Prisoners under Regulation III of 1818. I regret I am unable to give similar information regarding the family allowances of detenues whose cases are dealt with by the Government of Bengal under the provisions of the Bengal Criminal Law Amendment Act.

Kurwar Hajeer Ahmad Ali Khan : What is the maximum amount which a State Prisoner is getting ?

The Honourable Sir Harry Haig : I am afraid I have not got the figures with me. Perhaps the Honourable Member will put down a question on the subject.

Mr. Lalchand Navalrai : Will the Honourable Member be pleased to say how many prisoners in each province there are, who have been detained under Regulation III of 1818 ?

The Honourable Sir Harry Haig : I have not the information with me.

Mr. Lalchand Navalrai : Are there any rules providing what allowances should be given ? Are there any other conditions to be gone through ?

The Honourable Sir Harry Haig : No, Sir. The allowances are given in accordance with what Government judge to be reasonable.

Mr. Lalchand Navalrai : Does that depend on the will or whim of the officer who gives them ?

The Honourable Sir Harry Haig : It is laid down in the Regulation itself that Government shall make such provision as is reasonable.

Mr. Lalchand Navalrai : Have the Government framed any rules on the subject ?

The Honourable Sir Harry Haig : It is not possible to frame rules as to how much allowance should be given to individuals in consideration of their individual circumstances ?

Mr. Lalchand Navalrai : Do they get allowances on the same level or do they differ ? Is any differentiation made in the allowances to be given to State Prisoners ?

The Honourable Sir Harry Haig : I think if the Honourable Member had listened to the answers which I gave to his original question, he would have understood that allowances are given on different scales to different prisoners and I enumerated in accordance with his requirements the allowances given under five separate heads.

Mr. D. K. Lahiri Chaudhury : Who is to decide the amount of the allowances ?

The Honourable Sir Harry Haig : The Government.

Sardar Sant Singh : Does the list of the men who have been detained under Regulation III of 1818 include the Chiefs of Native States who have been detained ?

The Honourable Sir Harry Haig : No, Sir. My answer refers to those who are detained in custody in connection with revolutionary movements.

Mr. M. Maswood Ahmad : Is it the Local Government or the Central Government that make the allowances ?

The Honourable Sir Harry Haig : By the Central Government.

Sardar Sant Singh : The answer is not clear to me. My question is whether the Chiefs of Native States who have been detained are included in the number 36 you gave.

The Honourable Sir Harry Haig : My answer was " No ".

Mr. K. C. Neogy : Who decides the amount of the allowances in each case ? Does the Honourable Member himself go into each individual case ?

The Honourable Sir Harry Haig : I think it is fair to say that each case comes up to me.

Mr. K. C. Neogy : What are the considerations that generally determine the amount of allowance in each particular case ?

The Honourable Sir Harry Haig : Very largely, the family circumstances whether it is necessary to provide for the families of the persons detained.

Mr. D. K. Lahiri Chaudhury : If a detenu dies in custody, do the Government make any provision for the family ?

The Honourable Sir Harry Haig : No, Sir.

Mr. B. R. Puri : Where do you get your information from as to the circumstances of the family of the person detained—from the C. I. D. ?

The Honourable Sir Harry Haig : We get a report from the Local Government.

Mr. B. R. Puri : Is the Local Government itself aware of each individual case or do they depend upon the C. I. D. ?

The Honourable Sir Harry Haig : The Local Government depend upon their officers, as they ordinarily must.

Mr. B. R. Puri : Do they depend ultimately on the police officer in charge of the particular locality where the detenu was residing before arrest ?

The Honourable Sir Harry Haig : Not necessarily.

Mr. S. G. Jog : In view of the fact that the Regulation is more than a century old, will Government take steps to revise it ?

The Honourable Sir Harry Haig : We have no such proposal under consideration.

Mr. K. C. Neogy : Has the Honourable Member received any representation complaining about the inadequacy of these allowances ?

The Honourable Sir Harry Haig : I think we have received a number of representations at various times. Any representations received are always examined.

Mr. K. C. Neogy : Has any such representation resulted in any enhancement of the allowance ?

The Honourable Sir Harry Haig : I should require notice of that question.

Mr. Lalchand Navalrai : May I know from the Honourable Member if it is impossible for the Government to lay down a scale ?

The Honourable Sir Harry Haig : I should be very glad if the Honourable Member will suggest what he has in mind.

Mr. Lalchand Navalrai : I only know this that the Honourable Member has not followed my question. The Honourable Member said that it depended upon the discretion of the officer who gave them these allowances. I am asking whether it is not possible that the officer may frame a scale of the allowances to be given and that those should be continued ?

The Honourable Sir Harry Haig : I said, Sir, that it depended on the individual circumstances of the detenu. I do not quite understand how the Honourable Member proposes to tabulate those individual circumstances.

Mr. President (The Honourable Sir Shanmukham Chetty) : Next question.

SEPARATE MUSEUM FOR ORISSA.

4. ***Mr. B. N. Misra :** (a) Will Government be pleased to state :

- (i) the amount of money set apart for archæological work in the various provinces of India ;
- (ii) the amount set apart for Bihar and Orissa ; and
- (iii) the amount spent every year in Orissa ?

(b) Has the amount spent in Orissa been found sufficient for the purposes of the archæological findings in Orissa ?

(c) Will Government be pleased to state the place in Orissa where the Archæological Department has worked ?

(d) Do Government propose to institute a separate museum for Orissa which is going to have a separate Province of its own ?

Mr. G. S. Bajpai : (a) and (b). If the Honourable Member will kindly indicate the years for which the information is required, I shall endeavour to obtain it for him.

(c) The principal monuments where special repairs have been carried out are the Black Pagoda at Konarak, Rock Edicts of Asoka at Dhauli, Raja Rani and other temples at Bhuvanesvara, the caves of Khandagiri and Udaigiri, etc.

(d) ' Museums ' are a provincial subject under the Devolution Rules, and it will be for the new provincial Government of Orissa to consider whether or not to establish a museum.

DISSATISFACTION OF ORIYAS ON ACCOUNT OF NON-INCLUSION OF CERTAIN AREAS IN THE PROPOSED ORISSA PROVINCE.

5. ***Mr. B. N. Misra :** (a) Are Government aware of the dissatisfaction of the Oriyas on account of the non-inclusion of (i) the Singbhum District (Bihar and Orissa), (ii) the southern portion of Midnapur (Hijli District in Bengal), (iii) Parlakhimedi, Tarala, Mandasa, Tekkali of the Ganjam District, (iv) the Jaipur Agency of the Vizagapatam District, and (v) Fuljhar of the Central Provinces ?

(b) Will Government be pleased to state the number of meetings that have communicated to Government the dissatisfaction felt by the Oriyas ?

(c) Are Government aware that there is a very influential section among the Oriyas who say that unless all the areas demanded by the Oriyas are included they will not accept the province ?

The Honourable Sir Joseph Bhore : (a) and (b). Up to the 31st July, 1933, the Government of India have received 87 representations protesting against the omission from the proposed Orissa province of all or some of the areas referred to by the Honourable Member. Not all these representations purport to be the outcome of meetings held ; some are from individuals and others from local associations or bodies. 80 out of the 87 representations received deal with Ganjam areas.

(c) Government are not aware of such an attitude on the part of any influential section among the Oriyas.

Mr. M. Maswood Ahmad : Is it a fact that the separation of the Orissa province has affected four provinces, that is, Madras, Bengal, Central Provinces and Bihar ?

The Honourable Sir Joseph Bhore : I think that is quite correct.

Mr. M. Maswood Ahmad : Was there any Muslim member on the Orissa Boundary Committee ?

The Honourable Sir Joseph Bhore : My Honourable friend has put a question on that point. When I come to it, I will give him a reply.

Mr. M. Maswood Ahmad : What step was taken by Government to know the Muslim point of view about the boundary of Orissa ?

The Honourable Sir Joseph Bhore : I have no doubt that the Committee appointed conducted a very complete inquiry and received representations from individuals interested.

Mr. Gaya Prasad Singh : Are Government aware that the claim of the Oriyas to the inclusion of Singbhum in their new province is quite unjustified ?

(No answer.)

Mr. Gaya Prasad Singh : Are Government aware that the Committees which were appointed in this connection have unanimously rejected the claim of the Oriyas for the inclusion of Singbhum in their new province ?

The Honourable Sir Joseph Bhore : My Honourable friend may refer to the reports of the Committees concerned.

Mr. Amar Nath Dutt : May I put a question to the questioner himself ? May I know the grounds on which the Oriyas have asked for the inclusion of the southern portion of Midnapore in the province of Orissa ? Is it on the ground of conquest or what else ?

The Honourable Sir Joseph Bhore : That question is not addressed to me, Sir.

Mr. Amar Nath Dutt : If it is not on the ground of conquest, will he kindly state whether he will claim up to the northern portion of Burdwan, that is, Katwa ?

Mr. Gaya Prasad Singh : Is it not a fact that on ethnological, historical, linguistic and racial grounds Singbhum cannot be included in the new province of Oriyas ?

Mr. President (The Honourable Sir Shanmukham Chetty) : To whom is the question addressed ?

Mr. Gaya Prasad Singh : Anybody can answer it—either the questioner himself, or the Government Member. (Laughter.)

Maulvi Muhammad Shafee Daoodi : May I know whether the protest made by Oriyas includes Singbhum also definitely ?

The Honourable Sir Joseph Bhore : I think so, but I am not quite definite upon that point.

Mr. S. C. Mitra : Are not Government aware that the people of the Midnapore district strongly protested against their inclusion in the newly created province of Orissa ?

The Honourable Sir Joseph Bhore : I take my Honourable friend's word for that.

Mr. Gaya Prasad Singh : Is it not a fact that the people of Singbhum also protested against the proposed inclusion of Singbhum in the Oriya province ?

The Honourable Sir Joseph Bhore : It is likely.

DIFFICULTIES AND HARDSHIPS OF PILGRIMS RETURNED FROM HEDJAZ.

6. ***Mr. Lalchand Navalrai :** (a) Has the attention of Government been drawn to the statement of Mrs. Mariam H. Shariff Hussain, given to the Associated Press on May 6th, 1933, that there were innumerable difficulties and hardships in the way of pilgrims who had just returned from Hedjaz ?

(b) Are Government aware that the disembarkation at Jeddah is very troublesome and that the belongings of pilgrims are mixed up while unloading the same, causing great inconvenience to the pilgrims ?

(c) Do Government propose to take any steps for the thorough reformation of the *Muallims* ? If so, what steps ?

(d) Are Government aware that the pilgrims who travel third class in steamers have meagre arrangements for fresh air, water, latrines and bathrooms and are supplied with very coarse and unsatisfactory food by hotels on board the steamers ?

(e) If so, will Government be pleased to state what steps the Haj Committee have recommended to guard against such inconveniences, and what steps do Government propose to take in the matter ?

Mr. G. S. Bajpai : (a) Government have seen the report of the statement made by one Mariam Khatun, wife of Hafiz Sharif Husain, which appeared in the *Aljamiat* of the 16th May, 1933.

(b) In order to minimise such difficulties Government approved, as an experimental measure during the last season, of the introduction of an arrangement by which the shipping Company undertook responsibility for the transport of passengers and their luggage from ship to shore and *vice versa* in return for a fixed sum of money. This arrangement will be continued, if the reports, which have not yet been received from the authorities at Jeddah, indicate that it proved successful.

(c) As the Honourable Member is already aware, a Bill to regulate the activities of persons who offer to assist pilgrims to the Hedjaz was introduced in this House and referred to a Select Committee. Further action to be taken in regard to this Bill is under the consideration of Government.

(d) and (e). The question of improving the arrangements on board the pilgrim ships has for some time engaged the careful attention of Government. A report of the Haj Inquiry Committee which deals, *inter alia*, with this subject will be found in the Library of the House. It is probably within the memory of the Honourable Member that in the light of the recommendations made by this Committee, the Indian Merchant Shipping Act, 1923, was amended during the last Legislative session. A draft of statutory rules under the Amending Act has been

prepared and will soon be published. It is expected that the rules will come into force before the commencement of the next pilgrim season.

Mr. M. Maswood Ahmad : Will Government be pleased to state whether there is any recommendation in connection with part (b) of this question in the confidential report of the Haj Inquiry Committee ?

Mr. G. S. Bajpai : My Honourable friend seems to assume that there is a confidential report.

Mr. M. Maswood Ahmad : Do Government suggest that there is no confidential report by the Haj Inquiry Committee ?

Mr. G. S. Bajpai : So far as I know.

Mr. M. Maswood Ahmad : Was any item of the confidential report of the Haj Inquiry Committee considered by the Standing Haj Committee on Hedjaz ?

Mr. G. S. Bajpai : My Honourable friend is a member of the Haj Committee and if any confidential matters were discussed by the Committee, I hope he will, as a member of that Committee, treat them as confidential. (Laughter.)

Kunwar Hajee Ismail Ali Khan : In view of the fact that this House has passed the Port Haj Committee Bill to remove such difficulties of the pilgrims, may I know what steps Government have taken and when these Committees will come into existence ?

Mr. G. S. Bajpai : My Honourable friend is aware that Port Haj Committees have to be set up by the Local Governments. We have addressed Local Governments and have impressed upon them the desirability of bringing these Haj Committees into being before the next season starts.

Mr. M. Maswood Ahmad : Is it a fact that minutes of the proceedings of the Standing Haj Committee are confidential ?

Mr. G. S. Bajpai : My Honourable friend as a member of that Committee ought to be aware as well as I am of the procedure which is followed by that Committee and the conditions under which its proceedings are recorded.

Mr. M. Maswood Ahmad : Is it not a fact that several portions of that minute were referred on the floor of the House by the Honourable Members at the time of the discussion of the Merchant Shipping Act ?

Mr. G. S. Bajpai : I do not recollect having read *verbatim* anything from the proceedings of the Haj Committee.

Mr. M. Maswood Ahmad : Will the Honourable Member be pleased to see the debates ?

Mr. G. S. Bajpai : It is open to my Honourable friend to contradict me after referring to the debates.

Mr. Lalchand Navalrai : Will the Honourable Member be pleased to say if there is any truth in the allegations made by Mrs. Mariam ?

Mr. G. S. Bajpai : Well, Sir, the statement covers very wide ground and I daresay that there is an element of truth here and there.

Mr. Lalchand Navalrai : May we, then, know that there are difficulties which have to be overcome ?

Mr. G. S. Bajpai : Sir, I have never suggested that there are no difficulties that have not to be overcome.

Mr. Lalchand Navalrai : May I know, therefore, if there is any Committee or any persons deputed, to take care of the luggage of the pilgrims when they arrive at Jeddah ? Is there any arrangement at present to vouchsafe the difficulty that is pointed out by Mrs. Mariam ?

Mr. G. S. Bajpai : If the Honourable member had followed the answer which I gave to part (b) of his question, he would have appreciated the fact that we have made arrangements which are being tried, and, on receipt of the report of the working of those arrangements during the last Haj season, Government will decide what further steps, if any, are necessary.

Mr. Lalchand Navalrai : May I concisely know what are the arrangements ?

Mr. G. S. Bajpai : With your permission, I will read the answer again :

“ The shipping company undertook responsibility for the transport of passengers and their luggage from ship to shore.”

Mr. Muhammad Ashar Ali : Did the Honourable Member make enquiries about the complaints made by Mrs. Mariam H. Shariff Hussain ?

Mr. G. S. Bajpai : No such enquiry was necessary, because most of the complaints made by the lady had already been dealt with by the Haj Enquiry Committee.

RELEASE OF MAHATMA GANDHI.

7. ***Mr. Lalchand Navalrai :** (a) Will Government be pleased to state if any move was made by the Indian National Congress or by any other public men for the release of Mahatma Gandhi ?

(b) What are the grounds and conditions on which Mahatma Gandhi has been released ?

(c) Are Government in a position to state that the Civil Disobedience Movement has been withdrawn ?

(d) Was Mahatma Gandhi or any Congressman given to understand that the Government would not consider the Civil Disobedience Movement withdrawn merely by its suspension ? If so, what was the response ? If not, why not ?

(e) Were there any conditions laid down for the release of political prisoners ? If so, what ?

(f) Were these conditions brought to the notice of Mahatma Gandhi when he suspended the Civil Disobedience Movement ?

The Honourable Sir Harry Haig : (a) to (f). I think the Honourable Member's question was drafted some time ago and refers to conditions now out of date. I do not think there is anything I can add to the Government communiqués and the various statements issued by Mr. Gandhi and Mr. Aney, which the Honourable Member has no doubt read.

Mr. Lalchand Navalrai : May I know whether Government are aware that Mahatma Gandhi said that if he was allowed an interview he would place facts of such nature that they would be acceptable to Government ?

The Honourable Sir Harry Haig : Mr. Gandhi made some statement of that sort, but when he was asked exactly what he meant I think he made it clear that he had nothing definite in his mind, but that he intended to rely on the inspiration of the moment.

Mr. Lalchand Navalrai : Inspirations many times are not wrong.

The Honourable Sir Harry Haig : I have every respect for inspiration.

Mr. Lalchand Navalrai : Was Mahatma Gandhi actually asked as to what he had to say at the interview ?

The Honourable Sir Harry Haig : No, Sir. We did not pursue that question.

Mr. Lalchand Navalrai : Was it not fair to give an opportunity to Mahatma Gandhi to unfold what he had in his mind ?

The Honourable Sir Harry Haig : The position of Government is stated in the telegram which was sent on behalf of His Excellency the Viceroy.

Mr. N. M. Joshi : May I ask whether Government can give us some information as regards the recent relation between the Government and Mahatma Gandhi and his fast ?

The Honourable Sir Harry Haig : There is a short notice question on that subject later on.

Mr. Muhammad Azhar Ali : Did the Government in any way stop Mahatma Gandhi from unfolding his feelings or expressions of mind ?

The Honourable Sir Harry Haig : No, Sir.

ENFORCEMENT OF THE ATTENDANCE OF PERSONS AT POLICE STATIONS BY POLICE OFFICERS.

8. ***Mr. Lalchand Navalrai :** (a) Will Government be pleased to state if there is a practice in India in general and in centrally governed areas in particular that police officers enforce the attendance of persons without any order in writing on the pretext that such persons are supposed to be acquainted with the facts and circumstances of the case before them ?

(b) Is it a fact that they keep them in attendance for a long time without examining them and only allow them at intervals to go for their meals and night rest ?

(c) Is it a fact that the provisions of section 160, Code of Criminal Procedure, which require the enforcement of attendance by order in writing and also require subsequent attendance by order in writing ? If so, what steps have Government taken against such methods of the police ?

(d) Do Government know that such persons, as are so brought to the police stations on the pretext of getting information from them, are detained and eventually arrested and sent up as accused persons ? If so, under what law or order of Government is this procedure carried on ?

(e) Will Government be pleased to state if suspects are being called upon to appear before police officers without being arrested under section 54 and other sections of the Code of Criminal Procedure, are kept with the latter on the ground of making enquiries from them, are many times passed on to the hands of the Zamindars for getting information from them and finally arrested and sent to Court, reckoning the time of the arrest when they finally put handcuffs on them and send them to Court without showing their entire detention ?

(f) Have Government authorised such detentions ?

(g) Are Government aware that such procedure as aforesaid has been condemned by various High Courts in India from time to time ? What steps have Government taken to see such procedure remedied ?

(h) Are Government prepared to issue a clear and definite circular, warning the police officers against such acts, and taking such other measures as Government deem necessary ? If not, why not ?

The Honourable Sir Harry Haig : My replies to the various clauses of this question are confined to centrally administered areas, with which the Government of India are primarily concerned, but I have no reason to suppose that the alleged practices exist in the provinces.

(a) and (b). The answer is in the negative.

(c) The question does not arise.

(d) and (e). No such cases have come to notice.

(f) No.

(g) No such judgments have been specifically brought to the notice of Government. The second part does not arise.

(h) As the answers to the preceding clauses show, there is no need for the issue of any instructions on the subject.

Sardar Sant Singh : Did the Government make enquiries from the Local Governments of centrally administered areas as to the way in which section 160, Code of Criminal Procedure is administered ?

The Honourable Sir Harry Haig : Enquiries were made from all the centrally administered areas.

Sardar Sant Singh : May I inform the Honourable Member that the practice complained of is widely prevalent and the answer is not in accordance with facts ?

The Honourable Sir Harry Haig : I am giving the House the gist of the answers received from the administrations.

Sardar Sant Singh : May I inform the Honourable Member that the practice exists in almost all the police stations throughout India. The suspects are sent for, detained there without arrest in order to avoid peremptory provisions of section 167, Code of Criminal Procedure, and are harassed a good deal ?

The Honourable Sir Harry Haig : I can only reply that the officers from whom we enquired deny the existence of this practice.

Mr. Lalchand Navalrai : As the question pertains to the whole of India, may I know whether the Government are precluded from making enquiries from other provinces and knowing the truth ?

The Honourable Sir Harry Haig : The Government of India have a special responsibility in regard to centrally administered areas.

Mr. Lalchand Navalrai : May I know whether the Government of India have no responsibility with regard to what happens in other parts of India ?

The Honourable Sir Harry Haig : The Government of India prefer not to interfere more than is necessary with the administration of Provincial Governments which, we hope, before long, will be autonomous.

Mr. Lalchand Navalrai : May I know if Local Governments do a great wrong and it comes to the notice of the Government of India by a regular question in the House, yet the Government of India will abstain from making enquiries ?

The Honourable Sir Harry Haig : May I remind the Honourable Member that Provincial Governments have their own Legislative Councils in which it would seem natural that questions of this kind, if indeed abuse does exist, would be raised ?

Mr. Lalchand Navalrai : May I know, therefore, with such autonomy as at present exists, the Government of India have no interference at all in a question like this ?

The Honourable Sir Harry Haig : The Government of India do not propose to take the matter up with the Local Governments.

Mr. Lalchand Navalrai : May I know definitely one thing ? Have the centrally administered areas informed the Honourable Member that there is actually a practice going on in this manner that suspects are called to the *thanas*, they are kept there without any warrant for three or four days.....

Mr. President (The Honourable Sir Shanmukham Chetty) : The Honourable Member cannot make a speech.

Mr. Lalchand Navalrai : What I am submitting is that these suspects are put up before a Magistrate after an unauthorised detention of five or six days, my question is whether the Honourable Member knows this ?

The Honourable Sir Harry Haig : I have already answered the Honourable Member's question that the allegations were brought to the notice of the centrally administered areas and the Chief Commissioners have said that they are not aware of any such cases.

Mr. B. R. Puri : May I know if the Government realise the utter futility of making enquiries from the parties concerned against whom allegations are made and may I also add that the Government would be pleased to indicate the nature of the evidence that they expect in support of the allegation that this scandal does actually prevail and before what forum we are to place that evidence ?

The Honourable Sir Harry Haig : If there were any such cases, I should suppose there would be complaints which would come to the notice of the local administration.

Mr. Lalchand Navalrai : May I know from the Honourable Member whether he is prepared to issue orders even in the centrally administered

areas that in view of these things being brought to the notice of the House the *challan* should show that they were arrested from the moment they were brought into the *thana* ?

The Honourable Sir Harry Haig : I think the reference which we have already made to the local administrations as a result of the Honourable Member's question would be sufficient notice or reminder to them of the state of the law, but I am perfectly prepared to forward copies of these supplementary questions and answers to the local administrations concerned.

