

16th August 1938

# THE LEGISLATIVE ASSEMBLY DEBATES

(Official Report)

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Volume IV, 1938

*(8th August to 25th August, 1938)*

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## EIGHTH SESSION OF THE FIFTH LEGISLATIVE ASSEMBLY, 1938



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1938

# Legislative Assembly.

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MR. M. S. ANEY, M.L.A.

SYED GHULAM BHIK NAIRANG, M.L.A.

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

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# LEGISLATIVE ASSEMBLY.

*Tuesday, 16th August, 1938.*

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

## STARRED QUESTIONS AND ANSWERS.

### (a) ORAL ANSWERS.

#### PLACING BEFORE THE LEGISLATIVE ASSEMBLY CERTAIN DEMANDS FOR GRANTS.

223. **Mr. T. S. Avinashilingam Chettiar** : Will the Honourable the Finance Member state :

- (a) whether Government have considered the reasons which led the Assembly to throw out the Budget in the last Budget session ; and
- (b) if so, whether they have considered the advisability of placing before the Assembly in future the demands for the grants which were omitted ?

**The Honourable Sir James Grigg** : I would invite the attention of the Honourable Member to the statements I made in this House on the 2nd March, 1938, and in the Council of State on the 4th March, 1938.

**Mr. T. S. Avinashilingam Chettiar** : May I know if this matter was considered after the Budget was thrown out ?

**The Honourable Sir James Grigg** : If the Honourable Member will refer to the two statements to which I have referred, he will see that I then took up the attitude that Government had no option in the matter.

**Mr. T. S. Avinashilingam Chettiar** : The Honourable Member has referred to his speech of the 2nd March. The Budget was thrown out later. Was the matter considered after it was thrown out ?

**The Honourable Sir James Grigg** : Government took up the attitude that they had no option in the matter and it is no good reconsidering it.

**Pandit Lakshmi Kanta Maitra** : What was the answer to part (b) ?

**The Honourable Sir James Grigg** : I have invited the Honourable Member's attention to the two statements I have made in March last.

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**Mr. S. Satyamurti :** The Honourable Member said that they had no option in the matter. May I take it that they were advised that they had no legal option in the matter or was it a matter of prestige ?

**The Honourable Sir James Grigg :** Both legal and constitutional advice.

#### CONSTITUTION AND POWERS OF THE NEW STANDING FINANCE COMMITTEE.

224. **\*Mr. T. S. Avinashilingam Chettiar :** Will the Honourable the Finance Member state :

- (a) whether Government have come to a conclusion over the nature of the constitution and powers of the new Standing Finance Committee which is proposed to be set up instead of the old Finance Committee ; and
- (b) whether he expects to move the motion for consideration of this matter in this session ?

**The Honourable Sir James Grigg :** I have circulated a memorandum on the subject to the Leaders of Parties in this House and I am awaiting their observations.

**Mr. T. S. Avinashilingam Chettiar :** When was it circulated ?

**The Honourable Sir James Grigg :** I think a week or ten days ago.

**Mr. N. M. Joshi :** Does the memorandum contain proposals for the establishment of the Estimates Committee ?

**The Honourable Sir James Grigg :** Yes, Sir.

**Mr. T. S. Avinashilingam Chettiar :** When does the Finance Member propose to have the new committee constituted ?

**The Honourable Sir James Grigg :** Will the Honourable Member address his own leader on the subject.

**Mr. T. S. Avinashilingam Chettiar :** Does the Honourable Member expect to have this done in this Session ?

**The Honourable Sir James Grigg :** I would again ask the Honourable Member to address his leader on the subject.

**Mr. T. S. Avinashilingam Chettiar :** I am here to address myself to the Finance Member.

**The Honourable Sir James Grigg :** I have already given the answer.

#### INCREASE IN THE PAY AND ALLOWANCES OF BRITISH SOLDIERS AND OFFICERS.

225. **\*Mr. T. S. Avinashilingam Chettiar :** Will the Defence Secretary state :

- (a) since 1932 how many times the pay and allowances of British soldiers and officers have been increased ;

- (b) what the reasons for such increases have been ; and
- (c) what the total financial effect of these increases has been ?

**Mr. C. M. G. Ogilvie :** (a) In the case of British other ranks, concessions were made on three occasions. In 1936, a grant of proficiency pay was sanctioned. In 1937, certain allowances were sanctioned, and in April last an increase of pay and also of allowances was granted.

An increase of pay for British officers was announced in the House of Commons on the 28th of July, 1938, by the Secretary of State for War.

(b) and (c). I refer the Honourable Member to my speech of the 9th of August last on Mr. Satyamurti's adjournment motion. The financial effect of the 1936 increase was Rs. 7,33,000 and of the 1937 increases about Rs. 37 lakhs.