Mr. Lalchand Navalrai : And also to the Local Governments ?

The Honourable Sir Harry Haig : Yes, Sir ; I do not mind sending to them also.

Sardar Sant Singh : Do Government propose to make inquiries from the Bar Associations of the various districts under the direct control of the Central Government ?-

The Honourable Sir Harry Haig : No, Sir ; I do not propose to make any further inquiries.

Mr. B. B. Puri : May I know, why ? Do Government really believe that the Bar Associations are not competent to give sound information on this point or is it because the Bar possess first-hand information as to what is actually happening ?

The Honourable Sir Harry Haig : I take it that we have had the views of the Bar Associations before us. We know what the allegations are and the Local Governments will now know also.

PERSONS WHIPPED IN CONNECTION WITH THE CIVIL DISOBEDIENCE MOVEMENT.

9. ***Mr. Lalchand Navalrai :** (a) Will Government be pleased to state how many prisoners were whipped in the years 1932 and 1933, respectively, for offences connected with the Civil Disobedience Movement ?

(b) Were they whipped under the sections of the Indian Penal Code for offences involving theft, damage to property and assembly for unlawful purposes or under any other law ?

(c) Were they so whipped under the orders of the Magistrates who convicted them or under the executive orders, or both ?

(d) Will Government be pleased to state if in the opinion of the Magistrates no other punishment was suitable for these prisoners in place of the sentence of whipping ? If the answer be in the affirmative, what were the reasons for the same ?

The Honourable Sir Harry Haig : (a) 541 in 1932 ; 85 in 1933 up to the 30th June.

(b) In the great majority of cases the punishment of whipping was inflicted for offences under the Indian Penal Code. In some instances this punishment was awarded for offences under other enactments.

(c) The whipping in all cases was inflicted under magisterial orders.

(d) I have no doubt that magistrates passed sentences of whipping in view of the fact that they considered them suitable.

Pandit Satyendra Nath Sen : Do Government remember that a Resolution for including whipping in the list of punishments for crimes against women was opposed by Government in this House last year ?

The Honourable Sir Harry Haig : Yes, Sir ; I think that is correct.

Pandit Satyendra Nath Sen : Do Government think that these technical offences are more heinous than crimes like abduction, rape, etc. ?

The Honourable Sir Harry Haig : I am not prepared to accept the suggestion that these offences were all technical.

Pandit Satyendra Nath Sen : Is it not a fact that these offences were connected with the Civil Disobedience Movement ?

The Honourable Sir Harry Haig : Sentences were passed in the ordinary course of events and perhaps the House will remember that in connection with the legislation which was passed last autumn we made a provision which we hoped would relieve magistrates from the necessity of this kind of punishment, namely, that the responsibility in the case of juveniles was placed on the parents.

Mr. Jagan Nath Aggarwal : Is it not time that the Government of India considered the desirability of abolishing this punishment ?

The Honourable Sir Harry Haig : I must leave the Honourable Member to argue that out with his Honourable friend sitting behind him (Pandit Satyendra Nath Sen).

Mr. Lalchand Navalrai : Can the Honourable Member state if the instructions of Government are being faithfully followed ?

The Honourable Sir Harry Haig : I think the Honourable Member will notice from the figures I have given that the number of punishments of whipping was very much reduced in 1933.

HOUSING PROBLEM OF THE INDIAN EMPLOYEES OF THE EAST INDIAN RAILWAY AT JAMALPUR.

10 ***Mr. S. C. Mitra :** (a) Is it known to Government that the housing problem of the Indian employees of the East Indian Railway at Jamalpur is growing more acute day by day, no quarters having been provided for them and there being hardly any private quarters available there ?

(b) If it is not known to the Government, are they prepared to enquire into this ?

Mr. P. B. Rau : Government are aware that there is a demand for more quarters for Indian employees at Jamalpur.

Mr. Gaya Prasad Singh : What provision is being made for meeting that demand ?

Mr. P. B. Rau : That is dealt with in the next question.

HOUSING PROBLEM OF THE INDIAN EMPLOYEES OF THE EAST INDIAN RAILWAY AT JAMALPUR.

11. ***Mr. S. C. Mitra :** (a) Is it known to Government that a plot of land measuring 119.3 acres at a cost of Rs. 98,467 was purchased at

Jamalpur for building quarters for the Indian employees as far back as 1922 and that not even a brick has been laid in the course of these ten years involving the Railway in loss of interest for the capital thus blocked ?

(b) Will Government please say if it is their intention to build quarters in the near future ?

(c) If the answer to part (b) be in the negative, will Government please state how they propose to solve the housing problem of the Indian employees at Jamalpur ?

(d) Is it a fact that out of 235 quarters at Jamalpur 212 have been let or reserved for the European and Anglo-Indian employees, leaving only 23 quarters for the Indians ?

(e) If the answer to part (d) be in the affirmative, will Government please state how they propose to remove the racial discrimination ?

(f) Is it a fact that at times some quarters are allowed to remain vacant indefinitely and are not let out to Indian claimants, involving the Railway in loss of rent ?

(g) If the reply to part (f) be in the affirmative, do Government propose to stop the practice in order to let out as many quarters as possible to Indians applying for them ? If so, how ?

Mr. P. R. Rau : (a), (b) and (c). The plot of land referred to was acquired for building not only quarters for Indian employees but also a High English School and a hostel for Indian apprentices. These two buildings, as well as quarters for certain staff of the Technical School, have been built on the land up to date, but owing to financial stringency further expenditure on the provision of quarters has had to be deferred. The Administration reports that more quarters will be built as funds become available.

(d). There are at Jamalpur 220 quarters of European type, 72 quarters of Indian clerical type and 249 quarters for inferior employees.

(e) Government understand that the question of racial discrimination does not arise, as the existing quarters are generally allotted to and occupied by the staff for whom they were originally provided.

(f) and (g). Vacancies of quarters are generally of short duration and of unavoidable nature. Moreover, as recognised by the Honourable Member in his next question, European type quarters are not always suited to Indian employees and sometimes not liked by them.

Mr. M. Maswood Ahmad : Will Government be pleased to state whether Indian employees are more in number than Europeans at Jamalpur and whether the number of quarters is greater for Europeans or for Indians ?

Mr. P. R. Rau : I have already given the information as regards the second part of the question. As regards the first part, I should think the answer is obvious.

Mr. M. Maswood Ahmad : That is, the Indians are more in number ?

Mr. P. R. Rau : Of course.

Mr. M. Maswood Ahmad : But the number of quarters is less.

Mr. S. C. Mitra : Will the Honourable Member take into consideration the fact that although Indians prefer Indian style quarters, they might prefer European style quarters instead of having no quarters at all ?

Mr. P. R. Rau : As a matter of fact, the Administration recognises that and does make quarters that are likely to be vacant for long periods available to Indian employees.

HOUSING PROBLEM OF THE INDIAN EMPLOYEES OF THE EAST INDIAN RAILWAY AT JAMALPUR.

12. ***Mr. S. C. Mitra :** (a) Is it a fact that the few quarters let out to the Indian employees of the East Indian Railway at Jamalpur are not provided with arrangements such as squatting, latrines, courtyards separated from adjoining Europeans' quarters ?

(b) If so, what steps do Government propose to take in the matter ?

(c) Is it a fact that for the last two years the white-washing and cleaning of the quarters which is most essential for sanitation and health have been stopped ?

(d) Is it a fact that in certain cases house-building advances have been refused to employees desiring to build houses of their own (which is admissible under the rules) on the ground that there are Railway quarters at Jamalpur, while the Railway administration cannot provide quarters when requested ?

(e) If the answer to part (d) be in the affirmative, do Government propose to issue instructions to the Railway administration not to refuse such advances ?

Mr. P. R. Rau : (a) All Indian clerical type quarters are provided with courtyards and latrines to suit Indian customs but it is possible that some Indian employees have been occupying European type quarters which are not provided with such facilities.

(b) The present state of affairs will be remedied when additional Indian type quarters are provided as funds become available.

(c) No. The Administration reports that, although revenue expenditure has been curtailed during the last few years, whitewashing and cleaning of quarters essential for sanitation and health have been carried out.

(d) In three cases, in which house building advances have been refused, Government understand that railway quarters were available which though of European type were similar to those occupied by other Indian staff in similar categories to the applicants.

(e) I am sure the Administration will deal sympathetically with requests for house building advances from staff for whom railway quarters cannot be made available.

SUPPLY OF RULE BOOKS TO THE EAST INDIAN RAILWAY EMPLOYEES.

13. ***Mr. S. C. Mitra :** (a) Is it a fact that one of the clauses of the service agreement executed by the old East Indian Railway employees states that each of them has been supplied with a rule book under which they are guided, whereas for the employees no rule book pertaining to them has been supplied to them nor are they available for purchase ?

(b) If the answer to part (a) be in the affirmative, do Government propose to take action to print such rule books and to supply each of the employees with a copy or at least offer them for sale ?

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

EMPLOYMENT OFFICER AT THE JAMALPUR WORKSHOPS.

14. ***Mr. S. C. Mitra :** Will Government please say how the appointment of an Employment Officer at the Jamalpur Workshops has been justified compared with such an appointment in the North Western Railway ?

Mr. P. R. Rau : There is not much difference in the arrangements in the two railways. In the North Western Railway workshops at Moghalpura there is an officer who, though called by a different name—Assistant Personnel Officer—performs practically the same duties as the Employment Officer at Jamalpur.

CONTINUANCE OF THE EAST INDIAN RAILWAY BAND AT JAMALPUR.

15. ***Mr. S. C. Mitra :** Will Government please state the reasons for the continuance of the East Indian Railway Band at Jamalpur at a monthly cost of Rs. 850 chargeable to Revenue and Rs. 750 chargeable to Staff Benefit Fund in these days of economy when the staff are being discharged ? Is it a fact that it serves only a very small fraction of the employees of the administration ?

Mr. P. R. Rau : The question of the future of the East Indian Railway band as well as of similar bands on other Railways is at present engaging the attention of Government.

RESOLUTIONS PASSED BY THE INDIAN NATIONAL CONGRESS HELD IN CALCUTTA.

16. ***Mr. Gaya Prasad Singh :** (a) Are Government aware that the following are some of the resolutions passed at the 47th Session of the Indian National Congress held in Calcutta recently :

“(i) This Congress re-affirms the resolution passed at its 44th Session at Lahore in 1929 declaring complete independence as its goal,

(ii) This Congress holds civil disobedience to be a perfectly legitimate means for the protection of the rights of the people, for the vindication of national self-respect and for the attainment of the national goal ” ?

(b) Are Government aware that the Congress also passed resolutions declaring its adherence to the programme of civil disobedience and the boycott of British goods, and condemned the White Paper as “ inimical to the vital interests of India, and devised to perpetuate foreign domination in this country ” ?

(c) Will Government kindly state how, in spite of elaborate precautions, such resolutions came to be passed ?

The Honourable Sir Harry Haig : (a) and (b). The Honourable Member has correctly described some of the resolutions which it was intended to pass if the Congress Session had been held at Calcutta.

(c) The holding of the Session was prevented and no resolutions were actually passed.

Mr. Gaya Prasad Singh : Is it not a fact that these Resolutions were actually passed even when the assaults on the delegates were taking place in the tram shed at the Esplanade Junction ?

The Honourable Sir Harry Haig : No, Sir ; my information is that the resolutions were not passed.

Kunwar Hajee Ismail Ali Khan : May I know what was the attendance in the session ?

The Honourable Sir Harry Haig : I suppose there were a few hundred people present.

PERSONS ARRESTED, RELEASED AND PROSECUTED IN CONNECTION WITH THE
HOLDING OF THE CONGRESS SESSION IN CALCUTTA.

17. ***Mr. Gaya Prasad Singh :** Will Government be pleased to state even approximately the total number of persons arrested in the country in connection with the holding of the recent session of the Congress in Calcutta, the number of persons released, and the number of persons against whom prosecutions were instituted ? Under what sections of the law were such persons arrested, and subsequently released ?

The Honourable Sir Harry Haig : I lay on the table a statement giving the required information.

Statement showing the approximate number of persons arrested and released in connection with the attempt to hold the Congress Session at Calcutta and the number against whom action was taken.

Total Number of persons arrested.	Number released.	Number prosecuted.	Section of the law under which arrests were made.
1,765	1,441	324	Action was mainly taken under section 17 of the Criminal Law Amendment Act of 1908 and section 161 of the C. P. C., and in a few cases under section 54, Criminal Procedure Code, section 188/511 of the Indian Penal Code ; section 18 of the Indian Press (Emergency Powers) Act of 1931, sections 3 and 14 of the Bombay Special (Emergency) Powers Act, 1932, and section 3 of the Bengal Public Security Act, 1932.

ALLEGATIONS OF ASSAULT MADE ON THE CONGRESSMEN AFTER THEIR ARREST IN CALCUTTA.

18. ***Mr. Gaya Prasad Singh :** (a) Will Government be pleased to state if the enquiry made by the Government of Bengal into the allegations of assault, made on the Congressmen after their arrest in Calcutta, contained in the statement of Pandit Madan Mohan Malaviya, a copy of which was forwarded to the Honourable the Home Member, was a public enquiry, or a judicial enquiry ; and were the persons on whom the assault was alleged to have been committed examined ? If not, why not ?

(b) Are Government aware that Pandit Madan Mohan Malaviya has challenged a public enquiry into the affair ; or, in the alternative, he challenges Government to prosecute him ?

(c) In view of the serious nature of the allegations, do Government propose either to hold a public and impartial enquiry into the matter, or to sanction prosecution of Pandit Madan Mohan Malaviya ?

(d) Do Government propose to lay a copy of the report of the Bengal Government on the table, with such other connected papers as may be available ?

The Honourable Sir Harry Haig : (a) and (c). I would refer the Honourable Member to the *Communiqué* issued by the Government of India on the 29th May, 1933, which makes it clear that the Government of Bengal caused a departmental enquiry to be made into these allegations. The departmental enquiry satisfied the Local Government that no case was made out against the police, and there is therefore no occasion for Government to take any further action. If the persons alleged to have been assaulted were prepared to establish their case before a judicial tribunal, the Courts were open to them and they could have instituted criminal complaints. This, however, they did not choose to do. The persons said to have been assaulted were not examined in the course of the departmental enquiry as they were all released between the night of 1st April and 7th April, while the statement of Pandit Madan Mohan Malaviya which was the basis of the subsequent enquiry was not put forward till the 9th April.

(b) Yes.

(d) No.

Mr. Gaya Prasad Singh : Was Pandit Madan Mohan Malaviya written to to substantiate his charges ?

The Honourable Sir Harry Haig : No.

Mr. Gaya Prasad Singh : Why ?

The Honourable Sir Harry Haig : Because the Government thought it desirable in the first place to hold a departmental inquiry.

Mr. Gaya Prasad Singh : Who were examined in the course of this departmental inquiry and who held the inquiry ?

The Honourable Sir Harry Haig : The inquiry was held by the Commissioner of Police.

Mr. Jagan Nath Aggarwal : What kind of inquiry was it, public or private ?

The Honourable Sir Harry Haig : It was a departmental inquiry and that means it was private.

Mr. Gaya Prasad Singh : Who were the persons, if any, who were examined in the course of that inquiry ?

The Honourable Sir Harry Haig : The statements of the officials concerned were taken and the whole circumstances were very carefully reviewed.

Mr. Gaya Prasad Singh : The very officers against whom allegations of assault were made were examined and they denied it : is that the position of the Government ?

The Honourable Sir Harry Haig : The whole circumstances of the case were examined very carefully : there were written records regarding the reception of these people : various facts were known to the public and the Government ; and on top of that the Commissioner of Police held a very careful departmental inquiry.

Mr. Gaya Prasad Singh : What time did this farcical inquiry take ?

The Honourable Sir Harry Haig : I cannot accept the description of the Honourable Member and the adjective that he has applied to the inquiry : it was in fact a very careful one. The allegations of Pandit Malaviya were made, I think I said, on the 9th April, and we received the conclusions of the Bengal Government towards the end of May.

Mr. D. K. Lahiri Chaudhury : Has the attention of Government been drawn to the recent statement in this connection made by Mr. Prentice in the local Legislative Council ?

The Honourable Sir Harry Haig : I have not got it with me.

Mr. D. K. Lahiri Chaudhury : Is it not a fact that Mr. Prentice stated on the floor of the Bengal Legislative Council that a light *lathi* charge was made ?

The Honourable Sir Harry Haig : That is quite possible : it was not denied that the crowds at the Congress session time were dispersed : that is not denied.

Mr. D. K. Lahiri Chaudhury : Light *lathi* charges were made by the police ?

The Honourable Sir Harry Haig : What is denied by the Government is the assertion that delegate after delegate, as he stood up to move the resolutions, was violently attacked by sergeants wielding *lathis* with all their might.

Mr. B. R. Puri : May I know what was the agency which conducted the inquiry in the first place ?

The Honourable Sir Harry Haig : I have already answered that question.

Mr. B. R. Puri : The Police Commissioner was the officer inquiring into the allegations made against the police subordinates : is that the position ?

The Honourable Sir Harry Haig : I have already answered the question.

Mr. B. R. Puri : May I know if, apart from the actual parties concerned, namely, the police officers against whom allegations were made, any independent evidence was also recorded ?

The Honourable Sir Harry Haig : I have not got with me the full record of the departmental inquiry : that is with the Government of Bengal.

Mr. B. R. Puri : Under the circumstances, do the Government of India feel quite satisfied, knowing as we do that no other evidence was at all recorded ?

The Honourable Sir Harry Haig : Yes ; we are quite satisfied.

Mr. B. R. Puri : In view of the assurance that the Honourable Member has just now given, that it is open to any parties who feel aggrieved to seek redress in proper Courts by proving their cases against the offending police officers, may I know if the Government of India are prepared to give the assurances that the necessary sanction will be given to the parties who seek that sanction before these police officers can be prosecuted ?

The Honourable Sir Harry Haig : That is a question that must be addressed to the Local Government. The Government of India are not administering the affairs of Calcutta, and that is a question which both in law and in practice must be addressed to the Local Government.

Mr. B. R. Puri : Do the Government of India recognise the utter hollowness of this suggestion which is now being given to us on the floor of this House that an aggrieved party should seek his redress in the ordinary Courts, when they are not prepared to tell us or give us an assurance that the proper sanction, which is an impediment in the way of a private party seeking redress, will be given ?

The Honourable Sir Harry Haig : Has the Honourable Member got any reason to suppose that anybody has applied for sanction and that any difficulty has been put in his way ?

Mr. B. R. Puri : I can cite a recent instance of the Lahore D. A. V. College Professor who was assaulted by the police : I was a party who applied for the sanction and I was refused that sanction and ultimately we had to sue the offending police officers on the civil side and we got damages to the extent of Rs. 10,000.

The Honourable Sir Harry Haig : The Honourable Member has misunderstood the point of my question. I was not referring to conditions in the Punjab : I was referring to the incidents in Calcutta.

Mr. B. R. Puri : It is all one Government.

Mr. Lalchand Navalrai : May I know from the Honourable Member a definite reply whether on the inquiry that they have made into the allegations of Pandit Malaviya, they take it that what Pandit Malaviya has said is absolutely untrue ?

The Honourable Sir Harry Haig : The position of Government is explained very fully in the Government communiqué.

Mr. Gaya Prasad Singh : Are Government aware that I have got in my possession letters written by some of those who were assaulted during police custody, from my province of Bihar, and are Government prepared to make inquiry into this matter ?

The Honourable Sir Harry Haig : No : I was not aware of that.

Mr. S. C. Mitra : If I followed the Honourable Member correctly, he said that in the departmental inquiry they could not examine the persons who were assaulted, because they were released : is that the case ?

The Honourable Sir Harry Haig : No : I think that by the time the allegations were made, all the persons who were alleged to have been assaulted were no longer in police custody.

Mr. S. C. Mitra : May I take it that Government do not doubt that the assaulted persons are very material witnesses and that it was within the power of the Government to get the addresses of these people who were released at the time of enquiry and their addresses must have been in the police registers ?

The Honourable Sir Harry Haig : They came no doubt from different provinces, but I do not deny that it would have been possible to get hold of them had the Government been satisfied that there was a *prima facie* case for making an inquiry : of that they were not satisfied.

Mr. S. C. Mitra : Do not Government think that the evidence of the persons who were assaulted by the police is material and that they are satisfied with recording the opinions of the police officers who were only examined in the departmental inquiry ?

The Honourable Sir Harry Haig : The view of the Government was that there was no *prima facie* case

Mr. Gaya Prasad Singh : Why was not Pandit Madan Mohan Malaviya prosecuted for making such a serious allegation against the police ?

The Honourable Sir Harry Haig : That, I think, would have been quite an unnecessary proceeding.

Mr. Gaya Prasad Singh : That will expose the truth, you mean ?

The Honourable Sir Harry Haig : No : we do not want to encumber our Courts with cases whenever an allegation is made, which we do not consider to be true.

Mr. Gaya Prasad Singh : My question is : the Government did not dare prosecute Pandit Madan Mohan Malaviya for fear that the truth might come out : is that correct ?

The Honourable Sir Harry Haig : No ; Government are perfectly satisfied about the truth of this case.

Mr. Gaya Prasad Singh : But not the public.

Mr. K. C. Neogy : Is it a fact that one circumstance on which the

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Government communiqué reflects is that, although the Bengal Legislative Council was open till the 4th of April, no allegation of this character with regard to the assaults committed upon certain people in the police station were made in the Bengal Legislative Council itself ?

The Honourable Sir Harry Haig : That is one of the points put forward by the Bengal Government.

Mr. K. C. Neogy : Does the Honourable Member know that the people who made those complaints were actually in police custody till the 4th of

April, and that the process of their release began from that date and went on till the 7th, and that the Bengal Legislative Council had meanwhile adjourned, namely, on the 4th of April ?

The Honourable Sir Harry Haig : That does not cover the allegations about what happened when the attempt to hold the session, on, I think, the 1st of April, was made.

Mr. K. C. Neogy : Does that cover the point with regard to the assaults committed upon people in police custody ?

The Honourable Sir Harry Haig : No, Sir ; that argument only goes a certain distance, and I have indicated the limits of it.

Mr. K. C. Neogy : Is the Honourable Member now prepared to say that the official communiqué itself, in no far as it did not distinguish between the two sets of allegations, tried to mislead the public with reference to a very important particular, namely, that although the Bengal Legislative Council was open, none of these allegations were made in that Council ?

The Honourable Sir Harry Haig : No, Sir ; I cannot at all agree that the communiqué was in any way misleading.

Mr. K. C. Neogy : Does the Honourable Member challenge the fact that I have mentioned, namely, that the people who were assaulted remained in custody till the 4th April, and that the Bengal Legislative Council adjourned on that date ?

The Honourable Sir Harry Haig : I must again repeat what I have already stated to the Honourable Member that the first of these allegations was undue violence in the dispersal of the crowd on the 1st of April.

Mr. K. C. Neogy : Does the Honourable Member recognise that Pandit Madan Mohan Malaviya's statement complained more about the assaults committed upon helpless people in police custody than upon assaults committed upon delegates when the session was held, because he said they were perfectly prepared for that kind of violence ?

The Honourable Sir Harry Haig : Whatever the point of Pandit Malaviya's complaint may have been, he made these allegations which were not true, in fact the incidents took place on the 1st of April and no complaints were made in the Bengal Legislative Council though it was in session till the 4th April.

Mr. K. C. Neogy : Does the Honourable Member recognise then that it was physically impossible for these complaints to be made in the Bengal Legislative Council in so far as those complaints related to incidents which happened in the police stations, simply because the people who might have made these complaints were in police custody till the 4th, if not till the 7th ?

The Honourable Sir Harry Haig : That may be so ; but I still maintain my original point that with regard to the dispersal of the crowd on the 1st of April, that is a perfectly good argument.

Mr. K. C. Neogy : Does the Honourable Member then recognise that the press communiqué in so far as it did not distinguish between these two sets of allegations did seek to mislead the public ?

The Honourable Sir Harry Haig : Certainly not.

Mr. K. C. Neogy : Will the Honourable Member now issue a press communiqué correcting the previous communiqué in this particular matter ?

The Honourable Sir Harry Haig : No, Sir ; I have no doubt quite sufficient publicity is given to the Honourable Member's question.

SHORT NOTICE QUESTION AND ANSWER.

MR. GANDHI'S FAST.

Mr. M. Maswood Ahmad : (a) Will Government please state whether Mr. Gandhi has started a fast unto death ?

(b) If so, will they please state :

(i) what facilities were denied to him for untouchable work which were unacceptable to him ;

(ii) what restrictions on interviews and correspondence were imposed ;

(iii) what were his demands ; and

(iv) why these demands were unacceptable to Government ?

The Honourable Sir Harry Haig : I would refer the Honourable Member to the press communiqué issued by the Government of India on the 18th August, 1933.

Mr. Lalchand Navalrai : Will the Honourable Member kindly inform us what that communiqué was ? We do not remember it now.

The Honourable Sir Harry Haig : I should be very glad to lay a copy on the table of the House.

Mr. Lalchand Navalrai : For the purpose of putting supplementary questions, I should be glad if the Honourable Member would kindly give a concise statement of it.

The Honourable Sir Harry Haig : I must explain to the Honourable Member who apparently is not in the habit of reading newspapers that it was a long and elaborate communiqué, and I am afraid I am not in a position to summarise it.

Mr. Lalchand Navalrai : I do read communiqués which appear to me to be reasonable, but I say that I forget what that particular communiqué was, and if the Honourable Member will give us a brief summary of it, I shall be very glad.

Mr. Gaya Prasad Singh : Will Government be pleased to give us the latest information with regard to the condition of Mahatma Gandhi's health ?

The Honourable Sir Harry Haig : A telegram which we received last night said that the general condition of Mr. Gandhi at noon yesterday was reported to be fair.

Mr. Lalchand Navalrai : May I know, Sir, what is meant by Government by abandonment of civil disobedience ? Does it mean that the Civil Disobedience Movement should be ceased and should not be revived at any time ?

The Honourable Sir Harry Haig : I think, Sir, that when in the past we have used the phrase abandonment of civil disobedience we have not intended that any one should pledge himself never for fifty or a hundred years to have recourse to the weapon, but that they should genuinely and unequivocally abandon it now.

Mr. M. Maswood Ahmad : Is it a fact that the facilities given to Mahatma Gandhi on the previous occasion have been denied to him now ?

The Honourable Sir Harry Haig : That is so.

Mr. M. Maswood Ahmad : What are the facilities that are denied to him now ?

The Honourable Sir Harry Haig : On the previous occasion Mr. Gandhi was allowed full freedom to see any visitors and to conduct any correspondence, to give press interviews, in fact to behave in this particular respect as if he were a free man. On the present occasion the Government have declined to allow Mr. Gandhi to give press interviews, they have restricted the number of visitors to two a day and have also restricted the number of letters that he should be allowed to write to five a day.

Mr. M. Maswood Ahmad : Will Government be pleased to say whether the facilities that were given to Mahatma Gandhi on the previous occasion were in any way misused by him ?

The Honourable Sir Harry Haig : It is not a question of misuse, but whether they can really be reconciled with the position of a prisoner.

Mr. D. K. Lahiri Chaudhury : Will Government explain what they mean by mass civil disobedience and individual civil disobedience ?

The Honourable Sir Harry Haig : These are not phrases invented by Government. They occur, I think, in Mr. Aney's statement, and I think it would be for Mr. Aney or Mr. Gandhi to explain precisely what they mean.

Mr. S. C. Mitra : May I ask what a State Prisoner is ? Is he a prisoner ?

The Honourable Sir Harry Haig : He is, Sir, but as we were discussing earlier this morning, he has certain privileges which are not enjoyed by an ordinary prisoner.

Mr. S. C. Mitra : Is Mahatma Gandhi a prisoner ?

The Honourable Sir Harry Haig : Yes.

Mr. S. C. Mitra : Then why is he given facilities which are denied to other prisoners who have been convicted for civil disobedience, mass or individual ?

The Honourable Sir Harry Haig : That is certainly a pertinent question, and it was a matter which Government took into very serious consideration before they reached their conclusion on this occasion, but they thought that as they had given certain facilities for the prosecution of this movement, it would not be reasonable to withdraw them altogether.

Mr. K. C. Neogy : Do I take it then that there is no question of principle involved in this particular decision of the Government in so far as they have already allowed certain relaxations in the ordinary jail rules ?

The Honourable Sir Harry Haig : Well, Sir, we can argue for a long time as to what is a principle and what is not. But I would say that unlimited facilities are not really consistent with jail discipline.

Mr. Jagan Nath Aggarwal : If some concessions have now been made in the case of Mr. Gandhi, would it not be fair to give him all the concessions which were granted to him as a State Prisoner and which he did not abuse on that occasion ?

The Honourable Sir Harry Haig : No, Sir. We considered that very carefully and we came to the conclusion that the facilities offered to Mr. Gandhi were ample to enable him to make the contribution which he might require to make to that movement.

Mr. S. C. Mitra : May I take it that the facilities and privileges given to him were given as a matter of political consideration, unlike in the case of other prisoners ?

The Honourable Sir Harry Haig : No, Sir. I think one must recognise that the underlying motive was that there should be no unreasonable obstacle interposed to work which was believed to be of social importance.

Mr. S. C. Mitra : Do the Government think now that it is not of social importance—doing work for untouchables—or are there any other grounds now for thinking that the conditions have changed as regards the work for untouchables ?

The Honourable Sir Harry Haig : No, Sir. The position of the Government is that the facilities they have offered they consider quite sufficient to enable Mr. Gandhi to make an effective contribution to that movement.

Mr. S. C. Mitra : Why were not those restrictions imposed on the last occasion ? Whether State Prisoner, or ordinary prisoner, they are all prisoners in the ordinary legal sense of the term.

The Honourable Sir Harry Haig : Well, perhaps, it was unwise not to impose these restrictions originally. But the House must remember that at that time the movement was just started and Mr. Gandhi's contention really was that he must have certain facilities in order to inaugurate that movement ; otherwise, it might be still born.

Mr. Muhammad Azhar Ali : Are Government aware that the limitations now imposed are against the Poona Pact ?

The Honourable Sir Harry Haig : No, Sir. I do not understand the argument.

Mr. M. Maswood Ahmad : Do Government contemplate any trouble in allowing Mr. Gandhi the same facilities which were allowed to him on the previous occasion ?

The Honourable Sir Harry Haig : Yes, great trouble to jail discipline.

Mr. B. R. Puri : May I know, is it on account of the fact that the Government are in sympathy with the Harijan movement that these concessions are given, or is it on account of the personality of the man ?

The Honourable Sir Harry Haig : Government did not want to appear to be impeding efforts to raise the status and condition of the depressed classes.

Mr. B. B. Puri : Is that the only consideration for which these concessions are made, or is there any other consideration also, relating to the personality of the gentleman ?

The Honourable Sir Harry Haig : No, Sir. I think it is fair to say that that is the real reason.

Mr. M. Maswood Ahmad : Are Government prepared to release Mr. Gandhi on medical grounds if they find his life in danger ?

The Honourable Sir Harry Haig : I am not prepared to make any statement as to what our action may be in the future.

Mr. B. B. Puri : If these concessions have no reference to the personality of Mahatma Gandhi, are the Government prepared to allow the same concessions to other prisoners also who may be disposed to take interest in the Harijan work or in any other noble work ?

The Honourable Sir Harry Haig : No, Sir. It is not a question of the personality of Mr. Gandhi, but of the position that he occupies with reference to this Harijan movement.

Mr. B. B. Puri : Is it, then, the Harijan movement, or Mahatma Gandhi ? I want you to recognise the distinction. If the Government of India are showing these facilities to Mahatma Gandhi because he is Mahatma Gandhi, then let the Government make it clear. But if it is on account of the nature of the work with which the Government are in sympathy, then Government should frankly say so as other questions might arise. Therefore I want the Honourable Member to state what the position of the Government is. Are you showing these facilities because the nature and quality of the work is such that the Government want to see it promoted, or is it because it is constrained to show these concessions because the man with whom Government are dealing is a Mahatma Gandhi ?

The Honourable Sir Harry Haig : I have already answered my Honourable friend's question.....

Mr. B. B. Puri : You have successfully evaded giving a definite reply.

The Honourable Sir Harry Haig :to the best of my ability by saying that these concessions are given because of the position that Mr. Gandhi holds in this Harijan movement.

Mr. B. B. Puri : Would you grant similar concessions to Mr. Aney or any other Congressman if he were to intimate to you that he is about to start a similar work ?

The Honourable Sir Harry Haig : No, Sir ; he would not have the same position in the movement.

Mr. B. B. Puri : Then it is both position as well as nature of the work ?

The Honourable Sir Harry Haig : Yes.

Mr. B. B. Puri : Well, then, why did you not say so in the beginning ? (Laughter.)

The Honourable Sir Harry Haig : That is precisely what I said in my first answer to the Honourable Member's question which apparently he did not listen to. (Laughter.)

Mr. B. R. Puri : May I know on what considerations the Government have put Mahatma Gandhi in "A" Class? He is obviously not a man who is leading European mode of life, but just the opposite of it, and he is a man who possesses no property. If it has no reference to the personality of the man, may I know on what other considerations he was put in "A" Class—certainly not under any recommendation of the Court?

The Honourable Sir Harry Haig : Mr. Gandhi appears to have a traditional claim to "A" Class.

Mr. B. R. Puri : Then, I take it that you concede the principle that inside the prison wall Mahatma Gandhi is entitled to preferential treatment—you concede that, don't you? Once you clear your position with regard to that point, then I shall get along to the next question.

The Honourable Sir Harry Haig : No, Sir. It seems to me that I am being put to an elaborate cross-examination which I hope will not continue until lunch time.

Mr. Lalchand Navalrai : Mine is a simple question. I would like to know from the Honourable Member if the visitors who visited Mahatma Gandhi when he was a State Prisoner were sent in with the permission of the Superintendent or not, and whether some of them were rejected or not?

The Honourable Sir Harry Haig : My impression is that anybody who claimed to see Mr. Gandhi to discuss these untouchable questions was allowed to go.

UNSTARRED QUESTIONS AND ANSWERS.

RETRENCHMENT OF ACCOUNTANTS FROM THE MILITARY ACCOUNTS DEPARTMENT, RAWALPINDI.

1. **Mr. Gaya Prasad Singh :** (a) Is it a fact that six passed Accountants (Subordinate Accounts Service) were compulsorily retrenched from the Military Accounts Department, Rawalpindi, while unpassed and unqualified clerks were retained?

(b) If the reply to part (a) be in the affirmative, will Government be pleased to lay on the table a statistical statement showing the total number of Accountants, passed Subordinate Accounts Service permanent and temporary clerks retrenched in the Military Accounts Department in each District?

(c) Is it a fact that Government, with the concurrence of the Secretary of State, have decided to re-employ the retrenched individuals in the vacancies that might occur in future?

(d) If the reply to part (c) be in the affirmative, will Government be pleased to state the reasons as to why the temporary clerks in the Military Accounts Department have recently been confirmed ?

(e) Is it also a fact that the Military Accountant General has stated that he does not intend to re-employ the retrenched individuals in the Military Accounts Department ?

(f) Is it true that certain individuals in the Military Accounts Department, Quetta and Lahore, on the recommendations of their respective Controllers, were immediately taken back after being served with notice of discharge ?

(g) If the reply to the above questions be in the affirmative, will Government be pleased to state the reason for not taking similar action in cases of Rawalpindi retrenched passed Accountants (Subordinate Accounts Service) who were also recommended very highly by their Controller ?

The Honourable Mr. A. H. Lloyd : (a) In the Rawalpindi Office ten accountants (Subordinate Accounts Service) and six clerks, who had passed the qualifying examination for this service but were not yet placed in vacancies, were retrenched because the Selection Board found them to be definitely inefficient. Many efficient clerks, included in a different grade of the Military Accounts Department from the Accountants and Subordinate Accounts Service passed clerks, were retained in service. No person is admitted to the Department in a clerical capacity unless he has certain specified educational qualifications and in addition has passed an initial qualifying examination.

Retrenchment was carried out in the Military Accounts Department in all grades of subordinate appointments. The Selection Boards classified all men who in their opinion fell below the standard of efficiency required in their grade in order of positive demerit ; and those who stood highest in that order were retrenched to the extent of the quota of reductions required in that grade.

(b) A statement is placed on the table.

(c) While Government have decided to consider favourably the re-employment of those discharged for no fault of their own, they are certainly not prepared to re-employ those discharged for inefficiency ; and inefficiency was the sole criterion employed in the recent retrenchments in the Military Accounts Department.

(d) In view of what has been said above this does not arise. Temporary clerks are confirmed on their merits as vacancies arise.

(e) Yes : for the reasons already given in reply to parts (a) and (c).

(f) " No " as regards Quetta. In Lahore, one man who had been selected for retrenchment owing to extreme deafness but who had not demitted office and who later obtained an instrument overcoming his only disability was continued in service.

(g) Does not arise.

Statement showing the number of Accountants, Passed Subordinate Accounts Service Clerks, permanent and temporary clerks retrenched in the Military Accounts Department in each District.

Controller of Military Accounts.	Accountants.	Passed Subordinate Accounts Service Clerks.	Permanent Clerks.	Temporary Clerks.	Total.
Northern Command ..	10	6	28	1	45
Eastern Command ..	7		27	5	39
Southern Command ..	13	..	30	2	45
Western Command	3	1	11		15
Controller of Military Accounts and Pensions, Lahore.	5	1	25		31
Burma District ..	..		7	..	7
Controller of Army Factory Accounts, Calcutta.	5		28	4	37
Controller of Royal Air Force Accounts, Ambala.	2		4		6
Controller of Marine Accounts, Bombay.		..	4		4
Total ..	45	8	164	12	229

TRANSFER OF THE CONTROL OF THE BADRINATH TEMPLE TO THE RULER OF THE TEHRI ESTATE.

2. Pandit Ram Krishna Jha : (a) Is it a fact that Government are going to transfer the control of the Badrinath Temple to the Ruler of the Tehri Estate ? If so, what has led to this change in the matter of control of Badrinath Temple (district Garhwal, U. P.) ?

(b) Are Government aware that the Sanatanist institutions and the leading Sanatanist Hindus throughout the country are against the transfer of the control of the Badrinath Temple (district Garhwal, U. P.), from the Government to the Ruler of the Tehri Estate ?

(c) Are Government aware that such transfer will affect the scheme laid down by the High Court in 1899 with respect to the traditions of worship observed at the Badrinath Temple ?

Major W. K. Fraser-Tytler : The question of the transfer of the Badrinath temple to the Tehri State has been raised by the Tehri Darbar and is at present being considered by the Government of the United Provinces whose attention has been drawn to the Honourable Member's question.

DIVERSION OF THE EAST INDIAN RAILWAY PUNJAB MAILS FROM THE MAIN LINE TO THE GRAND CHORD.

3. Mr. Bhuput Sing : Will Government be pleased to state whether the authorities of the East Indian Railway intend to divert the Up and Down Punjab Mails *via* Grand Chord (Gaya line) ? If so, what are the benefits to be gained by the change and are Government aware :

- (a) that by such a change a vast portion of the travelling public going over long distances will be put to inconceivable inconvenience, as the Punjab Mail is the quickest train having connections everywhere on the main line ;
- (b) that by this contemplated change a large influx of passengers coming from Loop line, North Behar and Patna will suffer considerably ;
- (c) that through the Grand Chord line, with no important stations or centres excepting Gaya, are run two mails and three expresses ; and
- (d) that it would be extremely convenient for the large number of travelling public from Patna and Mokama and all other portions of North Behar if the original arrangement is retained, so that they can get direct through connections both up and down country ?

Mr. P. B. Rau : Government understand that it is intended to run the Up and Down Punjab Mails *via* the Grand Chord from 1st October, 1933, but at the same time to extend the 5 Up and 6 Down Mails, which at present run only between Moghalserai and Lahore to Howrah, running *via* the main line practically to the same timings as the Punjab Mails now run. This it is considered will improve the service.

(a) and (b). No.

(c) By suitable re-arrangements the number of trains over the Grand Chord and the main line will remain the same as at present.

(d) In view of the fact that a through 1st and 2nd class carriage will run between Patna, Delhi and Kalka or Lahore *via* Allahabad, Government consider that the proposed changes will not result in any inconvenience.

DIVERSION OF THE EAST INDIAN RAILWAY PUNJAB MAILS FROM THE MAIN LINE TO THE GRAND CHORD.

4. Mr. Bhuput Sing : (a) Will Government be pleased to state how the proposed running of 5 and 6 Lahore Mails to Howrah and running them *via* Patna—as a substitute—will in any way remedy the extreme inconveniences to be caused by the diversion of the Punjab Mail to the Grand Chord ?

(b) Do Government know that no direct connections from Loop and Main lines are kept through Moghalserai to Delhi and to Allahabad, Cawnpore and other important stations of the East Indian Railway ?

(c) Before finally deciding on the change, do Government propose to put the matter before the Central Advisory Committee ?

Mr. P. R. Rau : (a) and (b). As I have already stated Government are of opinion that the proposed changes will not result in any inconvenience to any appreciable portion of the travelling public.

(c) This is more a matter for the Local Advisory Committee of the East Indian Railway.

RETRENCHMENT OF ACCOUNTANTS FROM THE MILITARY ACCOUNTS DEPARTMENT, RAWALPINDI.

5. Mr. Gaya Prasad Singh : (a) Is it a fact that six passed Accountants (Subordinate Accounts Service) were compulsorily retrenched from the Military Accounts Department at Rawalpindi, while unpassed and unqualified clerks were retained ? If so, why ?

(b) Is it a fact that Government with the concurrence of the Secretary of State, have decided to re-employ the retrenched individuals in the vacancies that might occur in future ?

(c) If the reply to (b) above be in the affirmative, will Government be pleased to state the reasons as to why the temporary clerks in the Military Accounts have recently been confirmed ?

(d) Is it true that certain individuals in the Military Accounts Department at Quetta and Lahore, on the recommendations of their respective Controllers, were immediately taken back after being served with notice of discharge ?

(e) If the reply to (d) above be in the affirmative, will Government be pleased to state the reason for not taking similar action in cases of Rawalpindi retrenched passed Accountants (Subordinate Accounts Service) who were also recommended very highly by their Controller ?

The Honourable Mr. A. H. Lloyd : The attention of the Honourable Member is invited to the reply given to his unstarred Question No. 1 placed on the table today.

RECRUITMENT OF THE MINISTERIAL ESTABLISHMENT OF THE CONTRACTS DIRECTORATE, ARMY HEADQUARTERS.

6. Mr. Gaya Prasad Singh : (a) Is it a fact that the ministerial establishment of the Contracts Directorate, Army Headquarters, is recruited independently of the Public Service Commission ?

(b) Is it because the Director of Contracts wanted to recruit men with special commercial training that this exemption was given ?

(c) Is not the work of the Indian Stores Department and the Contracts Directorate identical ? If so, why has not the exemption been extended to the former Department ?

(d) Will Government be pleased to state what are the special commercial qualifications of officers of the Office of the Director of Contracts ?

(e) Is it not necessary that officers and clerks should all be recruited from the commercial community ?

(f) Is it a fact that two officers of this office are due to vacate their appointments in 1934 ? If so, do Government propose to appoint in their place Indians having commercial attainments ?

(g) Is it a fact that some new clerical appointments have been sanctioned for this office ? If so, will Government be pleased to state the names of those appointed and the special commercial training each of them underwent before appointment ?

(h) Is it a fact that the Director of Contracts held an examination for the recruitment of these men ? If so, will Government be pleased to state why this examination could not be conducted by the Public Service Commission ? Can Government not arrange all recruitment to this office through the Public Service Commission, fixing certain minimum commercial qualifications ? If not, why not ?

(i) Is it a fact that some clerks recruited in this office in 1928 are still temporary ?

(j) Is it a fact that these temporary clerks were not allowed to appear in the Departmental Examination held by the Public Service Commission in 1931, whereas temporary clerks having one year's service in other offices were allowed to appear at that examination ? If not, why not ?

(k) Will Government be pleased to state what steps they propose to take to enable those clerks to try elsewhere ?

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

(b) Partly for this reason, and partly because it was considered desirable to test personally the commercial qualifications of the candidates and their general aptitude for the special work that they would be called upon to perform.

(c) The work of the Contracts Directorate is similar to that of the Indian Stores Department. That Department has not found it necessary as a general rule since 1924 to recruit men with commercial experience, but it has been necessary, even since that date, to recruit a small number of individuals otherwise than through the Public Service Commission in view of the technical qualifications or previous experience required.

(d) There is no question of academic commercial qualifications in the case of officers. A knowledge of army requirements is essential ; and officers for the Contracts Directorate are selected from those who have showed marked business capacity in the quasi-commercial services of the Army ; namely, the Ordnance and Army Service Corps.

(e) No.

(f) The answer to the first part of the question is in the affirmative. The answer to the second part is in the negative, as special military knowledge is required.

(g) 11 new temporary appointments were sanctioned last January

The names of those appointed are as follows :

1. S. Mayuranathan.
2. Ram Chand Mehra.
3. Kasturi Lal Sobti.

4. Nikka Ram Law.
5. Vidya Parkash Lal Tejpal.
6. Shokat Husain.
7. Harbans Lal Jain.
8. Shiva Shankar Lal Rohatgi.
9. Parkash Rup Kaila.
10. Jogindar Singh.
11. S. F. Rahman.

Government are not prepared to publish the qualifications of individuals in their service.

(h) The Director interviewed the candidates personally with reference to the particular duties they would be called upon to perform ; and also tested their general intelligence by giving them a general knowledge paper and a paper on commercial arithmetic to answer in writing. As previously explained in answer to Mr. Lalchand Navalrai's question No. 1368, dated 7th November, 1932, it is considered that better results are obtained in this way than by depending on a regular examination held by the Public Service Commission.

(i) Yes.

(j) The special examination in question was held for the benefit of temporary clerks in offices for which the ordinary recruitment is made by the Public Service Commission, and was not therefore open to the temporary clerks in the Contracts Directorate.

(k) It has always been open to the temporary clerks of the Contracts Directorate to take the open competitive examination held by the Public Service Commission if they satisfy the prescribed conditions.

GRIEVANCES OF THE MUSLIM EMPLOYEES OF THE DEHRA DUN POSTAL DIVISION.