**Mr. Badri Dutt Pande :** Have any increase in allowances and pay been given in the intervening period to Indian troops also ?

**Mr. C. M. G. Ogilvie :** I should require notice of that.

**Mr. N. M. Joshi :** May I ask whether the proficiency allowance is given to all or only to a selected few and proficiency in what ?

**Mr. C. M. G. Ogilvie :** Only to those who attain proficiency in the exercise of their functions.

**Mr. T. S. Avinashilingam Chettiar :** What is the total financial effect of all these increases put together ?

**Mr. C. M. G. Ogilvie :** The Honourable Member will get it if he adds them up. I am not very good at rapid mental arithmetic, but I think he will find it is about 196 lakhs.

**Seth Govind Das :** Have the Government decided to give effect to this increase every year practically ?

**Mr. C. M. G. Ogilvie :** I have told you what has actually been done.

**Pandit Lakshmi Kanta Maitra :** May I know from the Honourable Member whether in these cases the initiative was taken by the Defence Department or the increases in pay and allowances were given as a result of the recommendations of the Home Government ?

**Mr. C. M. G. Ogilvie :** I would refer the Honourable Member to the speech I made on the 9th August last.

**Pandit Lakshmi Kanta Maitra :** There is nothing in that speech.

**Mr. President** (The Honourable Sir Abdur Rahim) : The matter was fully discussed then. Next question.

#### MILITARY LANDS.

226. **\*Mr. T. S. Avinashilingam Chettiar :** Will the Defence Secretary state :

- (a) whether lands called military grounds are being held by the Army Department in various parts of the country ;

- (b) whether they have a list of such lands ;
- (c) whether these lands are used rarely, or not at all ; and
- (d) if so, whether Government have considered if it is still desirable to possess such lands ?

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

(b) Yes.

(c) The present practice is that only those military camping grounds shall be maintained which may be required for a particular purpose (e.g., training moves, relief moves, etc.), and in respect of which the maintenance charges are calculated to be less than compensation charges for occasional occupation.

(d) Yes. The lands which the Central Government do not consider it necessary to retain for military purposes are being disposed of by them in consultation with the Provincial Governments concerned.

**Mr. T. S. Avinashilingam Chettiar :** How many of these lands were found to be unnecessary ? Are the Government prepared to dispose of them ?

**Mr. C. M. G. Ogilvie :** The lands are extremely numerous and if the Honourable Member wants exact information, I must ask for notice.

**Mr. S. Satyamurti :** When was the question last examined as to the necessity or otherwise of the Military Department keeping these lands ?

**Mr. C. M. G. Ogilvie :** I shall require notice of that too. Speaking off-hand, the answer to Mr. Satyamurti's question is last April.

**Mr. S. Satyamurti :** Have Government re-examined that question subsequently ? To my own knowledge, there are many military lands which are not likely to be used by the Defence Department at any time.

**Mr. C. M. G. Ogilvie :** The Government of India are not in possession of the private information which Mr. Satyamurti has collected in Madras but as I have made it quite clear, the policy has been laid down definitely and absolutely that camping grounds shall not be retained unless the maintenance charges are calculated to be less than compensation charges for occasional occupation.

**Mr. Badri Dutt Pande :** A good many camping grounds in the hills have been deserted and they are still in the possession of the Military. Why are they not sold to private persons ?

**Mr. C. M. G. Ogilvie :** The answer I have given covers grounds both in the hills and in the plains.

**Mr. T. S. Avinashilingam Chettiar :** Do you publish particulars of the grounds not wanted, so that people can buy them if they want to ?

**Mr. C. M. G. Ogilvie :** A list of the camping grounds has been published.

**Mr. T. S. Avinashilingam Chettiar :** Has a list of the camping grounds not wanted been published ?

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**Mr. C. M. G. Ogilvie :** I do not know whether a list of those which are not required has been published but as I have stated they are disposed of in consultation with the Provincial Governments concerned.

**Mr. T. S. Avinashilingam Chettiar :** Do you get money in return ?

**Mr. C. M. G. Ogilvie :** Yes.

**Mr. T. S. Avinashilingam Chettiar :** To which account are they credited ?

**Mr. C. M. G. Ogilvie :** I presume to the general revenues, in the ordinary way.

CASES OF INDISCIPLINE AMONGST THE INDIAN PERSONNEL OF THE ARMY.

227. **\*Mr. T. S. Avinashilingam Chettiar :** Will the Defence Secretary state :

- (a) whether there have been cases of grave indiscipline amongst the Indian personnel of the Indian Army in the last three years ;
- (b) how it compares with cases of indiscipline in the British portion of the Indian Army ; and
- (c) if there is a marked difference, what is the reason for this difference ?