7. **Lieut. Nawab Muhammad Ibrahim Ali Khan :** (a) Will Government be pleased to state the number of Muslims appointed in the Mussoorie Head Post Office and its town Sub Offices in the inferior cadre during the years 1931, 1932, 1933, in officiating and permanent vacancies, and, if the ratio of 33 per cent. is not maintained, are Government prepared to take suitable action in case any deliberate evasion to observe the recent and repeated orders of the Government is noticed against the Post Master, Mussoorie ?

(b) Are Government aware of the grievances of the Muslim Postal employees of the Dehra Dun Division, which were duly represented to higher authorities ? If not, are Government prepared to call for the original files and peruse them so that truth may dawn ?

(c) What action do Government propose to take in the matter in order to redress the grievances of the aggrieved community and punish the party at fault ?

The Honourable Sir Frank Noyce : (a) I regret that the information is not available ; I may point out that the Honourable Member appears to be under a misimpression, as there is no rule that Muslims should constitute 33 per cent. of the staff.

(b) I do not know to what grievances the Honourable Member refers.

(c) Government are not in a position to take any action, in the absence of information as to the grievances and of evidence that any person is at fault.

EXAMINATION FOR RECRUITMENT OF POSTAL CLERKS.

8. **Lieut. Nawab Muhammad Ibrahim Ali Khan** : Will Government be pleased to state their reasons for not sending the papers of the examinees at the examination held for recruitment of clerks for approval to the Postmaster-General, during the month of March, 1930 ? Is it a fact that the orders for the stoppage of recruitment were received later on in the month of June, 1930 ?

The Honourable Sir Frank Noyce : I regret I am unable to answer the Honourable Member's question for want of particulars as to the incident to which he refers. If he will be more explicit both as to the examination and to the Postal Circle about which he requires information I will do my best to obtain it for him.

MOTION FOR ADJOURNMENT.

RESERVATION OF APPOINTMENTS FOR MINORITY COMMUNITIES.

Mr. President (The Honourable Sir Shanmukham Chetty) : Order, order. I have received a notice from Sardar Sant Singh that he proposes to ask for leave to make a motion for the adjournment of the business of the House for the purpose of discussing a definite matter of urgent public importance, which runs as follows :

“ The proposed reservation of appointments in all departments under the Government of India and controlled by it for minority communities whereby out of 33 $\frac{1}{3}$ per cent. of the appointments reserved for nomination for minorities 25 per cent. are proposed to be reserved for Muslims, 6 per cent. for Anglo-Indians, the remaining 2 $\frac{1}{3}$ per cent. for other minorities, totally excluding the depressed classes from such reservation.”

Before enquiring whether any Honourable Member has any objection to this motion, the Chair would like to hear from the Honourable the Mover how he considers his motion to be in order especially in relation to rule 12, sub-rule (ii) which says that the motion must be restricted to a specific matter of recent occurrence. The Chair would like to know what is the matter of recent occurrence which has given rise to this motion.

Sardar Sant Singh (West Punjab : Sikh) : Sir, this motion is in order, because the matter is of recent occurrence. I understand that a confidential circular was issued by the Government of India to the heads of Departments some time after the last Session and before the beginning of this Session, in which they have stated that further recruitment, which depends upon nomination only, should be on the lines mentioned in my adjournment motion.

As I understand the Standing Order, I think that anything that occurs in the interval when the House is not sitting is of recent occurrence on the day when the House opens and that is my justification for putting forward this adjournment motion on this, the first meeting day of the House.

[Sardar Sant Singh.]

As regards the subject matter of this motion, the Government propose to lay down a policy in the matter of the recruitment to the services and as such my submission is that the Members of this House come to know of a certain policy of Government from various sources. My information is that at a certain meeting of the Members comprising the Government of India certain instructions were laid down and certain decisions were arrived at. In those decisions, I complain that too much importance has been given to one community,—and other communities, especially the Sikh community and the depressed classes have been denied those rights.

Mr. President (The Honourable Sir Shanmukham Chetty) : The Honourable Member need not go into the details of his motion at this stage. Does the Chair understand him to say that he has got definite information in his possession that the Government of India have taken a decision that with regard to the recruitment of services the principles laid down in his Resolution now should be adopted in future ? Does the Chair understand the Honourable Member to say that the Government of India have taken that decision and that that is his information ?

Sardar Sant Singh : That is my information. The Government of India have taken that decision in regard to the services controlled by them.

Mr. President (The Honourable Sir Shanmukham Chetty) : Has the Leader of the House got anything to say on this ?

The Honourable Sir Joseph Bhore (Leader of the House) : Yes, Sir, I take objection to this motion and I base that objection....

Mr. President (The Honourable Sir Shanmukham Chetty) : The Chair does not want to hear any objection from the Honourable Member just now. The Chair wants information from the Honourable Member. Has the Government of India taken any decision, according to which the recruitment to services will be made according to the principles enunciated in this motion ?

The Honourable Sir Joseph Bhore : The Government have taken no decision in regard to that matter. The question of communal proportions in the services is undoubtedly engaging their attention, but they have taken no final decision in the matter.

Sardar Sant Singh : In that case I do not want to press my motion.

GOVERNOR GENERAL'S ASSENT TO BILLS.

Mr. President (The Honourable Sir Shanmukham Chetty) : I have to inform the House that the following letter has been received from the Private Secretary to His Excellency the Viceroy :

" I have the honour to inform you that the following Bills which were passed by both Chambers of the Indian Legislature during the Delhi Session, 1933, have been

assented to by His Excellency the Governor General under the provisions of sub-section (1) of section 68 of the Government of India Act :

1. The Indian Marine (Amendment) Act, 1933,
2. The Children (Pledging of Labour) Act, 1933,
3. The Indian Forest (Amendment) Act, 1933,
4. The Cotton Textile Industry Protection (Amendment) Act, 1933,
5. The Wheat Import Duty (Extending) Act, 1933,
6. The Salt Additional Import Duty (Extending) Act, 1933,
7. The Indian Finance Act, 1933,
8. The Indian Tariff (Ottawa Trade Agreement) Supplementary Amendment Act, 1933,
9. The Provincial Criminal Law Supplementing Act, 1933,
10. The Auxiliary Force (Amendment) Act, 1933,
11. The Indian Merchant Shipping (Amendment) Act, 1933,
12. The Indian Income-tax (Amendment) Act, 1933,
13. The Safeguarding of Industries Act, 1933, and
14. The Indian Tariff (Amendment) Act, 1933."

STATEMENTS LAID ON THE TABLE.

The Honourable Sir Harry Haig (Home Member) : Sir, I lay on the table the information promised in reply to starred question No. 1119 asked by Mr. Muhammad Muazzam Sahib Bahadur on the 3rd April, 1933.

CASUALTIES DUE TO RASH DRIVING IN NEW DELHI AND DELHI CITY.

*1119. The number of casualties due to rash driving during the three years in question was as follows :

1930	..	..	12
1931	..	..	10
1932	..	..	13

The number of prosecutions for rash driving not attended with untoward results was as follows :

1930	..	18
1931	..	13
1932	..	43

The Honourable Sir Frank Noyce (Member for Industries and Labour) : Sir, I lay on the table the information promised in reply to parts (d) to (h) of starred question No. 429 asked by Mr. Muhammad Anwar-ul-Azim on the 21st February, 1933.

APPOINTMENT OF MUSLIMS IN THE SIND AND BALUCHISTAN CIRCLE.

*429. (d) No.

(e) and (f). Do not arise in view of the reply given to part (d).

(g) No. The Muslim population both literate and illiterate in Sind is 73 per cent., in Baluchistan 89 per cent., and in the entire Postal Circle 76 per cent.

(h) 29.84 per cent., including the Railway Mail Service.

The Honourable Mr. A. H. Lloyd (Finance Member) : Sir, I lay on the table :

- (i) the information promised in reply to starred question No. 1122 asked by Mr. B. N. Misra on the 5th April, 1933 ;
- (ii) the information promised in reply to starred question No. 1123 asked by Mr. B. N. Misra on the 5th April, 1933 ;
- (iii) the information promised in reply to starred question No. 1132 asked by Mr. Gaya Prasad Singh on the 5th April, 1933 ; and
- (iv) the information promised in reply to unstarred questions Nos. 73 and 74 asked by Kunwar Hajee Ismail Ali Khan on the 8th March, 1933.

COMPLAINTS ABOUT ADULTERATION IN COUNTRY LIQUOR BOTTLES.

*1122. (a) Government have received no such complaints from the public.

(b) No. Differences in retail prices may, however, have prompted smuggling.

DUTY ON COUNTRY LIQUOR.

*1123. (a) Yes. In 1931-32 the country liquor shops were licensed on fixed fees whereas in 1932-33 the licenses were put to auction, resulting in an increase of 111 per cent. in license fees. The duty on country liquor was reduced from Rs. 10 to Rs. 7-8-0 per gallon.

(b) Yes. The duty on country liquor has again been reduced to Rs. 6-1-0 per gallon for the current year. The licenses auctioned in February, 1933, resulted in a decrease in revenue by Rs. 1,530 only.

(c) The decrease being negligible, no special reasons can be assigned to it.

(d) Yes. The sale price of Rs. 3 per bottle of country liquor in Delhi leaves very little margin of profit to the licensees as a bottle of the liquor costs him about Rs. 2-13-0 (Rs. 1-7-0 being purchase price and Rs. 1-6-0 being incidence of license fees) excluding such other expenses as cost of carriage, rent of shop, pay of staff, etc., etc.

RETRENCHMENT OF INCOME-TAX OFFICERS IN BIHAR AND ORISSA.

*1132. (a) Of the three officers retrenched, one volunteered himself for retrenchment. As regards the other two, the principle of selection for retrenchment on the ground of inefficiency was applied.

(b) Yes.

(c) The answer to the first part of the question is in the affirmative. The correctness of the allegation in the latter part of the question is not admitted.

(d) As inefficient officers were involved, there was no reason to consider any such question.

(e) No.

(f) No.

LICENCE FEES FOR *Charas* SHOPS IN DELHI.

73. The revenue from license fees for *Charas* shops in Delhi during 1931-32 exceeded the revenue for 1930-31, 1929-30 and 1928-29 by Rs. 35,010, Rs. 66,310 and Rs. 109,260, respectively.

INCREASE OR DECREASE IN THE EXCISE REVENUE IN DELHI.

74. The excise revenue realised from license fees in Delhi for 1932-33 and 1933-34 exceeded the revenue for 1931-32 by Rs. 1,04,116 and Rs. 1,13,576, respectively.

Major W. K. Fraser-Tytler (Foreign Secretary) : Sir, I lay on the table :

(i) the information promised in reply to starred questions Nos. 55 and 56 asked by Mr. M. Maswood Ahmad on the 2nd February, 1933 ; and

(ii) the information promised in reply to starred questions Nos. 94, 95 and 96 asked by Mr. Nabakumar Sing Dudhuria on the 27th September, 1932.

GENEALOGICAL TABLE OF THE DELHI ROYAL FAMILY PREPARED BY THE CHIEF COMMISSIONER OF DELHI.

*55. (a) Yes.

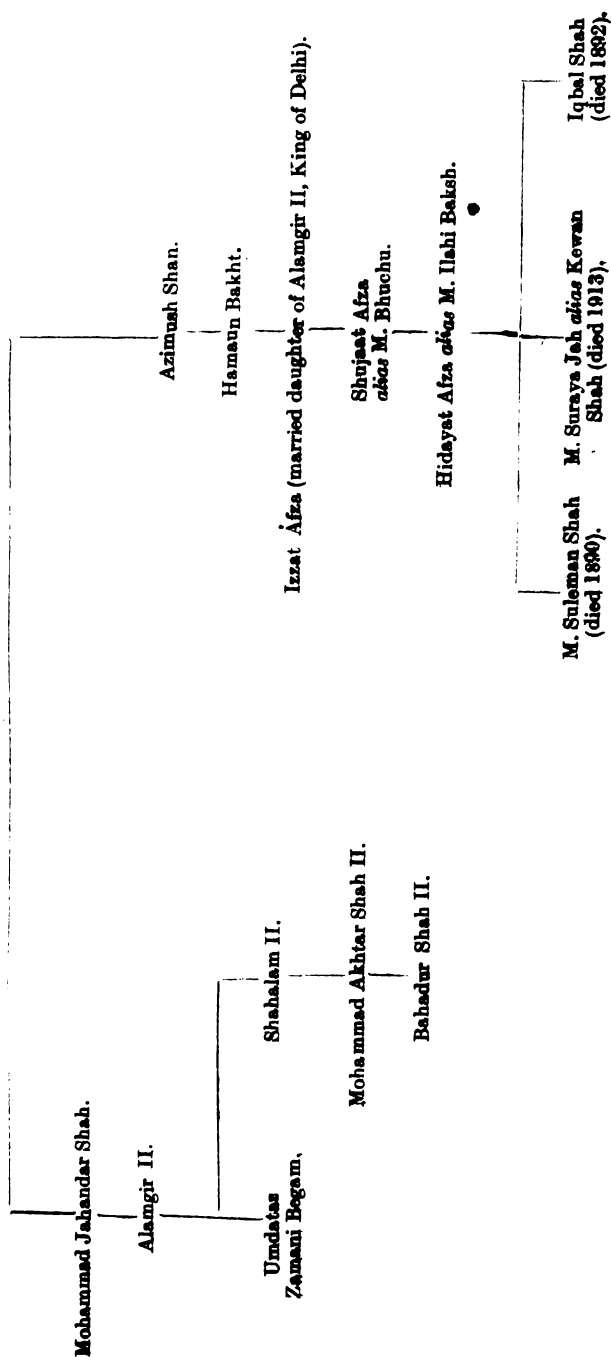
(b) A copy of it is laid on the table.

GENEALOGICAL TREE OF THE EX-ROYAL FAMILY OF DELHI, 1916.

SHAHJAHAN.

AURANGZEB

SHAH ALAM I.



ABU ZAFAR SIRAJ-UD-DIN MOHAMMAD BAHADUR SHAH II.

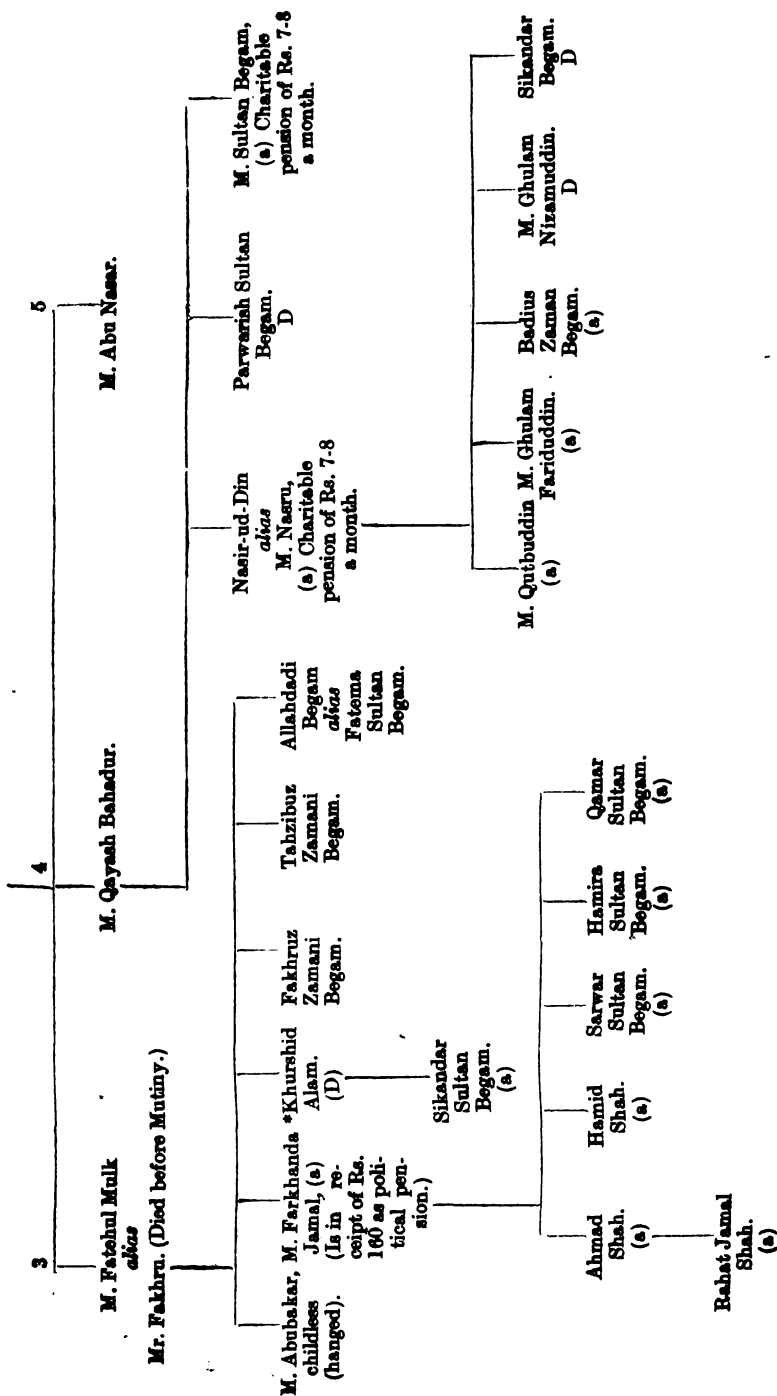
[illegible]

M. KAUKAS ² alias SHAHRUKH.

(Died before Mutiny.)

[illegible]

BAHADUR SHAH II.



Note.—(a) = Alive.

D=Dead. *His widow is in receipt of a pension of Rs. 18.

BAHADUR SHAH II.—*contd.*

6		7	
Abdul Hasan <i>alias</i> M. Abdullah.		M. Mohammed Zahiruddin <i>alias</i> Mughal (shot).	
M. Ahmad Sultan.		M. Mohammed Mujahiduddin D (was in receipt of a charitable pension of Rs. 5).	
Aisha Begam. (a)		M. Qadiruddin. (Was in receipt of Rs. 5 now dead.)	
Qadir Zamani Begam <i>alias</i> Bismillah Begam. D		M. Mohammed Bedar Bakht <i>alias</i> M. Shahjahan Begam. Rafuddin (a)	
Qadir Zamani Begam <i>alias</i> Bismillah Begam. D		Razia Sultan Begam. (a)	
Anwar Jahan Begam. (a)		Nur Jahan Begam. (a)	
M. Bakhtiar- uddin. (a)		M. Fasihuddin. (a)	
Rahat Afroz <i>alias</i> Nanhi Begam. (a)		M. Sirajuddin. (a)	
Akhtar Zamani Begam. D		M. Zakiruddin. (a)	
Hamiduddin.		Musharaf Zamani Begam.	
Ikhtiyaruddin.		Khajista Sultan Begam.	
Imdaduddin.		Sarwar Sultan Begam. (a)	
2 daughters, <i>viz.</i> Shah Jahan Begam and Mehr Zamani Begam. (a)		Wahiduddin. (a)	

Note.—(a)=Alive.
D=Dead.

BAHADUR SHAH II—concl.

[illegible]

PENSION AID TO THE DELHI ROYAL FAMILY.

*56. (a) The expenditure on account of political pensions, including compassionate allowances paid to the Delhi *ex-Royal* family in the last financial year, amounts to Rs. 43,229.

(b) Rs. 16,799.

(c) Central Funds.

(d) 44-Territorial and Political Pensions—Central.

(e) No. Political pensions are paid to members of the Delhi *ex-Royal* family residing elsewhere than Delhi.

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

*94. (a) Though it has always been maintained that the Nawab Nazims had no right to alienate Nizamut property, nevertheless the British Government ruled in 1836 that the Nawab Nazim should not be allowed to alienate lands, buildings, plate and other hereditary property belonging to the Nizamut.

(b) The decision was communicated to the Agent to the Governor General for his guidance in case the Nawab evinced a disposition to alienate lands, etc.

(c) No.

(d) No jagirs or gifts appear to have been granted by any Nawab Nazim after Nawab Mobarak-ud-Dowlah.

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

*95. (a) No document can be traced among the old records showing the origin of the Nizamut lands or any definite recognition of them by the Supreme Government. The British Government having, apparently, on acquiring the country admitted the Nazims to possession of the rannas and continued it unquestioned ever since.

(b) After considerable difficulty and the examination of innumerable papers, some of which were proved to be forged while the authenticity of others was doubtful, the Commissioners prepared lists of State and private properties.

(c) A copy of the list is laid on the table.

List of Nawab Nazim's Private Properties.

Name of Muhl.
 Bakrigali Mohalla.
 Kularia.
 Jot Ramath Pal.
 Esin Kuli Masjid.
 Gunditola—shops.
 Riasat Bagh.
 Dewan Motilal Bagh.
 Bagh Firdos Ali Khan.
 Kambar Ali Khan Bagh.
 Begamganj Bagh.
 Panchraha, two plots of land.
 Lal Bagh—Waris Ali and Inayat Ali.
 Hosain Bagh—Nakavitola.
 Aishbagh.
 Udwant Bagh.
 Karimabad Bagh—Itwar Ali Khan.
 Chanda Bagh.

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

*96. (a) The last Nawab Nazim had a life interest only in such property as he acquired by means of special grants from the Nizamut Deposit Fund, that is to say, from the portion of the annual allowance appropriated to the family as distinguished from his own stipend; also property acquired by the Nawab by reason of his holding the dignity of Nawab Nazim for the time being by succession to the estate of his predecessor, or by inheritance from other persons whose estates pass, under the custom of the family, to the Nawab Nazim for the time being.

(b) No.

Mr. G. S. Bajpai (Secretary, Department of Education, Health and Lands) : Sir, I lay on the table the information promised in reply to starred question No. 1090 asked by Pandit Satyendra Nath Sen on the 1st April, 1933.

POPULATION OF NEW DELHI.

*1090. (a) (1) 64,855 (Census 1931).

(2) to (7). The information asked for is not readily available.

(8) (1) 29 million gallons per month.

(2) 31 million gallons per month.

(3) 25 million gallons per month.

(9) Hot weather. 10 million gallons per month.

Winter. 16.5 million gallons per month.

(b) There are seven public stand-posts on the roads in New Delhi. In addition water taps are available near Tonga Stands, Dhobi Ghats and Peon quarters. These water taps are accessible to the public. During summer temporary 'Piaos' are permitted at suitable places.

(c) Yes.

(d) The exact meaning of the question is not understood.

Mr. P. R. Rau (Financial Commissioner, Railways) : Sir, I lay on the table the information promised in reply to starred question No. 634 asked by Seth Haji Abdoola Haroon on the 3rd March, 1933.

PLACING OF CERTAIN CLERKS ON SPECIAL DUTY IN THE OFFICE OF THE AGENT,
NORTH WESTERN RAILWAY.

*634. (a) Yes.

(b) The Agent, North Western Railway, reports that four temporary posts were created in the following grades for varying periods during the years 1931 to 1933 for work in connection with retrenchment, co-ordination of Personnel work, Labour Commission, etc., but against the four posts referred to above, two permanent posts, viz., one in Grade VII and one in Grade V were held in abeyance for the periods 17th July 1931 to 23rd October 1932 and 1st January 1932 to 31st January 1933, respectively. Consequently only two temporary posts, viz., one in Grade VII and one in Grade I are now in operation :—

2 posts in Grade VII on Rs. 500 each,

1 post in Grade V in the scale Rs. 215—15—275, and

1 post in Grade I in the scale Rs. 29—3—60.

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D

(c) The clerks appointed to two Grade VII posts were given Rs. 500 each and the clerk appointed in Grade V post was given Rs. 215 in the scale Rs. 215—15—275. Extra pay allowed to the clerks placed on special duty and the percentage which that bears to their substantive rate of pay are shown below :

	Substantive pay of the incumbent of each temporary post.	Rate of extra pay allowed during the incumbency of temporary post.	Proportion which the extra pay bears to substantive rate of pay.
	Rs.	Rs.	
Grade VII post (i)	330	170	51.5
Grade VII (ii)	440	60	13.6
	460	40	8.5
	480	20	4.2
Grade V post (iii)	190	25	13.2
	200	15	7.5
	200	30	15.4
	200	45	22.5
	200	60	30.0

(iv) The Grade I post was filled by the appointment of a temporary typist on Rs. 30 per mensem in grade Rs. 39—3—60.

DEATHS OF SIR ZULFIQAR ALI KHAN AND KHAN BAHADUR SARFARAZ HUSSAIN KHAN.

The Honourable Sir Joseph Bhore (Leader of the House) : Sir, it is once more our mournful duty to record the passing of yet another Member of this House. Sir Zulfiqar Ali Khan was connected with the reformed Indian Legislature ever since its inception in 1920, first as an elected Member of the Council of State, then as an elected Member of this House and subsequently as a nominated Member of this Assembly. But, Sir, his connection with the public life of this country was not limited to his parliamentary activities. He was a member of the Indian Central Committee which was appointed to work with the Statutory Commission on Constitutional Reforms. He was also a member of the Indian Delegation to the Assembly of the League of Nations at Geneva. His record of service for the public and for his community was both long and varied, yet I venture to think that he will be specially remembered for those personal qualities which impressed those with whom he was brought into contact—for that delightful old-world courtesy worthy of one whose name finds a place in the golden book of the Punjab, for that never failing urbanity which seemed to be proof against all trials, for that kindness and generosity which marked the true gentleman. I would ask you, Sir, to convey to his widow and his

relatives our deep sense of loss at his demise and our warm sympathy with them in their bereavement.

Mr. Abdul Matin Chaudhury (Assam : Muhammadan) : Sir, on behalf of the Independent Party I desire to associate ourselves with the tribute that has been paid by the Honourable the Leader of the House to the memory of Nawab Sir Zulfiqar Ali Khan. By the Nawab Sahib's sad and sudden death the Assembly has lost one of its outstanding personalities and the Muslim community one of its most distinguished leaders. The Assembly is distinctly poorer to-day by the loss of a Member of his eminence. He was undoubtedly one of the leaders of thought in the Assembly and his wise, sagacious and experienced utterances were always heard with respect and attention in the various sections of the House. The Honourable the Leader of the House has already made a reference to his personal qualities. He was pink of courtesy, highly cultured and was the finest specimen of gentleman that we have ever come across. He was held in very great esteem by all sections of the House. The loss to the Assembly by his death is great, but the loss to the Muslim community is irreparable. He belonged to that galaxy of leaders who devoted their time and energy for the awakening of political consciousness and creating healthy public life in our community. It is sad to contemplate, Sir, that in recent years we had to mourn the loss of men like Maulana Muhammad Ali, Sir Ali Imam, Mian Sir Muhammad Shafi and Mr. Hasan Imam, and to-day we are expressing our deep sorrow at the passing away of another towering figure in the person of Sir Zulfiqar Ali Khan.

Mr. Gaya Prasad Singh (Muzaffarpur *cum* Champaran : Non-Muhammadan) : Sir, I beg to associate myself and the members of the Nationalist Party with all that has fallen from the lips of the Leader of the House. In the death of Nawab Sir Zulfiqar Ali Khan we have lost a very charming personality who, by his urbanity of manners and winning disposition, won the hearts of all of us. The Honourable the Leader of the House has already recounted the various activities of the late Nawab Saheb, and I do not want to repeat them. I only request you, Sir, that you will be pleased to convey an expression of our sincere condolence, to the members of the bereaved family.

Mr. R. S. Sarma (Nominated Non-Official) : Sir, in the absence of the Leader of our Party, I wish to associate the Centre Party and myself with the sentiments of sorrow and regret expressed by the Leader of the House and Leaders of other Parties on the loss sustained by this House and the country by the demise of Sir Zulfiqar Ali Khan, whose unselfish services ungrudgingly rendered in the cause of his community and country will be remembered long and gratefully by his countrymen.

Mr. G. Morgan (Bengal : European) : Sir, I should like to associate myself and the Party which I represent with the sentiments expressed by the Leader of the House at the great loss which has been sustained by the death of Sir Zulfiqar Ali Khan. I feel it a personal loss, as I esteemed it a great privilege to count him as a friend and it was a great shock to me to see his death stated in the public press. I, therefore, ask you, while associating myself with the sentiments expressed by the Leader of the House, to convey to his bereaved family the sense of loss which we in this House have sustained.

Captain Sher Muhammad Khan Gakhar (Nominated Non-Official) : Sir, I rise on behalf of these Benches as well as on my own behalf to associate with the sentiments which have been so ably and pathetically voiced by the previous speakers. Nawab Sir Zulfiqar Ali Khan combined in himself the very best of Indian and European culture. His was a noble personality. When I recall to mind his highly polished manners and his characteristic simplicity, I feel that the Punjab may well mourn the loss of a son of whom she might be proud. Besides his political career, he was a veritable student of history throughout his life. His books on that subject bear ample testimony to his keen insight. In Sir Zulfiqar Ali Khan's demise the community has suffered an irreparable loss. On this occasion I cannot do more than pay my tribute to the memory of the deceased.

Sir Abdulla-al-Mámūn Suhrawardy (Burdwan and Presidency Divisions : Muhammadan Rural) : I rise, Sir, to associate myself with what has fallen from the Leader of the House and other previous speakers and, in doing so, I desire to pay my personal tribute to the memory of one with whom I was closely connected in public life. Scarcely had we recovered from the shock of the untimely death of Sir Muhammad Shafi and Sir Ali Imam when Death singles out and removes from our midst yet another of our veteran leaders. Nawab Sir Zulfiqar Ali Khan was a Member of the old Imperial Council. His aristocratic name and fine personality early captivated my imagination. I first became acquainted with him in Calcutta when he went there to attend meetings of the Imperial Legislative Council. Amongst the Muslim Members of the old Imperial Council he alone took a deep and keen interest in the welfare of the Muslims of Bengal and, in order to gain first-hand knowledge, he took the trouble of visiting distant provincial towns like Barisal and Dacca. Many years flew over our heads since then and with the transfer of the capital to Delhi, Calcutta ceased to be the centre of attraction for men of light and leading like the late lamented Nawab Sahib. But when I came to the Assembly in 1926, I found Nawab Sahib here as an elected Member. Our old acquaintance was renewed and with his help and co-operation we founded the All-India Muslim Legislators' Association with His Highness the Aga Khan as its President and Nawab Sir Zulfiqar Ali Khan as one of its Vice-Presidents. With his help and co-operation we also founded the Central Muslim Party in the Assembly which he led with conspicuous ability, tact and success during the whole term of the last Assembly. In 1928, Nawab Sir Zulfiqar Ali Khan and myself were appointed members of the Indian Central Committee and for nearly two years we travelled together with the Simon Commission in India and in England and worked in the closest association and co-operation with each other. Of late, the late Nawab Sahib rarely visited and attended the Assembly and when he did so he was morose, silent and quiet. Little did I realise then that the sands of his time were running fast and the Hour Glass of his life was about to be shattered. His death creates a void which cannot be easily filled and is an irreparable loss to Islam and to India. To me it means a painful wrench and a great personal loss. As the Leader of the House has remarked, a perfect gentleman, a generous host, a genuine friend and the pink of courtesy, he always maintained the high and noble traditions of the ruling house to which he belonged. I dare say long would the House miss the tall aristocratic figure which adorned the Benches of

this House and long and deeply would I mourn the loss of a true friend and echo the words of the poet :

O, for the touch of a vanished hand,
And the sound of a voice that is still.

Mr. President (The Honourable Sir Shanmukham Chetty) : I would like to associate the Chair with the tribute that has been paid to the memory of our late colleague, Sir Zulfiqar Ali Khan. The death of this great personality has not merely created a gap in the public life of this country, but has left in the minds and hearts of many of us a deep sense of personal loss, for all those in this House who had the privilege of working with him will remember the personality of the late Nawab and they would for many years to come cherish in their memories recollections of his hospitality and friendship. It will be my duty to communicate to the members of his family the deep sense of sorrow and loss that this House feels on the passing away of one of its Members.

Mr. Gaya Prasad Singh : Sir, it is my melancholy duty to bring to the notice of the House the death of another colleague of ours, the late Khan Bahadur Nawab Sarfaraz Hussain Khan, who was a Member of this Assembly for many years. He occupied a very prominent position in the public life of my province, Bihar. He was for about 25 years intimately connected with the Patna City Municipality as its Chairman, and sometime as its Vice-Chairman. In that capacity he rendered yeomen service to the local public. He identified himself with the nationalist activities of his province, and even beyond the range of his province. He was the President of the Bihar Provincial Conference which was held at Monghyr some years back. He was loved and respected both by Hindus and Mussalmans alike. He was singularly free from communal tinge, and in his work as a Member of the Legislative Assembly, he identified himself with the Swaraj Party which was then formed under the leadership of the late Pandit Motilal Nehru. He worked here for many years, and his assiduousness to duty and his sense of discipline and regularity of attendance were remarkable. He was loved and respected by every section of the House, and in his death we have lost a very charming personality, and one who occupied a prominent place in the public life of this country. His death has created a void in public life ; and I would request you, Sir, to convey to the Members of the bereaved family an expression of our heartfelt feelings of sympathy and condolence.

The Honourable Sir Joseph Bhore : Sir, Khan Bahadur Sarfaraz Hussain Khan was a Member of the first, second and the third Assemblies. He was known personally to a great many of us here and I think I can say without fear of contradiction that in his time there was no other personality in the Assembly who was more universally liked. Quiet and unassuming, he made a host of friends and, I am sure, never a single enemy. As regards his work, I can say this, that it left an impression upon my mind of great assiduity and of tireless energy and I am sure that I will be voicing the feelings of Members on this side if I associate myself very warmly with what has fallen from Mr. Gaya Prasad Singh.

Maulvi Muhammad Shafee Daoodi (Tirhut Division : Muhammadan) : Sir, I was intimately connected with Khan Bahadur Sarfaraz Hussain Khan and his public life. Although he belonged to a very

[Maulvi Muhammad Shafee Daoodi.]

aristocratic family of Bihar, he led the life of a commoner and his house was the rendezvous of all who have had anything to say to him. His life as the Chairman and Vice-Chairman of the Patna Municipality was well known to everybody. No one had any complaint against him. An overwhelming majority was satisfied with his work, but when the public life of India took a different course, he associated himself with the new state of things with the same zeal although he was of mature age. He was a zealous Member of the Assembly and a very enthusiastic member of the Swaraj Party. By dint of his labour, he has shown how a public man should discharge his duty. Even in the last days when he could not come to the Assembly, on account of ill health, he took a keen interest in the proceedings of the Assembly. He used to read the reports of the Assembly and took a great interest in seeing what the other Members of the Assembly were doing. When he was called upon to explain any important question which was agitating the mind of the Assembly, he would take delight in discussing the *pros* and *cons* of it. He was a man of charming personality and he has left us to mourn his loss very deeply.

Mr. R. S. Sarma : The warm tributes paid to one who was known as the Father of the House, are warmly shared by the members of my Party.

Mr. G. Morgan : I rise to associate myself and the European Group with the sentiments expressed by the Leader of the House and the leaders on the other side.

Captain Sher Muhammad Khan Gakhar : I rise to associate myself and those on these Benches with the expression of sorrow expressed by the Leader of the House and the Leader of the Nationalist Party and other Members of the House.

Sir Abdullah-al-Māmūn Suhrawardy : I rise to pay my personal tribute to the memory of the departed. I believe I am the only Member of this House who was a colleague of the late Khan Bahadur Sarfaraz Hussain Khan in the Bengal Legislative Council before the creation of the province of Bihar. When I first entered the Bengal Legislative Council under the Morley-Minto Reforms, I found there, amongst others, Mr. Ali Imam, Mr. Wasi Ahmad, Maulvi Fakhruddin and Khan Bahadur Sarfaraz Hussain Khan. Alas, the hand of Death has fallen heavily of late on the province of Bihar and Sir Ali Imam, Mr. Hasan Imam, Sir Muhammad Fakhruddin and Khan Bahadur Sarfaraz Hussain Khan have passed away in quick succession. With Khan Bahadur Sarfaraz Hussain Khan disappears the last of the stalwarts of Bihar. With these words, I associate myself with what has fallen from Mr. Gaya Prasad Singh and the Leader of the House.

Mr. President (The Honourable Sir Shanmukham Chetty) : I should like to associate the Chair with the tribute that has been paid to the memory of Khan Bahadur Sarfaraz Hussain Khan. It was my privilege to work in close association with the Khan Bahadur in the second and third Assemblies. I distinctly remember the enthusiasm and the energy which Khan Bahadur Sarfaraz Hussain Khan put forth in his work which was the envy of the younger Members of this House. He was regular in his seat and he took the greatest interest in the work of the Assembly. He loved the work of the Assembly and the Assembly in its

turn loved the unassuming but charming personality of Khan Bahadur Sarfaraz Hussain Khan. It shall again be my duty to convey to his relatives the deep sense of sorrow that this House feels at the loss of one whom they all so well loved.

THE INDIAN MEDICAL COUNCIL BILL.

Mr. President (The Honourable Sir Shanmukham Chetty) : The next item on the order paper of the day is a motion in the name of Mr. G. S. Bajpai "that the Honourable Sir Bepin Behary Ghose be appointed to the Select Committee on the Bill to establish a Medical Council in India and to provide for the maintenance of a British Indian Medical Register". With regard to this motion, the Chair would like to make an announcement. A similar question arose in the past as to whether in cases when the Law Member was not a Member of the House at the time the motion was made, but was subsequently nominated to the House, it was necessary to have a specific motion that he should be included in the Select Committee. On that occasion a ruling was given by my predecessor that :

"My opinion is that the Law Member does not, under Standing Order 40, become an *ex-officio* member of a Select Committee constituted before he became a Member of the Assembly."

The circumstances under which this ruling was given were, however, different from the present circumstances. On the last occasion the Law Member of the Government of India was not a Member of the Legislative Assembly at the time the motion for a Select Committee was made. Subsequently the Law Member of the Government of India was nominated a Member of this Assembly and in those circumstances my predecessor held that he does not become an *ex-officio* member of the Select Committee but that a specific motion must be made to that effect. But in this particular case the House would remember that the Law Member of the Government of India was a Member of this House when the motion to refer the Medical Council Bill to Select Committee was made. But in the meantime the personnel of the office changed ; the Honourable Sir Bepin Behary Ghose has taken place and he has also been nominated as a Member of this Assembly and he has taken the oath of allegiance. Under those circumstances I hold that it is not necessary to make a specific motion as contemplated by Mr. Bajpai to enable the present Law Member to take his seat in the Select Committee.

THE INDIAN PETROLEUM BILL.

The Honourable Sir Frank Noyce (Member for Industries and Labour) : Sir, I move for leave to introduce a Bill to consolidate and amend the law relating to the import, transport, storage, production and refinement of petroleum and other inflammable substances.

The motion was adopted.

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

THE INDIAN INCOME-TAX (THIRD AMENDMENT) BILL.

The Honourable Mr. A. H. Lloyd (Finance Member) : Sir, I move for leave to introduce a Bill further to amend the Indian Income-tax Act, 1922, for certain purposes (Third Amendment).

The motion was adopted.

The Honourable Mr. A. H. Lloyd : Sir, I introduce the Bill.

THE INDIAN MERCHANT SHIPPING (SECOND AMENDMENT) BILL.

Mr. President (The Honourable Sir Shaumukham Chetty) : The House will now resume consideration of the following motion moved by Mr. A. Raisman on the 12th April, 1933 :

“ That the Bill further to amend the Indian Merchant Shipping Act, 1923, for certain purposes (*Second Amendment*), be referred to a Select Committee consisting of the Deputy President, the Honourable Sir Joseph Bhore, Bhai Parma Nand, Mr. S. G. Jog, Mr. Gaya Prasad Singh, Mr. Muhammad Azhar Ali, Mr. B. V. Jadhav, Mr. S. C. Mitra, Sir Leslie Hudson, Khan Bahadur Haji Wajihuddin, Mr. B. N. Misra, Sir Muhammad Yakub and the Mover, and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five ”.

Mr. Lalchand Navalrai (Sind : Non-Muhammadan Rural) : Sir, I feel fortunate that I have caught your eye first to speak on this Bill which, as it is, might be considered as only a formal Bill and as such the House might give it that weight, but, Sir, from my point of view, and, I think, from the point of view of many others, this is an important matter in which there are certain principles involved.

Now, there is no doubt that what is now asked is that this Bill, which is called the Indian Merchant Shipping Amendment Bill, be sent to Select Committee. The discussion which took place on the last occasion when this Bill came up before the House supports me in the view that there are certain principles from the Indian point of view which must be ventilated and which should be favourably considered by this House. As the Bill stands, it is said that it is intended to have more precautionary measures for the safety of passengers and goods on steamers and for that purpose this Bill should be enacted to give effect to those safeguards. So far as that goes, I would call this Bill not only a harmless but a useful one, because everybody would like that when passengers and cargo are carried by sea there must be all kinds of precautions against accidents and against other casualties which would go to jeopardise marine transport. From that point of view it is all right, but, in considering that, I would point out to the House that Indian interests, so far as this marine business is concerned, are absolutely neglected by Government. In the first place, I must draw the attention of the House to the fact that Government have for a long time been adopting a practice which appears to me to be very objectionable and it is this that whenever they have to make any law of this nature or of its kind, they mature everything, themselves give their sanction to it, or enter into agreements, and then bring them to the House for, so to say, a formal sanction. This is most objectionable. In this case what we find is this. It is asked that sanction should be given to the International Convention that has been already made on this question. It is not only in this instance that such a procedure has been adopted which seems to me to be quite objectionable but we remember the case of the Ottawa Pact

where everything was cooked up, finished and then brought before this House. I ask, Sir, is it fair? I think this practice should now cease and matters that are brought before the House should be brought as original and sanction obtained before facts are made. In this case also, before this International Convention was entered into, the points that were decided there, should have been discussed here first and sanction obtained to them from this House.

I will now pass on to the other question. The second question which is very important is that Government should let this House know how far they have helped Indians in this marine line business, in having their own merchant ships, and how far they have helped Indians to carry goods and passengers in their own ships. To me it appears Government have entirely failed. Last time speeches were made on this point, but it was late at night, following the Parliamentary practice, though done with vengeance because it is not the Parliamentary practice to sit for the whole day from 11 o'clock in the morning and again at night, but that apart in the speeches made at that time this important point was raised, and it is very fortunate that this discussion was not finished then. On this point I find that the first speaker was the Honourable Mr. B. Das

1 P.M. who is an engineer himself and we know what interest he takes and what ability he possesses. He has said that the Indian marine intellect is not being advanced at all in India and it is high time now that the Government should turn their attention in that direction. The complaints that will be made on that point are these: the first is that there is no encouragement given to the creation of Indian merchant ships; and the second is that there is no encouragement or help given by Government to candidates or people to go and train themselves for this mercantile marine. With regard to the second complaint, the Honourable Mr. Das said that there were no Board of Trade examinations in India: those examinations were a passport to the.....

The Honourable Sir Joseph Bhore (Member for Commerce and Railways): May I interrupt the Honourable Member on a point of information? Not only are there Board of Trade examinations in India, but they are held every month.

Mr. Lalchand Navalrai: I know that that was the reply given by Mr. Raisman, and I was not going to leave it at all—I was going to touch upon it and add to what Mr. Das said: but what I wanted to emphasise by a personal experience, which would satisfy the Honourable the Leader of the House and also Mr. Raisman, was that there were no facilities given for passing that examination. What Mr. Raisman then said on a point of explanation was:

“May I say that anybody can take the Board of Trade Examination in India and that people do so every month.”

The point is this: it is certainly news to me that every month they have been taking these Board of Trade Examinations. But may I say that there are certain preliminaries to be gone through before a certificate is obtained, and the facilities are not given for these preliminaries. I do not think Indians can get themselves easily qualified to appear for this examination. Last February, when this Assembly was sitting, a young man came to me from Sind and he wanted to pass this examination, and for that he said to me that he had to go through a training of 18 months on a British or any other ship that goes abroad to foreign countries:

[Mr. Lalchand Navalrai.]

and, unless and until he had that training, he could not appear for this examination. I asked him for further information and he satisfied me that he was a fit and experienced person in that line for being allowed to get this training on a ship in order to enable him to pass the examination. I say, when these people are coming forward anxiously desiring to take this course, they should be given every help and encouragement. I approached several persons in this connection and I must say that I approached even Sir Leslie Hudson on this point, and he very kindly told me that he would speak to the P. & O. Company and gave me a letter to them. I handed this over to that young gentleman and he went round. But he could not get entrance for training anywhere on a foreign boat. He got the reply that only British and foreign people were allowed to take this training. If this is not a fact that they do not allow Indians or at any rate put impediments in their way in that direction, I would like to be corrected. The young man told me that even if he got into any Indian company, it was no good, because the Scindia Steam Navigation Company was a company working on the coast and if a man goes and gets his training on coastal ships, he would not be entitled to appear for this examination. Under these circumstances, it is for the Government to answer what encouragement or assistance they give in these matters : but, I must say, it is a deplorable thing. They say here that people are passing the examination every month. This is news to me : and, with all deference to the Honourable the Leader of the House and to Mr. Raisman, I will not be satisfied with a general statement of that kind. I would like to know who are those people who were allowed to appear and who have passed the examination and where they got these preliminary facilities. Unless I get full information on this point, I will not be satisfied and the Government remain condemned on this question of Indianisation. I may say that the young man I was talking about is so enthusiastic about it that he is still at Bombay trying to get these facilities and he is still unable to get into any foreign company for this purpose. Of course, the interests of Indians are ignored or neglected but I have nothing to say against the principle of this Bill which is that certain measures are to be taken for the purpose of creating more precautions for the safety at sea. But I do say that there is another principle that the Government should follow and that is that the Indian intellect should be increasingly directed to this marine side so that we may have our own ships carrying cargo and passengers : what happens at present is that shipping belonging to British and foreign countries carry goods and passengers, including Indians, and they take so much money from us : but they do nothing in return by way of Indianising or training Indians. I would certainly not object to this Bill going to Select Committee, because, after all, it is a useful Bill. It is for the Committee to deal with the details, but I must insist upon this position that the Government must consider this question of Indianization of marine before this Bill is passed. I trust and hope that satisfactory explanation will be given as to how far they are going to advance the Indian intellect in this marine line ; and, after they satisfy the House on that point, I will be in a position to give my vote in favour of the Bill.

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. President (The Honourable Sir Shanmukham Chetty) in the Chair.

The Honourable Sir Joseph Bhore : Sir, I would like to make a short appeal to this House to allow this Bill to go to the Select Committee without further debate. No one anticipated, Sir, that such dry and technical matters as those dealt with in this Bill would have inspired such continued oratorical efforts as we heard on the last day, or, should I say, last night of the last Session. Evidently, Sir, we had failed to take full account of the stimulating effect of an after dinner sitting, an effect which seems to have persisted till today. I would, however, like very shortly to refer to two or three matters which have been raised in the course of the debate both on the last occasion and on this.

My friend, Mr. Mitra, and, if I remember rightly, Mr. Ranga Iyer as well, felt some difficulty in understanding the principle of the Bill. Now, Sir, I would like to explain the main principle of the Bill in just a few words.

Most of the maritime nations of the world agreed recently on two main points connected with shipping. They agreed firstly that in the interests of human life at sea certain standards of construction and equipment should be insisted on in respect of passenger vessels, and, secondly, they agreed that in respect of safety of human life and property at sea certain common international rules should be imposed to prevent overloading of passenger and cargo vessels. Now, Sir, all that this Bill does is that it seeks to ratify the International Conventions which give effect to these principles and which were agreed to at certain International Conferences. Now, Sir, if I remember rightly, on the last occasion when we discussed this matter, my friend, Mr. Maswood Ahmad, who is not here unfortunately, interjected that he could not accept the principle of the Bill. I would have liked, Sir, if he had been present here, to give him a solemn assurance that this Bill does not impose any limit to the number of questions which an Honourable Member may ask in this House : but, Sir, I do not think that my friend, Mr. Maswood Ahmad, would object to securing a greater measure of safety for human life and property on the high seas.

I come next, Sir, to my friend, Mr. B. Das. Unfortunately he also is not here today. Mr. B. Das travelled entirely outside the scope of the Bill, and in that he seems to have found a docile, a blindly docile, supporter in my friend, Mr. Lalchand Navalrai. He left on one side entirely the principle of the Bill and he denounced the Government for having failed to do what they could to stimulate a sea sense among educated Indians. Now, Sir, that is exactly what we have been trying to do in the training ship "Dufferin", and I would have asked my friend, Mr. B. Das, if he could spare the time, to spend three years in the "Dufferin", for, I am perfectly sure we would have made a new man of him. I extend the invitation to Mr. Lalchand Navalrai.

Mr. Lalchand Navalrai : Is that ship risky now ?

The Honourable Sir Joseph Bhore : No, Sir ; not at all.

Mr. Lalchand Navalrai : It was so said in the Standing Finance Committee, and some money was given to put it right.

The Honourable Sir Joseph Bhore : I do take the strongest exception, however, to uninformed criticism in regard to the training ship "Dufferin". It has, as a matter of fact, done magnificent work in training our boys for the sea. At the present moment there are, I think, about a hundred cadets under training. Every year about 30 pass out, and most of these, after serving a three years' apprenticeship on ocean-going ships, are then ready to take their Second Mate's Board of Trade Examination. I may say that I do not know of a single case so far of any one of our boys who has passed successfully out of the "Dufferin" and who wanted it not being able to get satisfactory sea training. I would like to inform the House that the first batch of cadets who passed out of the "Dufferin" have now practically completed their sea training and will be sitting for the Second Mate's certificate examination or have already done so. My information is that some of them have already done so and that 12 have passed and are qualified. Now, Sir, these 12 successful ex-cadets of the "Dufferin" will be eligible for employment in the Bengal Pilot Service which, as Honourable Members of this House know, has hitherto been recruited almost entirely outside India. There are a number of vacancies in the Bengal Pilot Service at the present moment, and I am looking forward confidently to seeing some at any rate of these within the next few weeks filled by our ex-"Dufferin" cadets. (Applause.)

Then, Sir, as more and more cadets pass out of the "Dufferin" and as they get the requisite sea experience, I personally look forward with a measure of certainty to seeing them appointed to positions in ports, in docks and harbours to which my friend, Mr. B. Das, referred.

I think it is hardly necessary for me to refer in any great detail to the speech which was delivered by my friend, Mr. Lalchand Navalrai. He will, I hope, forgive my saying that I have scarcely ever heard a speech which was based upon such complete misapprehension of the facts of the case.

Mr. Lalchand Navalrai : Will the Honourable Member allow me to interrupt him for one moment? The Honourable Member is referring to the cadets of the "Dufferin", whereas I was referring to the case of a man who wanted to appear direct for the Board of Trade examination after having worked for a length of time as an engineer in the Barrage at Sukkur. Since he had completed his apprenticeship as it were, he had merely to go and put in his sea time on a boat. I was talking of men who like to appear direct for the Board of Trade examination.

The Honourable Sir Joseph Bhore : What I am referring to particularly is to my friend's criticism of the Government of India in respect of the action taken with regard to these International Conventions. The Government of India have entered into no contract, and they have given no sanction to any agreement whatsoever. They have followed just the normal procedure in such cases. At the International Conferences at which these Conventions were considered I may say one of our delegates was Mr. Master of the Scindia Steam Navigation Co. What we are now doing is, we are placing the Conventions reached at those Conferences in the form of legislation before this House for its sanction.

Sir, there is very little more that I have to say, but I would suggest to the House that this technical measure can best be examined in Select Committee. There is nothing controversial about it. The Select Committee

is a very representative one. Members from all parts of the House are represented on that Committee, and I feel certain that after the examination of this Bill by the Select Committee, the House will be satisfied that there has been no sinister intention in our desire to get this measure passed as soon as possible.

Mr. President (The Honourable Sir Shanmukham Chetty) : Does the Honourable Member (Mr. Raisman) want to reply ?

Mr. A. Raisman (Government of India : Nominated Official) : No.

Mr. President (The Honourable Sir Shanmukham Chetty) : The question is :

“ That the Bill further to amend the Indian Merchant Shipping Act, 1923, for certain purposes (*Second Amendment*), be referred to a Select Committee consisting of the Deputy President, the Honourable Sir Joseph Blore, Bhai Parma Nand, Mr. S. G. Jog, Mr. Gaya Prasad Singh, Mr. Muhammad Azhar Ali, Mr. B. V. Jadhav, Mr. S. C. Mitra, Sir Leslie Hudson, Khan Bahadur Haji Wajihuddin, Mr. B. N. Misra, Sir Muhammad Yakub and the Mover, and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five.”

The motion was adopted.

THE WORKMEN'S COMPENSATION (AMENDMENT) BILL.

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

“ That the Bill further to amend the Workmen's Compensation Act, 1923, as reported by the Select Committee, be taken into consideration.”

Honourable Members have doubtless noticed the alterations which have been made in this Bill. I think I may claim that, with one or two exceptions, they have all been in the direction of liberalising the measure. I am quite aware that they do not go as far as my Honourable friend, Mr. Joshi, would desire, but I shall have an opportunity of discussing that point when he moves the amendments which stand in his name.

I should like, at this stage, to invite the attention of the House to the very important amendments which have been made in Schedule II. We have there made a number of changes nearly all of which have the effect of bringing more workmen within the scope of the Act. At the beginning of the Schedule, we have included the drivers of private motor cars, an amendment which will affect a good many Members of this House including myself, but I hope that the House will agree that this is a reasonable change. Then we have included a number of persons who are employed in connection with explosives, which, as every one here is aware, is a distinctly hazardous occupation. In the case of ships we have made a very wide sweep. The distinction drawn in the existing Act between ships registered in India and other ships completely disappears, and we have proposed that within the limits to which our legislation can extend all ships which are mechanically propelled or mechanically towed shall be included whether they ply on inland waters, on tidal waters, or on the sea. We have also included sailing ships of 50 tons and over. Again, we have made a number of changes in the definition of persons engaged on building and construction work, and we have included a new group designed to include those engaged on marine work. The number of persons employed in the Posts and Telegraphs Department who will come under

[Sir Frank Noyce.]

the Act has been greatly enlarged, for we have no desire to make any distinction between Government employees and others in any respect so far as this Act is concerned. The definition of a plantation has been widened and we have included persons engaged in gas works. Finally, at the end of the Schedule Honourable Members will find three entirely new classes of workers. I think, therefore, that Honourable Members will realise that the number of additional workers whom the Select Committee propose to include is very substantial, and they will, I hope, agree that we have gone about as far as it is reasonable to do at the present time. I hope that in the future, as in the past, Government will from time to time add fresh classes of workers by notification, and I may add that Government are engaged at present in framing a satisfactory definition of the forest workers who should come under the Act. I have every anticipation that in the course of a few weeks we shall be in a position to issue a notification in this respect.

Sir, I move.

Mr. President (The Honourable Sir Shanmukham Chetty) : Motion moved :

“ That the Bill further to amend the Workmen's Compensation Act, 1923, as reported by the Select Committee, be taken into consideration.”

Mr. Abdul Matin Chaudhury (Assam : Muhammadan) : Sir, as I am one of those who have appended a minute of dissent on some of the recommendations of the Select Committee, I want to say a few words explaining our position.

This Bill has emerged from the Select Committee, with many important changes, and I gladly recognise that the Honourable Sir Frank Noyce was very sympathetic in considering cases of inclusion of fresh categories of workers within the scope of the Bill, and, as he claims, the measure has been liberalised to a very considerable extent. But I must say at the same time that while he gave with one hand he took away with another. In some very important respects he has gone back on the recommendations of the Royal Commission on Labour,—I am referring particularly to the recommendation about the maximum and minimum scale of compensation to be awarded in case of death or permanent disablement. The Government justify their action on the ground that since the Royal Commission recommended there has been a considerable change in the price level. My Honourable friends, Messrs. Morgan and Mackenzie, also support this view that the change in the price level necessitates a change in the scale of compensation. That argument, I submit, is entirely irrelevant. The Royal Commission was never influenced in their recommendation by the consideration of price levels, and for this reason. When the Workmen's Compensation Act came into operation in 1924, the index number for all articles stood at 155. When the Commission made their recommendation in 1930, it came down to 137. If the Royal Commission were influenced by the consideration of price level, they would have recommended a reduction of compensation instead of an increase, because there was a fall of 18 points in the cost of living index. I maintain that the consideration of price level has nothing to do with the scale of compensation. Price level is a fluctuating item, and the scale of compensation is fixed and permanent.

The principles, Sir, on which the Royal Commission based their recommendation are entirely different. They based their recommendation about the maximum and minimum scale on this. They fixed their minimum just to avoid the granting of an excessively low amount as compensation ; and they fixed the maximum on the principle that the industry should not be hit hard. Acting on these two principles, and not on a consideration of price level, they made their recommendations. I may remind the House that the Royal Commission included such eminent industrialists as Sir Victor Sassoon, Sir Alexander Murray, Mr. G. D. Birla, and Sir Ibrahim Rahimtoola, and they agreed to this higher scale, because they considered it reasonable. When the Bill was circulated for opinion, the employers raised the objection that the industry was being hit hard by this high scale of compensation. We are very familiar in this House with the usual cry of the employers that this industry or that industry is in danger. The Government of Bombay, which is the Government of an industrial province, considered that this scale of compensation was quite suitable, and as far back as 1932 the Government of India too had the same opinion and incorporated this recommendation in the Bill, but it is a pity that under the pressure of capitalist employer class the Government have surrendered to their unreasonable demands.

This is all I have to say for the present.

Mr. N. M. Joshi (Nominated Non-Official) : Sir, when the Bill was sent to the Select Committee, I had hoped that the Select Committee would make many substantial improvements. I quite recognise that in the matter of bringing new classes within the scope of this legislation some improvement has been made, but in this connection we have to remember that the Royal Commission has admitted that in the matter of workmen's compensation there is no justification for restricting the classes to be brought within the scope of this legislation only to the organised industries or to hazardous industries and, therefore, the sooner we bring all the classes of workers within the scope of this legislation, the better it is. In this connection I would like to suggest to the Honourable Member in charge of this Department that he should seriously consider the question of compulsory insurance against the risk of accidents. It is admitted that unless there is a system of compulsory insurance, the workmen's compensation works as a hardship against individual employers. Therefore it is necessary that a compulsory system of insurance should be established so that it would be easier to bring in the employees of smaller employers within the scope of this legislation. I, therefore, suggest that he should seriously consider the question of compulsory insurance against the risk of accidents for the employees in all trades and industries, because unless that is done, it will be difficult for the scope of the Bill to be enlarged. It is a matter of satisfaction that the Honourable Member has an intention of publishing early rules as regards the application of this legislation to the workers in the forest industries, but our disappointment in regard to the report of the Select Committee is in regard to the rates of compensation. We had hoped that the rates of compensation which the Royal Commission has recommended and which the Government had included in their original Bill would be improved. On the other hand the Government have gone back upon their original proposals. This is due to the influence of the capitalists. Evidently the Honourable Member in charge of this Department seems to be very susceptible to the influence from that direction.

The Honourable Sir Frank Noyce : I protest against the statement of my Honourable friend, Mr. Joshi. It has been my endeavour in dealing with all the recommendations of the Labour Commission to hold the scales as evenly as is possible for a fallible human being to do.

Mr. N. M. Joshi : The Honourable Member may have done his very best to hold the scales even, but it is quite possible that when he made those attempts he might have made mistakes and I hope he will recognise that he has made a mistake in spite of the great effort he has made. When he introduced the Bill originally, I am quite sure he had considered the Bill very carefully. I do not know what happened between the introduction of the Bill and the meeting of the Select Committee which made him change his views. If the influence of the capitalists had no effect, I do not know what other thing produced that effect upon him. I do not wish to deal with that point in detail as I have got an amendment on that point. On the whole I feel that in the matter of the rates of compensation Government should have been more generous and in this connection we must remember this, that it is always said that our industries are backward, that our standards of life are low in India, but I would like Members of this Assembly to consider this. How long are we going to be obsessed by this feeling that our standard is low and, therefore, we should not undertake bold measures. If we are always influenced by this sort of inferiority complex, we shall never come up to the level of people in the other countries. We should get over this feeling that we are a backward country and that our standard of life is low and, therefore, it must remain very low. Let us be a little bold and take bold measures and not be frightened by the fact that if we act boldly, our industries will suffer and our country will go to the dogs. I have nothing more to say at this stage.

Mr. S. G. Jog (Berar Representative) : I had no intention of prolonging this discussion, but, as a member of the Select Committee, I had much to do with the report. Those of us who were in the Select Committee would recognise that we had to meet two extremes, Mr. Mody, the capitalist, on one side, and Mr. Joshi and his followers on the other. I am myself not a capitalist. I have not involved myself in the labour movement. We had to see that an even balance is maintained. In the discussions that took place in the Select Committee, there was a regular scuffle between Mr. Mody on one side and Mr. Joshi on the other. I must congratulate Mr. Joshi on his enthusiasm for the welfare of the workers, but at the same time we must see that we face things as they are. The Labour Commission sat long ago and world conditions have undergone such a change that its recommendations must undergo a fresh and more critical and closer examination in the light of existing circumstances. At that time probably the state of the industry was very prosperous, but since then things have gone wrong throughout the world and India is no exception to this. Many of us had to see that the welfare of labour is maintained. At the same time we wanted to see that no unnecessary restriction is placed on the industry. If the industry survives and prospers, there is every chance of securing prosperity for the workers, but if the industries are affected, what will happen to the workers? I hope this aspect of the case will appeal to Mr. Joshi and those of his way of thinking. I do not yield to Mr. Joshi in my desire for the welfare of labour. Many of these people made representations to me and I tried to meet their wishes in the Select Committee to the best of my ability. At the same time I

could not ignore the difficulties of the industrial class and on many occasions we had to find out the golden mean between two extremes. As you will observe, I am a signatory to the majority report and in considering the compensation we had to take into account the changed circumstances, the changed living and the fall in prices. When the recommendations and the scale of compensation were given, things were quite different and we had to change many of those things under the changed circumstances. We have given the best consideration to both the views of the labour as well as of the industrialist. I must also say that on many points the Honourable Member in charge, Sir Frank Noyce, was extremely sympathetic and he tried to meet more Mr. Joshi than Mr. Mody. On the whole, I find that the report of the Select Committee is extremely satisfactory although it may not have come up exactly to the expectations of Mr. Joshi. I hope, with these few remarks, that the Select Committee's report will be adopted.

Dr. R. D. Dalal (Nominated Non-Official) : Mr. President, I rise to speak very briefly on a topic raised by my Honourable friends Mr. Joshi, Mr. Jadhav, and other signatories of the minutes of dissent to the report of the Select Committee, to which the Bill further to amend the Workmen's Compensation Act was referred. The subject involved is the question of inclusion of hookworm disease (Ankylostomiasis) within the scope of compensation for Industrial Diseases. My Honourable friends make a recommendation that hookworm disease should be classified as an occupational disease for workers working on plantations and in mines. This subject was brought forward at the second meeting of the Select Committee, and I took an active part in this question. So far as I understand the Workmen's Compensation Act, the object of the Act as regards the scheduling of Industrial Diseases is preventive ; so I presume that the contention advanced by my Honourable friends for the extension of compensation in case of hookworm disease is that the extension would ensure greater care on the part of employers and would have enormous effect in the improvement of sanitary condition of plantations and mines. I heartily congratulate my Honourable friends Mr. Joshi and Mr. Jadhav on the deep interest they take in the health and welfare of the labourer, and I admire their boldness to plunge into public health questions. My Honourable friend Mr. Jadhav was my Chief in Bombay, and I entertain warm affection and regard for the Labour Representative from Bombay ; and much as I should like to please them, I deeply regret being unable to see eye to eye with them in this matter.

Mr. N. M. Joshi : You saw eye to eye with us in the Select Committee.

Dr. R. D. Dalal : Now, Sir, if the House will only bear with me for just a few minutes, I hope to be able to show that hookworm disease cannot be considered as a disease incidental to the nature of employment. It is true that hookworm disease is prevalent on plantations and in mines, but, Sir, when we turn to this question, we find that it is a most difficult and complicated question ; and we are at once plunged in a maze of uncertainty. It has to be determined whether the labourer is suffering from Ankylostomiasis, whether or not the disease did arise from his work, and who is the particular employer who ought rightly to be called upon to pay compensation, because the labourer passes from employer to employer, and so it is a very difficult matter indeed to fix the date when the infection was contracted. I may remind the House that coolies on plantations and

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in mines are recruited from parts of the country, where hookworm disease naturally exists. The highest incidence of Ankylostomiasis is met with in the Madras Presidency, next comes Bihar and Orissa, then Bengal, Assam and so on. A study of the Epidemiology of Ankylostomiasis shows that the degree of hookworm infection is the same amongst organised labour force and uncontrolled villagers. I admit that sometimes hookworm infection is regarded as being greater amongst organised labour force than amongst villagers. But, Sir, this can be easily explained. On plantations and in mines the medical and public health arrangements are of a high order, and the organised labour force are under the control and special care of qualified medical officers who draw attention to hookworm infection amongst the Coolies and treat them for it, whereas villagers are not under any medical supervision, so nothing is heard of hookworm prevalence amongst them, and it is assumed that hookworm is relatively uncommon amongst them. Sir, I am profoundly convinced that occupation plays no part at all in the Epidemiology of Ankylostomiasis. Compensation should be restricted to cases in which disease is really specific to an industry. If Ankylostomiasis be included in the Schedule for Industrial Diseases, the same arguments would apply equally to Malaria, Kala Azar, and water-borne diseases which are prevalent on plantations and in mines as well as amongst the general population. If we regard Malaria, Kala Azar, Ankylostomiasis and other diseases as diseases incidental to employment on plantations and in mines, we shall get into hopeless muddle. Now, Sir, to pursue the subject further, I shall with your permission explain to the House that Ankylostomiasis is caused by the presence of hookworms in the upper part of the Small Intestine. I need hardly point out that promiscuous soil pollution is an almost universal habit in India; so the larvae of the worms enter the body through the skin of the feet of the persons who walk bare-footed on faecally contaminated infected soil, or from the infected soil to the food by dirty hands, or by drinking dirty muddy contaminated, infected water. Now, this at once brings us to the measures for the control of Ankylostomiasis. Keeping the feet off the polluted soil or keeping the feet covered by boots during the act of defaecation is a most powerful factor in controlling hookworm infection and in bringing it down to a negligible and harmless level. Therefore, the ideals for the eradication of hookworm infection are the prevention of indiscriminate soil pollution by the construction of suitable sanitary latrines and the provision of pure drinking water supply. But, Sir, these ideals are already provided for by legislation. Sections 5, 9, 13 and 14 of Indian Factories Act of 1911 and sections 6 and 17 of Indian Mines Act of 1923 contain express provisions for adequate latrine accommodation and for sufficient and suitable supply of water fit for drinking and for the inspection thereof. But, Sir, apart from legislation, apart from the Factories and the Mines Acts, the health of the labourer on plantations and in mines is a question of primary importance to the employer, who realises that in carrying out the duty of conserving the health of his worker, he is also serving his own best interests. A high morbidity rate—a high sickness rate amongst the Coolies would handicap production and would reduce earning capacity, and it stands to reason that it is much easier to attract labour to and to keep labour on healthy plantations and healthy mines than on unhealthy areas where Malaria, Kala Azar, Ankylostomiasis and other diseases are rife; so, apart from legislation, the employers themselves of their own accord voluntarily provide hospitals and dispensaries, medical and public

health arrangements, and recreation facilities. Now, Sir, let me turn for a moment to the common law of nature, which has in my opinion an important bearing on this question. All of us are mortal, and our death is preceded by some disease caused by something in our environment touching the weak spot in our separate organisations. That is the common law of nature. Then, Sir, is it not true in one sense that our diseases are due to our occupations? That is to say, the human frame breaks down because the weak spot is touched or affected by something in our surroundings. It, therefore, behoves us not to make legislation an absurdity by attempting in a Bill dealing with compensation for workmen to deal with common misfortunes and universal maladies from which none of the general population are free and which could not be dealt with in any measure directed against particular and special misfortunes. Sir, one of the objects of the Workmen's Compensation Act is to reduce litigation as much as possible; so, I feel very strongly that the House should not take a false step or the House might land the workmen in a most unfortunate and unsatisfactory position arising out of the litigation they might be compelled to engage in in their attempts to prove their case. I, therefore, earnestly hope that the conclusion which I have advanced in reasoned order with such clarity, conviction, and force as I am capable of will not be refused if it cannot be refuted.

Mr. Muhammad Azhar Ali (Lucknow and Fyzabad Divisions : Muhammadan Rural) : I do not claim to belong to the capitalist group nor do I belong to such workmen to whom this Act would apply, but still I am a sort of worker and I am glad to say that from the sections that are incorporated in the Act, I have not been able to spot such sections which are to work great hardship on the poor workmen. This is all due, as several of our friends referred, to the sympathetic attitude of the Honourable Member in charge of the Bill. I do not see why my Honourable friend, Mr. Joshi, should be so much agitated as to have said what he did about the susceptibility of the Honourable Member. I would like to lay the blame on the members of the Committee themselves and, if they were in a majority, it was for them to have taken objection to those objectionable portions of the Bill. Sir, my Honourable friend cannot blow hot and cold in one breath. Today my friend says that the Act was so framed that it was due to the Honourable Member's sympathy. At the same time he says, he is at least susceptible to some other influence. I should say that it is not a question of susceptibility. I do not hold any brief for the Honourable Member, because he can take charge of himself. As I have been through the Bill, I find there are very few objectionable portions. There may be one or two points as regards the price level, but I think that question too does not work much now in the present state of affairs in our country to the hardship of the workmen in the country. Sir, nobody can say that the capitalist at present is not trying his level best to reduce the unsatisfactory condition of the workmen. I think the workmen should take charge of themselves and they have got several cures in their own hands. They can at any time stand up for their rights and Mr. Joshi, I think, can lead them very easily. From what I found in this Bill before it came from the Select Committee, I find now that the Bill is much better and it has been much improved in the interest of the workers. I heartily support that this Bill be passed.

The Honourable Sir Frank Noyce : I have only very few words to add to this discussion. I am very glad that my Honourable friend,

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Mr. Azhar Ali, has made the point that an Honourable Member in charge of a Bill has only one voice and one vote in a Select Committee. The members of the Select Committees are chosen from all parts of the House and the decisions of the majority must be taken to represent the views of the House. There is one point which I should like to impress upon the House. Mr. Abdul Matin Chaudhury and Mr. Joshi said that the Bill made sweeping reductions in the amount of compensation which could be awarded. That is very far from being the case. If the House will look at the Schedule which is attached to the Bill, they will find that there are no less than 17 classes of workmen included in it. The changes made by the Select Committee as regards death and permanent disablement of adults affect only four of these classes, two at the top and two at the bottom, those whose wages are below Rs. 10 and from Rs. 10 to Rs. 15 and those whose wages are between Rs. 100 and Rs. 200 and above Rs. 200. These are the sweeping changes which we are alleged to have made in the scale of compensation. There are also three small changes in the compensation for temporary disablement which were meant to smooth out the scale. As to the reasons which actuated the Select Committee in making these reductions, I shall have more to say when we come to discuss the amendments which stand in the name of Mr. Joshi. Mr. Joshi tells us that he had hoped that Government would be more generous in this matter of compensation. I would ask him why Government should have been more generous than the Commission of which he was a member. I would also ask him why he should talk of generosity on the part of the Government. They are not here dealing with their own money, but they are dealing with the money of the employers and it is to that extent....

Mr. N. M. Joshi : Have you accepted the recommendations of the Commission ?

The Honourable Sir Frank Noyce : That, Sir, is another question. That was not the burden of Mr. Joshi's complaint as I understood him. His complaint was about the scales in the original Bill and he expected that they would have been more generous. As I am endeavouring to point out, there is no reason whatever why the Government in framing this scale should have gone beyond the recommendations of the Commission of which he was a member. I should like to express my agreement with him on one point. I do agree with him that compulsory insurance is the true solution of this problem. But, Sir, that is unfortunately an idea for the future. As the Royal Commission pointed out in their report, the administrative expenses would be tremendous and it is out of question to inflict them on industry in present conditions or, I fear, in conditions that are likely to obtain for some period to come. That is all I have to say except to express my own firm conviction that the Select Committee, in the course of their examination of this Bill, made changes which have given the workmen far more than they have taken away.

Mr. President (The Honourable Sir Shanmukham Chetty) : The question is :

“ That the Bill further to amend the Workmen's Compensation Act, 1923, as reported by the Select Committee, be taken into consideration.”

The motion was adopted.

Mr. President (The Honourable Sir Shanmukham Chetty) : The question is that clause 2 stand part of the Bill.

Mr. G. Morgan (Bengal : European) : Sir, I beg to move the amendment which stands in my name :

“ That for part (i) of clause 2 (a) of the Bill, the following be substituted :

‘ (i) in clause (d), after the word ‘ unmarried ’ in both places where it occurs, the words ‘ or widowed ’ shall be inserted ’.”

The reason for this amendment, Sir, is not in any antagonism to the Bill or the principle of the Bill nor with any so-called capitalist feeling. We all know that the rights of labour must be recognised and the care of labour should receive sympathetic attention. But, in analysing this clause, we feel that there will be practical difficulties in accepting the clause as in the Select Committee's report. Proof of dependence is one which may give rise to considerable difficulties and will, we think, let in the lawyer element. Indeed the amount to be paid to some of the dependants who have got to prove dependence might be exceeded by the fees which they have to pay to those who plead their cause, and, if there were any difficulties of that description, it would be certain to cause labour discontent and unrest, which, from the employer's point of view, is to be deprecated. The effect of this amendment would be to abolish the Committee's proposal to divide the dependants into two categories, to abolish the proposal that those in the second category should be called upon to prove dependence and to abolish the Select Committee's proposal that illegitimate children and widowed daughter-in-law should be added to the list of dependants. It is a reversion to the original list of dependants as in the existing Act, but to the existing Act is added (a) a widowed daughter, (b) a widowed sister. My amendment would then read as follows :

“ (d) ‘ dependant ’ means any of the following relatives of a deceased workman, namely,—

a wife, a husband, parent, minor son, unmarried or widowed daughter, married daughter who is a minor, minor brother, unmarried or widowed sister, and includes the minor children of the deceased son of the workman, and where no parent of the workman is alive, a paternal grandparent.”

That is the clause of the Bill which was submitted to the Select Committee, and the main object of my amendment is to decrease the large numbers of dependants which were added by the Select Committee, and to do away with the proof of dependence. I recommend my amendment to the acceptance of the House.

Mr. President (The Honourable Sir Shanmukham Chetty) : Amendment moved :

“ That for part (i) of clause 2 (a) of the Bill, the following be substituted :

‘ (i) in clause (d), after the word ‘ unmarried ’ in both places where it occurs, the words ‘ or widowed ’ shall be inserted ’.”

Mr. Lalchand Navalrai (Sind : Non-Muhammadan Rural) : Sir, I have no intention to enter into the fight between capitalist and labour. I am neither a capitalist nor a labourer, but I speak from a disinterested point of view. The object of the proposed amendment is that the specific relatives mentioned by Mr. Morgan should be given compensation whether they are dependant upon the worker or not. Another amendment is coming which says that others, when not wholly or partly dependent on the workman, should also get compensation. Sir, I do not see eye to eye

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with these amendments. I find that it is necessary that the relatives should be given compensation, but only those relatives who can be presumed to depend upon the workman or those who prove that they were actually dependent upon the workman. If you are not going to put that bar that they should prove that they are dependants, then it would mean that any person can come forward and say that he should get it as a relative. They go as far as the grandparent to get compensation, but why not, further on, three degrees or five degrees removed? They will come forward and say that they want compensation. Therefore, I submit, that the provision that has been made.....

Mr. N. M. Joshi : Sir, on a point of order, may I ask you how this point arises on the amendment moved by Mr. Morgan?

Mr. Lalchand Navalrai : I will explain. Mr. Morgan does not want that the widowed sister should not be dependent upon the worker. You say that the widowed sister and other relative should be added and the words "dependant" or "not dependant" should be taken away.

Mr. G. Morgan : I read out the clause and it begins :

" 'Dependant' means any of the following relatives, etc."

and in that is included widowed daughter or widowed sister. These are the two additions I wish to make, and that is the only amendment I move at the present moment.

Mr. Lalchand Navalrai : If that is the meaning of the amendment, I cannot understand why, if a widowed sister or widowed daughter has any other means of support, they should be given any compensation. My point is only this that the relatives that have been mentioned in the Select Committee's report are such as can be presumed to be dependent and that will mostly remove the question of the proof of dependence. Therefore I think that what the Select Committee have done, they have done rightly and disinterestedly. I think any insinuation that they have taken sides is out of the question. But what I submit is that they have given their full consideration to a matter which was a great contest between capitalist and labour. Both were pulling their strings very hard and I think they found out a reasonable medium. I should, therefore, like not to support this amendment.

Mr. B. V. Jadhav (Bombay Central Division : Non-Muhammadan Rural) : Sir, I rise to support this amendment. The question now is, how is the compensation to be divided. Mr. Morgan wishes to enlarge the list and bring in more members of the deceased workman's family who were omitted in the Bill.

The Honourable Sir Frank Noyce : May I interrupt the Honourable Member? Mr. Morgan does not wish to bring in a new class, but to change the category.

Mr. B. V. Jadhav : I do not mean that Mr. Morgan wanted to bring in a new class, but he wants to bring in more members of the workman's family.....

The Honourable Sir Frank Noyce : No.

Mr. B. V. Jadhav : In addition to the unmarried daughter he wants to bring in the widowed daughter.....

Mr. G. Morgan : Might I explain ? It seems to me so clear that I cannot understand what the trouble is. My amendment is the clause in the original Bill which was sent to Select Committee, with the additions of "or widowed daughter or widowed sister". The dependants in my amendment, which, with your permission, Sir, I may read out again—though it is rather tiring for the House—are as follows :

“ ‘ dependant ’ means any of the following relatives of a deceased workman, namely, a wife, a husband, a parent, minor son, unmarried or widowed daughter,—(that is an addition)—married daughter who is a minor, minor brother or unmarried or widowed sister—(that is an addition)—and includes the minor children of a deceased son of the workman and where no parent of the workman is alive, the paternal grand-parent.”

This is the full clause as it would read if my amendment were accepted.....

Kunwar Hajee Ismail Ali Khan (Meerut Division : Muhammadan Rural) : I could not understand one thing from the amendment of the Honourable Member. How can a married daughter be a minor ? Under the Sarda Act there can be no minor married daughter !

Mr. B. V. Jadhav : I understand that wherever the word “unmarried” occurs, the words “or widow” should be inserted : that is to say, just as an unmarried daughter is entitled to a share in the compensation, so also a widowed daughter will be entitled to a share in the compensation according to the amendment moved by Mr. Morgan. In the same way, as an unmarried sister is entitled to a share in the compensation, so also a widowed sister is entitled to a share in the compensation according to the amendment ; and I support both of these. In case of an unmarried daughter, her claim to a share is undisputed : in the case of a widowed daughter, some may object that she may have other means of subsistence and, therefore, she is not in need of any share in the compensation : if she has got nothing left from her late husband, then of course she would have to come back to the original family and she will be dependent on the workman. We may presume that among workmen there is not much property left behind for the maintenance of widows, therefore, almost in every case the widowed daughter is almost sure to go back to her father’s house. The same is the case with regard to the widowed sister and, therefore, I support Mr. Morgan in his amendment that wherever the word ‘unmarried’ occurs, the words ‘and widowed’ should be added.

Mr. A. G. Clow (Government of India : Nominated Official) : May I explain, Sir ? I think the Honourable Member who spoke last is under a misapprehension. The whole House, as far as I know, is agreed that these two relatives mentioned by Mr. Morgan should be included in the Bill. The effect of Mr. Morgan’s amendment will be, in the first place, to exclude certain other relatives whom he mentioned, and, in the second place, to include these particular relatives without any proof of dependence. Whether Mr. Morgan’s amendment is accepted or rejected, the two relatives in question will be dependants in some circumstances or other.....

Mr. President (The Honourable Sir Shanmukham Chetty) : In other words, Mr. Morgan's amendment means that a widowed sister or daughter would be entitled to share in the compensation without proof of dependency ?

Mr. A. G. Clow : That is so : though it would still rest with the Commissioner to decide whether they should share or not.

Mr. S. C. Sen (Bengal National Chamber of Commerce : Indian Commerce) : Sir, I have been trying to understand what was the meaning of Mr. Morgan's amendment : but unfortunately I have not been able to follow it. There are two amendments here : one is No. 3 and the other is No. 4. I can quite understand No. 4—he wants to get rid of the distinction made in the Bill, namely, those who are to be held to be dependants and those who have to prove that they are dependants. That is the effect of amendment No. 4. But I do not understand whether we are dealing with the two amendments or only with one amendment, and what is that.....

Mr. President (The Honourable Sir Shanmukham Chetty) : We are dealing with No. 3.

Mr. S. C. Sen : Then may I understand that by No. 3 he means that wherever the word 'unmarried' is mentioned, the words 'or widowed' should be added ? If we are dealing with amendment No. 3 and it refers to the original Act and his amendment is only to add those words, then I do not think anybody can have any objection. But we are changing the whole clause (d) here by the Bill and we have put in a new clause (d) in place of the one in the original Act. So, if he sticks to amendment No. 4, how this amendment No. 3 can be worked ? That is my difficulty. Amendment No. 3 relates to (d) as it now stands in the original Act, but here in the Bill we have changed (d) and put in a new (d).....

Mr. President (The Honourable Sir Shanmukham Chetty) : If the chair has understood the position correctly, according to the Workmen's Compensation Act the Commissioner has to decide which of the dependants of a workman are entitled to a share in the compensation : these dependants are divided into two classes, those who can get compensation by proving dependency and those who can get it without proof.

Mr. A. G. Clow : At present there is no need of proof of dependency ; as the Act stands, all the relatives named are treated as dependants ; they have merely to prove relationship. What the Select Committee has done has been to divide the dependants into two categories, and to enlarge the list : they have divided them into those who need not prove that they are dependants, and those who have to prove that they are dependants. The object of Mr. Morgan's amendment is to go back upon that decision and to have only one category, and slightly to enlarge the list of dependants under the present Act.

Mr. S. C. Sen : As I understand Mr. Clow, if amendment No. 3 is allowed, amendment No. 4 cannot remain, because amendment No. 3 only refers to the definition of dependants as it now exists in the Act. It has nothing to do with the Bill. Therefore, if that is passed as it exists in the original Act, amendment No. 4 cannot come in at all. Amendment No. 4 only applies if.....

Mr. G. Morgan : On a point of order, Sir. Amendment No. 4 has not been moved.

Mr. President (The Honourable Sir Shanmukham Chetty) : The Honourable Member might discuss this point when amendment No. 4 is reached.

Mr. S. C. Sen : Then, Sir, I have nothing more to say.

The Honourable Sir Frank Noyce (Member for Industries and Labour) : Sir, it will, I venture to think, save the time of the House if I, with your permission, deal comprehensively with all the three amendments which have been put forward to clause 2 of the Bill as it might possibly have the effect of clearing up a considerable amount of misapprehension. Now, Sir, as was stated by the Select Committee in their Report, this clause of the Bill as introduced into this House was designed to add certain relatives to the list of those included in the definition of "dependants". I had better give the House that definition, I think. This is the definition in the Act as it stands at present :

" 'Dependant' means any of the following relatives of a deceased workman, namely :—a wife, husband, parent, minor son, unmarried daughter, married daughter who is a minor, minor brother or unmarried sister, and includes the minor children of a deceased son of the workman and, where no parent of the workman is alive, a paternal grandparent."

Now, Sir, in the Bill as introduced into this House it was proposed to add certain relatives, and those relatives were widowed daughters and widowed sisters,—the subject of Mr. Morgan's amendment. The majority of the Select Committee, however, thought it desirable to add certain other relatives who, though not infrequently dependent on a deceased workman, would not be included in the definition of "dependants" even as enlarged by the Bill. They felt, however, as has been stated in their Report, that so long as no proof of dependence was required, it was inexpedient to enlarge the definition, as every addition must obviously increase the risk of compensation going to persons who have no equitable claim. They, therefore, endeavoured to meet this difficulty by dividing the dependants into two categories, placing in the first category those who are practically in all cases actually dependent, and, in the second, those who may or may not be in that position ; and they provided that, whilst those in the first category need not be called upon to prove dependence, those in the second category should be so required. They felt that, if this modification were made, certain additions could safely be made to the second category. They therefore included illegitimate children, widowed sisters and widowed daughters-in-law. Now, Mr. Morgan wants to go back to the Bill as it was originally introduced. Mr. Joshi wishes all proof of dependence eliminated. I have listened with great respect to what Mr. Morgan and Mr. Jadhav have had to say, but I think they have failed to meet the main points in favour of the Select Committee's proposals. I will state very briefly what, in my opinion, those points are. Looking at the matter from the point of view of the employer, I do not see how the new system need add one anna to his costs. It will still be open to him to say that he does not want to be a party to the distribution proceedings. In the alternative he can contest relationship, but not dependence. In other words, in no case need an employer contest dependence so that

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he can treat the Act exactly as if it did not contain the provision to which objection is now taken. At the same time, he has the option, if he desires it, of contesting the claims of certain dependants on a ground which was not previously available. Looking, Sir, at the matter from the point of view of the dependants, I would point out that the second category includes those who are not ordinarily dependent. It is important to remember, as regards this category, especially in the case of the relatives, the Labour Commission wanted to add to it, that is, the widowed daughters and sisters, that the presumption is against dependence; for these relatives are generally supported by the family they are married into, and not by the family they are born in. And I need hardly point out to the House that the inclusion of illegitimate children, if no proof of dependence is required, opens the door for a very large number of spurious claims. As I understand the position as it is at present,—I was myself for a short time a Commissioner of Labour,—some proof of dependence is or should be always required by the Commissioner in the case of relatives in the second category. Personally, when I was Commissioner myself, as I said it was only for a very short period, if I found that there were any dependants in the first category, I did not award any compensation to any one in the second category without very good evidence of the extent of dependence.

Another point, and I think it is an important point in favour of the Select Committee's proposal, is that the present Act has the effect in some cases of giving the whole of the compensation to persons who never got a pie from the deceased in his lifetime. I admit that such cases are rare, but I have no doubt that they do occur, and it seems to me that an added advantage of the amendments which have been made in the Bill by the Select Committee is that they make it possible to prevent such an anomaly.

I cannot agree with the argument that there has been any departure from the principle underlying the Act as it is at present. It is not, in my view, a principle underlying the Act that compensation should be given to relatives whether they are dependent or not. The Act relied on the Commissioner to ensure that compensation was really compensation; in other words, that it went, as far as possible, to compensate those who actually suffered by the death of the deceased and was not a gift to people who were in no way financially injured. The result of the amendments introduced into the Bill by the Select Committee is merely to alter the method by putting this conception into the Act itself, and, in so doing, it maintains a principle which is common to all Workmen's Compensation legislation.

To sum up, it is, I maintain, and as the Report of the Select Committee observes, quite impossible to go on adding to the list of dependants and still to provide that there should be no proof of dependence. The acceptance of Mr. Morgan's second amendment and if Mr. Joshi's amendment would mean that in cases where the only relatives left is one of the more distant ones, that relative would get the whole of the compensation whether he or she was actually dependent or not. As some of the relatives included will not, amongst Hindus at least, ordinarily be dependent on the deceased, I submit for the consideration of the House that this would be an improper provision. It is

for these reasons that I regret I must oppose all the three amendments. I trust that I have done something to clear up the position to the satisfaction of the House.

Mr. Abdul Matin Chaudhury : I am glad that my Honourable friend Mr. Morgan realises the difficulty of proving dependence. It may be necessary to divide the workers into two categories, one having a prior claim over another, but to insist on proof of dependence will involve them in great hardship, because the workmen are generally illiterate poor men living in distant villages, and if they are to produce proof of dependence it will involve them in litigation which I think will swallow up a good bit of the compensation that we are trying to give them. Again, the trouble and worry and expense of adducing proof of dependence will deter many of them from putting in their claim for compensation, and surely we should not prescribe a course that will have such a deterrent effect. The Labour Commission never recommended that proof of dependence should be insisted upon.

The Honourable Sir Frank Noyce : The Labour Commission never recommended the addition of so many relatives to the list. Obviously if you introduce such relatives as illegitimate children, you must insist on proof of dependence.

Mr. Abdul Matin Chaudhury : I may refer to the views of the Bombay Government in their memorandum submitted to the Royal Commission about the difficulties of administering the Act if proof of dependence is insisted upon. This is what they say :

“ The bulk of the employers favour proof of dependence, although some of them recognise the considerable administrative difficulties involved in getting proof of dependence. Workers' interests are divided on the subject. While it is true that the assumption of dependency often leads to considerable sums of money being paid out to people who have not the slightest claim ever to have been dependent on the deceased workman, for example, husbands in respect of the death of their wives, the joint family system, which is still common among the working classes in India, means that all the members of a joint family are in some degree or other inter-dependent upon each other. It would, therefore, be extremely difficult to administer the Act where proof of dependency was required to entitle a person to compensation. If any provision insisting upon proof of dependency were introduced, it would open the door to a large volume of litigation between relations which would be a very distinct drawback to the Act. Moreover, it would enormously increase the work of the commissioners and entail long delays in the distribution of compensation. A comprehensive list of dependants, as at present, but with no proof of dependency, seems to be the best system for Indian conditions.”

I find that Mr. Morgan and Mr. Joshi are in agreement on this point. From the point of view of the Government there is administrative difficulty if proof of dependence is required. Why should Government then go out of their way and change the Act and bring in the necessity of proving dependence when the Royal Commission does not recommend it ?

Mr. N. M. Joshi : Mr. Morgan seems to have two objects in view. His first object is that the requirement of proof of dependence should be taken away. I am in sympathy with that. His second object is that the list of dependants should not be increased to the extent to which the Select Committee has increased. I do not sympathise with that object. I think Mr. Morgan has got another amendment on the paper. He will be well advised to move that amendment and I am sure that he will get more sympathy for it.

[Mr. N. M. Joshi.]

As regards the point raised by the Honourable Member in charge of Industries and Labour—I admit I must speak about him with great caution as his nerves seem to be very sensitive today—I would like the Honourable Member to consider this carefully. He must choose either of two courses ; either he must agree to give to the man who is injured compensation in accordance with his responsibilities. If he has a large number of dependants depending upon him the compensation should be sufficient for the maintenance of the dependants. I can understand his saying, let there be proof of dependence, if the object is that the responsibilities which he has on his shoulders ought to be met by the employers. As a matter of fact, the English law requires proof of dependence, but the English law makes provision that if the man has got more children compensation should be increased. That is what the English law does. If the Honourable Member is willing that the compensation should be increased when the number of dependants is larger and dependence is proved, I can understand it ; but so long as he is willing to give only a certain amount of compensation there is really no meaning why he should ask for proof of dependence. As a matter of fact, this question has been very carefully considered even by the Royal Commission. The Royal Commission does not recommend that the previous system which our workmen's compensation law has followed should be changed. If the Honourable Member wants to change that system, let him do so, but he cannot do it by merely asking for proof of dependence. If he wants proof of dependence, then he shall have to change the whole system of workmen's compensation law which we have followed so far and also give compensation in accordance with the responsibilities which the injured man has. I would therefore suggest that the Honourable Member who moved this amendment should not press it, but that he should move his next amendment with which we sympathise.

Mr. President (The Honourable Sir Shanmukham Chetty) : The question is :

“ That for part (i) of clause 2 (a) of the Bill, the following be substituted :

‘ (i) in clause (d), after the word ‘ unmarried ’ in both places where it occurs, the words ‘ or widowed ’ shall be inserted ’.”

The motion was negatived.

Mr. G. Morgan : Notwithstanding the fact that the Honourable Member has already told us that he will oppose it, I move the amendment which stands in my name and which reads as follows :

“ That in part (i) of clause 2 (a) of the Bill, for the proposed clause (d) the following be substituted :

‘ (d) ‘ dependant ’ means any of the relatives of a deceased workman, namely, a wife, a minor legitimate son, an unmarried legitimate daughter, a widowed mother, a husband, a parent other than a widowed mother, a minor illegitimate son, an unmarried illegitimate daughter, a daughter legitimate or illegitimate if married and a minor or if widowed, a minor brother, an unmarried or widowed sister, a widowed daughter-in-law, a minor child of a deceased son, or, where no parent of the workman is alive, a paternal grandparent ’.”

The effect of this amendment is merely to do away with proof of dependence and to classify all dependants under one head. It leaves the list of dependants exactly the same as was suggested by the Select Committee, but does not make it necessary for those dependants to prove dependency.

The reason why we wish to do away with proof of dependency is that we see great difficulty in practical working, and also, as I have said before, there is the possibility of applicants becoming a prey to legal advisers if I may use that word. They would, instead of gaining by any sum which

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the Commissioner might give them, find that they had to pay something extra. I think I am right in saying that the Honourable Member in his remarks said—I stand corrected if I did not hear him properly, it is very difficult to hear in this House—when any one in the second category came forward with a claim he himself required very good evidence before any relief was given. If I am wrong in what I say, I shall be no doubt corrected.

The Honourable Sir Frank Noyce : The Honourable Member is perfectly right. I said that if there were any relatives in the first category, such as a wife, a minor legitimate son, an unmarried legitimate daughter or a widowed mother, they had the first claim. They seemed to my mind, as they must to all Commissioners of Labour, to have the first claim and if more distant relatives appeared and made claims, one had to make quite sure, in order to be just to the nearer relatives, that they were actually in receipt of assistance from the deceased.

Mr. G. Morgan : That is my point. Then I was correct in what I said. If that was the position under the old Act there is no necessity now to make it a statutory obligation. The Commissioners themselves say : “ We must have further proof. We do not admit your claim ”. That is perfectly just. The Honourable Member himself says that there would be no compensation unless the Commissioner himself is satisfied. I am quite ready to accept that position, but if you make it a statutory obligation, they will have to come forward with proof. That brings in the legal aspect of documentary proof which will be an extra expense for those who wish to bring forward proof. If this amendment is accepted, it would be better for the practical working of this clause.

Mr. President (The Honourable Sir Shanmukham Chetty) : Amendment moved :

“ That in part (i) of clause 2 (a) of the Bill, for the proposed clause (d) the following be substituted :

‘ (d) ‘ dependant ’ means any of the relatives of a deceased workman, namely, a wife, a minor legitimate son, an unmarried legitimate daughter, a widowed mother, a husband, a parent other than a widowed mother, a minor illegitimate son, an unmarried illegitimate daughter, a daughter legitimate or illegitimate if married and a minor or if widowed, a minor brother, an unmarried or widowed sister, a widowed daughter-in-law, a minor child of a deceased son, or, where no parent of the workman is alive, a paternal grandparent ’ ”

Mr. A. G. Clow : I listened with some care to see if my Honourable friend would meet the arguments of the Honourable Member in charge of the Bill in dealing with the previous amendment ; but so far as I have been able to follow him, he has not attempted to deal with any of the reasons which induced the Select Committee to introduce the distinction to which he objects. This amendment, if I may say so, is open to much more objection than the one which he previously moved. So long as you are willing to stand by the list of the relatives that the Labour Commission suggested, up to that point, I see no very great objection in doing without proof of dependence. But if you want to introduce a considerable number of other relatives, including illegitimate children, it seems to me

[Mr. A. G. Clow.]

you are incurring a very grave danger, if you say that these should be treated as dependants whether they were in fact dependent or not. Mr. Morgan suggested that as the Commissioner requires proof already, there is no object in making this a statutory requirement. But the point is that if there are no relatives in class 1, and there are relatives in class 2 who were not really dependent, it is no use the Commissioner calling for proof, because he cannot reject their claim. Even if he finds that they never saw the deceased in their life or drew an anna from him, if they are the only dependants left, he must disburse the full amount of compensation to them under the present Act. I oppose the amendment.

Mr. Lalchand Navalrai : I do find that Mr. Morgan has made his amendment very clear. He means to say that he wants to lay down a definition of dependant. I submit that that will be very wrong. I am a Hindu and I know how widowed daughters and widowed sisters are maintained. The widowed daughters and sisters, at least in our part of the country, remain in the house of their husbands even after their death. They have enough of property to live upon and if this amendment is accepted, an anomaly will arise. I will illustrate my point. A workman has a son and also a widowed daughter. If the widowed daughter is dependent upon the workman, the son will be very willing to give her a share, but if she is not and has means of her own, then this amendment will compel the Commissioner to give her also a share, whether she deserves it or not. Therefore, I submit that this amendment should not be accepted. I oppose it.

Mr. N. M. Joshi : I think Mr. Navalrai is under a misapprehension. The Workmen's Compensation Commissioner has full discretion as regards the distribution among the various relatives. Where there is only one relative, he has no discretion. He must give the compensation to that relative, but if a man has got several relatives dependent upon him, then the Workmen's Compensation Commissioner has full discretion to distribute the amount to whoever he likes.

Mr. Lalchand Navalrai : Without proof ?

Mr. N. M. Joshi : Proof he will require. He will make inquiries as to whom he should distribute. That is for the distribution and not for the payment of compensation by the employer. On the whole, I think that Mr. Morgan's amendment will meet my purpose. The proof of dependence will not be necessary and the list of relatives is in accordance with the recommendation of the Select Committee. I, therefore, hope that the House will accept his amendment.

Mr. S. C. Sen : I oppose this amendment. The Select Committee went into the matter carefully and came to the conclusion that there should be some distinction between persons who are heirs or actual dependants and those who may not have known the workman, who have no connection with him, except that after his death they come forward and put forward a claim on the basis of relationship. For whose benefit was this distinction made ? For the benefit of the persons who are closely related to a workman and are real dependants and if the workman had been alive or had the capacity to make a will he would have provided for those persons. That is the first category. The second category includes persons who would never have got any portion of the assets of the deceased workman under

ordinary circumstances. Why should they come before the Commissioner and try to minimise the compensation to be paid to other persons who are really dependants of the workman? Therefore, the Select Committee came to the conclusion that there ought to be some proof of dependency in the second case, and, as Mr. Joshi says, the Commissioner in distributing the compensation has to take proof from all claimants as regards their relationship under the present law—at one stage or another, the Commissioner has to make an inquiry. It is to prevent that inquiry, so far as regards the first named persons, that this provision has been made, namely, as regards certain classes of persons who are presumed to be dependants. There ought not to be any enquiry. They are not to adduce any proof, but they will be paid the compensation which the Commissioner will fix. As regards the other persons, the Commissioner will take evidence as to whether they are dependants or not and this he will have to do under the present law. Therefore, I do not see what difficulties may arise in providing for the two classes of persons separately. I, therefore, oppose the amendment.

Mr. President (The Honourable Sir Shanmukham Chetty) : The question is :

“ That in part (i) of clause 2 (a) of the Bill, for the proposed clause (d) the following be substituted :

‘ (d) ‘ dependant ’ means any of the relatives of a deceased workman, namely, a wife, a minor legitimate son, an unmarried legitimate daughter, a widowed mother, a husband, a parent other than a widowed mother, a minor illegitimate son, an unmarried illegitimate daughter, a daughter legitimate or illegitimate if married and a minor or if widowed, a minor brother, an unmarried or widowed sister, a widowed daughter-in-law, a minor child of a deceased son, or, where no parent of the workman is alive, a paternal grandparent ’.”

The motion was negatived.

Mr. President (The Honourable Sir Shanmukham Chetty) : The question is that clause 2 stand part of the Bill.

The motion was adopted.

Clause 2 was added to the Bill.

Mr. President (The Honourable Sir Shanmukham Chetty) : The question is that clause 3 stand part of the Bill.

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

“ That in part (i) of clause 3 (a) of the Bill, for the word ‘ seven ’ the word ‘ three ’ be substituted.”

This clause refers to what is called waiting period. At present if a man is disabled for only ten days, compensation is not paid. The Royal Commission recommended that this period should be reduced to seven and the Bill makes provision with that object. My amendment seeks that this period should be reduced to three days. The only argument that I have seen used against the reduction of the number of days is that the number of cases that will arise will be very large. Personally, I hold that the number of such accidents is not very large. If you take those organised industries for which statistics have to be maintained as regards accidents such as factories and mines, the number of minor accidents is not so large that we should hesitate to introduce this reform and I do not know why we should refuse compensation to a man who receives minor injuries. I therefore

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suggest that my amendment should be accepted. We should not cause the poor labourer some loss of four days' wages. After all, wages mean something to these labourers. If a labourer does not get his wages for four days he loses a great deal and we should not put him to such a loss. I therefore hope that the House will accept my amendment.

Mr. President (The Honourable Sir Shanmukham Chetty) : Amendment moved :

“ That in part (i) of clause 3 (a) of the Bill, for the word ‘ seven ’ the word ‘ three ’ be substituted.”

Mr. A. G. Clow : I regret, Sir, that I must oppose this amendment. The Labour Commission gave a good deal of thought to this question and, in fact, Mr. Joshi was one of those who agreed originally to a period of seven days. He now wants to reduce that period to three days. He suggests that the number of cases will not be very large. Now, that is a point on which statistical experience is available. If you take the accidents in any country, experience tends to show that there is not a very great difference between the proportion of accidents that incapacitate a man for one, two, three or four days and those which incapacitate him fatally or permanently. Now, we have not complete statistics in India and I must therefore rely on experience elsewhere. It tends to show that if you abolished the waiting period of a week altogether, you would add 60 per cent. to the possible claims. I cannot give an exact figure for Mr. Joshi's reduction of three days, but I estimate that it would be in the neighbourhood of 30 per cent. In other words, even a small reduction of the waiting period adds enormously to the number of potential claims.

And what does it give in return ? It gives extraordinarily little. Suppose we take the average workman as being in receipt of about Rs. 20 a month, which, Mr. Joshi will agree, is a fair figure. He gets roughly as compensation 7 annas a day. In other words, taking the extreme case where the injury lasts the whole seven days, he is going to get under Mr. Joshi's proposal Rs. 1-12-0. In other cases he will get sums of Rs. 1-5-0, 14 annas or 7 annas. In dealing with sums of that kind, the administrative expenses are out of all proportion to the benefits received by the workman. If the case is contested, the workman has got to give notice. The Insurance Companies have to be consulted, the employer has got to appear and in the result a sum far exceeding the total amount of compensation will be spent in disposing of the claim. There is one further objection to this three days period and that is that in section 11 of the Act the employer is entitled to three days from the time of the receipt of notice to decide whether he wants a medical examination. If you accept this period of three days, I imagine that in a good many cases when the doctor turned up, the man would be back at work. He might say : “ I was seriously ill for more than three days but I am glad to say that I am now better and I should like to have compensation ”.

Mr. President (The Honourable Sir Shanmukham Chetty) : The question is :

“ That in part (i) of clause 3 (a) of the Bill, for the word ‘ seven ’ the word ‘ three ’ be substituted.”

The motion was negatived.

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

“ That in part (ii) of clause 3 (a), after the words ‘ resulting in death ’, the following be inserted :

‘ or in disability causing loss of 50 per cent. or more earning capacity ’.”

This amendment is intended to give effect to the recommendation of the majority members of the Royal Commission. The principle of Workmen's Compensation legislation is that those who start industries bring into existence certain risks by starting those industries. Those who bring into existence these risks should pay for the results of the accidents caused by those risks. This is the simple principle of workmen's compensation legislation. The workmen's compensation legislation has nothing to do with the negligence either of the employer or the employee. Although that is the principle of workmen's compensation legislation, but on account of the fact that capitalists are very influential they have got a clause put in the legislation of England and in some other countries that where a workman is negligent in certain matters he should not be given compensation.

Mr. A. G. Clow : “ Wilful disobedience ”.

Mr. N. M. Joshi : Wilful negligence. This insertion of the consideration of wilful negligence on the part of workmen is really against the principle of workmen's compensation legislation altogether. Somehow, on account of the influence of the capitalists in the legislature this defect crept in. Then attempts were made to remove the defect. In Great Britain legislation was passed which provides that this consideration of wilful negligence on the part of workmen should not be a bar to his dependants or to himself getting compensation in the case of death or in the case of serious permanent injury. This legislation was passed in Great Britain many years ago, I think 1906. We pass our legislation long after this British legislation was passed. But in spite of that fact our Government which prides itself upon being the Government of a backward country pass legislation in 1923 which was changed in Great Britain long before that. They put in this clause barring the workmen securing compensation when his wilful negligence was proved. The Royal Commission considered this question and its recommendation is that this wilful negligence on the part of workmen should not be a bar to his securing compensation in case where the accident causes death. That was unanimously passed and in case where permanent disablement is caused, it was passed by a majority of votes of the Royal Commission. The Government did not accept the recommendation of the majority of the members of the Royal Commission. They have given effect to the provision that workmen should not be deprived of their compensation on account of the plea of wilful negligence where death is caused. I am proposing by my amendment that even where serious permanent disability is caused, that is a disability on account of which he loses 50 per cent. of his earning capacity, the right to compensation should not be taken away on account of wilful negligence. I am quite aware that there are certain lawyers who somehow feel that this is against the principle of the law that a man who is wilfully negligent should not get compensation. Lord Birkenhead, who was then Mr. F. E. Smith had made a speech on this point in the House of Commons. I am quite sure Members of the Assembly will recognise that Lord Birkenhead was a distinguished lawyer. He stated very clearly in the House of Commons, when this point was discussed there, that he could not imagine a

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workman wilfully doing something which will cause his death or permanent injury to himself. He was therefore in favour of that proposal. I shall read his actual words : " The point of view which appealed to me so strongly was this, a workman would not commit a breach of rules for any improper motive if the result of that breach was likely to inflict upon him a permanent disablement or death ". What Lord Birkenhead says is this that you cannot say that a man wilfully will commit something by which his death will be caused or serious permanent disability will be caused to him.

Mr. Lalchand Navalrai : Do you know people commit suicides.

Mr. N. M. Joshi : To say that a man will do so, he says, is to go against human experience. There are people who commit suicides. I quite realise that, but we are not dealing with suicides. I am dealing with a man who causes permanent serious disablement but not suicide. If you are thinking of suicide it is provided by the Bill. What I am providing for in this Bill is that a man should not be deprived of his right to compensation on the ground that the accident was caused by his wilful negligence if that action involves a loss of a limb or permanent incapacity to the extent of 50 per cent. of his earning capacity. I hope the House will accept the amendment.

Mr. President (The Honourable Sir Shanmukham Chetty) : Amendment moved :

" That in part (ii) of clause 3 (a), after the words ' resulting in death ', the following be inserted :

' or in disability causing loss of 50 per cent. or more earning capacity '."

Mr. S. C. Sen : I opposed this proposal when it was made in the Select Committee and I oppose it in this House. I oppose the whole principle that a man if he is guilty of negligence should be allowed compensation simply because he is a workman. That is against the principle of natural justice and against everything that we know to be honest and common sense. Why should a man who wants to get rid of his limb or life and deliberately commits a breach of rules—I mean safety rules—be employed in a factory and then will have the satisfaction of knowing that for his negligence his employer would be made liable. That is a very nice proposition. However, a majority of the Select Committee accepted the view that a distinction should be made between accidents resulting in death and not resulting in death and I also agreed to that. Because, if the man is dead the evidence which he would have adduced whether he was negligent or not would be lost and therefore you will have very great difficulty in disproving the fact of negligence. But if the man is alive there is no such difficulty. He can give evidence combating the theory that there was any negligence. And moreover, what is the position of the employer ? The onus will be on him to prove that this accident was due to the negligence of the man who has met with the accident. Therefore he shall have to prove his case and not the workman himself. Moreover, in such a case the workman's evidence will be very important, and even Lord Birkenhead when he said that was probably actuated by the fact that the evidence to be given by the workman was not available. In these circumstances I do hope that the House will reject the amendment moved by

Mr. Joshi. Mr. Joshi always thought and still thinks that the recommendations of the Royal Commission are sacrosanct, but on the last occasion he departed from that and even now he wants to depart from that position because he thinks that the gentlemen who formed the minority were wrong.

Mr. Abdul Matin Chaudhury : Sir, unlike my Honourable friend, Mr. Sen, I was one of those who, when the Bill was referred to Select Committee, pressed for conceding the right of compensation to the workman who suffers loss to the extent of 50 per cent. or more of his earning capacity even when the injury was due to his own wilful negligence. I pressed this in Select Committee also but with no result. I should like to put one question to Mr. Sen. Suppose there is a regulation that soldiers in the trenches should wear a steel helmet, and a soldier in the trenches against that regulation removes his steel helmet wilfully and gets shot. Will you deprive him of his pension? If you do not deprive the soldier of his pension because of his wilful negligence of the safety regulation....

Mr. S. C. Sen : In that case there is no question of accident. His death may not be directly due to his removing the helmet but here the occurrence is due directly to his negligence.

Mr. Abdul Matin Chaudhury : Both are on the same grounds. The shooting of the soldier was due directly to his disregarding the safety regulation. Again my friend, Mr. Sen, expressed his righteous indignation at the inequity of giving compensation to the workman because it is due to his own wilful negligence. He forgets what Mr. Joshi just now mentioned as to the fundamental principle on which the Workmen's Compensation Act was based. That principle, as my friend, Mr. Joshi, just now explained, is what is known as the principle of occupational risks. When Mr. Sen starts a factory or coal mine he is responsible for all the accidents that flow from that factory or from that mine. That is the principle on which the Workmen's Compensation Act is based and that is the principle on which the amendment is based. I support my friend Mr. Joshi.

The Honourable Sir Frank Noyce : Sir, I regret that I must oppose this amendment. I submit for the consideration of this House that the position taken up in the Bill is the only logical one. There is one reason and one only that has been advanced for giving compensation in the case of fatal accidents to a workman who meets his death as a result of being at the time under the influence of drink or drugs if wilfully disobeying safety orders and if wilfully disregarding safety devices. My Honourable friend, Mr. Joshi, kept talking about wilful negligence. I must confess that I do not understand the expression. The Act says : " Wilful disobedience of orders expressly given and wilful removal or disregard by the workman of any safety guard or other device which he knew to have been provided for the purpose of securing the safety of workmen ". As I said, Sir, there is only one argument for giving compensation in the case of death resulting from accidents attributable to these causes and that is that the man is no longer there to confute the employer's case. That argument obviously does not apply to non-fatal cases. The workman can adduce evidence to show that he was not under

[Sir Frank Noyce.]

the influence of drink or drugs, that he did not disobey any orders or that he did not disregard safety devices. That, Sir, is the case for Government's action in accepting the recommendation only in so far as it has the unanimous support of the Royal Commission on Labour and in making compensation applicable to fatal accidents and not to non-fatal ones. It is true, as Mr. Joshi has said, that the majority of the Commission recommended that the exceptions should not apply in cases where a permanent loss of 50 per cent. or more of earning capacity results from the accident. I must confess I cannot understand the line of reasoning behind this recommendation. What is the result? The anomalies to which it would lead us would be that if a workman lost an eye he would get no compensation, but that if he lost a leg below the knee he would get it.

Mr. N. M. Joshi : That happens under the present Act, he gets different amounts of compensation.

The Honourable Sir Frank Noyce : Where would you stop? That is my point. If you stop at 50 per cent., why not stop at 25 or 10 per cent.? Where are you going to stop? There must be some definite line and I submit that the criterion should be whether or not the workman is in a position to bring forward evidence. The criterion can only be fatal accidents where the workman is no longer in a position to adduce evidence that his death was not due to the causes I have mentioned. Unless we have a criterion of that kind we lose ourselves; we slide from one hard case to another. For these reasons I am compelled to oppose the amendment.

Mr. B. R. Puri (West Punjab : Non-Muhammadan) : Sir, it is more with a view to clearly understanding the underlying principle of this Bill that I rise to make just one or two observations. We have been told that the underlying principle of this Bill is that those who introduce new industries bring along with them certain species of dangers and risks to which the workpeople are exposed; and, therefore, there is a moral or perhaps a legal obligation placed upon them to compensate those whom they expose to such dangers. This principle, Sir, has not impressed me. I see that there is a certain force in it; but at the same time there are always two sides to a question. No doubt it is a convenient principle to adopt....

Mr. N. M. Joshi : It is accepted all over the world.

Mr. B. R. Puri : I am not denying that—all I say is that it is a very convenient principle from the labourer's point of view; but at the same time the point of view of the industrialists and the capitalists should not be ignored. I am not an industrialist myself nor a capitalist. If anything, I have got my sympathies with the labourers; but at the same time I cannot disregard the obvious fact that if a capitalist, by setting up a particular factory or manufacturing concern, exposes to a certain measure those who have got to work there to certain risks and dangers, can it not be plausibly said that those, who go and seek employment for consideration, do so with their eyes open and, therefore, they should be deemed to have consented to the necessary and incidental dangers involved in such undertakings? If the capitalist has offered a certain amount of temptation to the labourer to take up a hazardous kind of work on payment, it is open to the other party in view of the gravity of the risk to say "I will not

risk my life or my limb". But if with his eyes wide open and for proper compensation and consideration he chooses to run that risk for the sake of making a gain, can it not be reasonably urged, that he is not entitled to any compensation? Is not it a case of contributory negligence? What is then the true principle of such legislation? It is because we have misconceived the real principle of such legislation that we find difficulty in reconciling some of the clauses of the Bill. The true principle is the giving of a compassionate allowance to those who are probably more in need of assistance than the capitalist. And on this principle you can justify the distinction you are making, in the case of death when you grant relief, even if it was proved that it was a case of wilful negligence. Otherwise your position will become inconsistent: wilful negligence is wilful negligence whether it results in the death of the man or in his permanent disablement. In principle there ought to be no difference at all. But it is because we are moved more by merciful and compassionate feelings, more with a view to helping those who perhaps need more help than the capitalist that we are making a departure and an exception in the case where death occurs. That seems to me the real principle because if you try to maintain any other principle, you say that in the case of death the man is no longer available to show that he was not guilty of wilful negligence and, therefore, it should be presumed in his favour that there was no wilful neglect on his part, that will not wash at all for this simple reason: Would you relieve the employer if he is prepared to assert that he can, in spite of the fact that the man is not there, put his relatives into the witness box or produce other evidence to show that the man was really guilty of wilful negligence which brought about his death?....

The Honourable Sir Frank Noyce : May I interrupt the Honourable Member? I would request him to remember that it is wilful disobedience and not wilful negligence: the two things are not the same.

Mr. B. R. Puri : I apologise for the mistake: wilful disobedience of certain rules or regulations which have brought about the death of the person would still entitle his relatives and his dependants to a certain amount of allowances. Would not that be so?....

The Honourable Sir Frank Noyce : As I understand him, the Honourable Member is asking me whether, in the case of wilful disobedience or disregard of safety devices which brings about a man's death, his relatives are entitled to compensation. Under the present Act, they are not; under the new Bill, if it becomes law, they will be.

Mr. B. R. Puri : That is exactly how I understood it. I was saying that you are not taking up a logical position. Suppose in a hypothetical case, by the most unimpeachable evidence it was proved that the man lost his life by deliberately disregarding rules of safety: still it will be no use to the employer: he will still have to pay compensation. Therefore this could not be really the reason in your mind. This cannot be treated as the basic principle of the Bill; and we are forced back to the position that the real honest way of dealing with this Bill is to acknowledge once for all that the underlying principle is what I have said it to be—that it is merely by way of compassion that we compensate the labouring classes at the expense of those who can perhaps afford the money more easily than the employees.

Mr. N. M. Joshi : May I say a few words?

Mr. President (The Honourable Sir Shanmukham Chetty) : The Honourable Member has no right of reply on an amendment. The question is :

“ That in part (4) of clause 3 (a), after the words ‘ resulting in death ’, the following be inserted :

‘ or in disability causing loss of 50 per cent. or more earning capacity ’.”

The motion was negatived.

Mr. President (The Honourable Sir Shanmukham Chetty) : I may inform Honourable Members that we shall ordinarily adjourn the House at a quarter to five every day. The House now stands adjourned till tomorrow morning at 11 O'clock.

The Assembly then adjourned till Eleven of the Clock on Wednesday, the 23rd August, 1933.