**Mr. C. M. G. Ogilvie :** (a) Yes, a few.

(b) and (c). The discipline of both the British and Indian personnel of the army in India is extremely good, and there is no room for comparison.

**Mr. T. S. Avinashilingam Chettiar :** The Honourable Member said ' a few ' ; may I know what is the number ?

**Mr. C. M. G. Ogilvie :** As a result of considerable researches, I have obtained figures for the last year which were in the case of British troops 27 and in the case of Indian troops 50. It must be remembered however that the numbers of Indian troops are considerably greater than of British troops.

**Sardar Sant Singh :** Does this refer to officers or the rank and file ?

**Mr. C. M. G. Ogilvie :** Officers are not normally guilty of grave indiscipline.

†228\*

\*This question was postponed. See starred question No. 579 set out for the 29th August, 1938.

**CREATION OF A POOL OF OFFICERS FOR THE FINANCE DEPARTMENT.**

**229. \*Seth Govind Das :** Will the Honourable the Finance Member please state :

- (a) whether it is a fact that a pool of officers for the Finance Department of Government will soon be created ;
- (b) the reasons for this action ;
- (c) whether details of the scheme are available and will be placed on the table ; and
- (d) whether the scheme forms part of the reorganisation of the Central Secretariat recommended by the Wheeler Committee ?

**The Honourable Sir James Grigg :** (a), (b), (c) and (d). I invite the attention of the Honourable Member to my reply to starred question No. 112 asked by Mr. K. Santhanam on the 10th August, 1938, and to the Press Note issued on 17th November, 1937, on the subject.

**Mr. T. S. Avinashilingam Chettiar :** May I know the answer to clause (d), Sir ?

**The Honourable Sir James Grigg :** I have given an omnibus answer to all four questions.

**Mr. T. S. Avinashilingam Chettiar :** May I point out that the answer to which he has referred does not cover clause (d) of the question ?

**The Honourable Sir James Grigg :** If the Honourable Member will refer to the press note, he will have the answer to clause (d).

**AMENDMENT OF SECTION 11 OF THE PREVENTION OF CRUELTY TO ANIMALS ACT.**

**230. \*Mr. Govind V. Deshmukh :** Will the Honourable the Home Member please state :

- (a) if any correspondence passed between the Government of India and the President of the Society for the Prevention of Cruelty to Animals, Madras, in 1936, in respect of the proposal for the amendment of section 11 dealing with ' Saving with respect to religious rites and usages ' of the Prevention of Cruelty to Animals Act XI of 1890 as a result of mass animal sacrifices and the procession of the carcasses of sacrificed animals at Ellore and other places ;
- (b) if his attention has been drawn to the letter by the Honorary Secretary, Nilgiris Society for the Prevention of Cruelty to Animals, that appeared in the *Hindu*, of the 1st June, 1938, under the heading ' Animal sacrifice at Ootacamund ' ;
- (c) if Government have been approached recently by the Society for the Prevention of Cruelty to Animals, Madras, with a request to amend section 11 of the Prevention of Cruelty to Animals Act ; and

- (d) if they intend to give effect to the representations made by the Society for the Prevention of Cruelty to Animals, when the new official Bill for amending the Prevention of Cruelty to Animals Act would be considered ?

**The Honourable Mr. R. M. Maxwell :** (a), (b) and (c). The answers are in the affirmative.

(d) In the form in which it now stands, the Bill includes no amendment of section 11 but deals with the problem referred to in the Honourable Member's question by amending section 12 with the effect of including section 11 in the sections which Provincial Governments are free to put into force or not as they think fit. The Bill, as the Honourable Member is aware, is now before a Select Committee and the Committee will be free to propose any alternative mode of treatment which may seem to it to be expedient.

#### INTRODUCTION OF " STAMP SCRIP " IN INDIA.

231. **\*Mr. Govind V. Deshmukh :** Will the Honourable the Finance Member please state :

- (a) if ' stamp Scrip ' was used in Germany in 1919, and in Bavaria and Austria in 1931 in the days of depression ; and  
(b) if Government propose to introduce it in India now, at least as a temporary measure, in these days of distress and unemployment ; if not, why not ?

**The Honourable Sir James Grigg :** (a) Government have no precise information. .

(b) No, Sir. Government take the view that an expedient of this kind would do harm rather than good.

**Mr. S. Satyamurti :** May I ask why the Government say that an expedient of this kind would do harm rather than good, without their having any exact information about it—as the Honourable Member says in reply to part (a) of the question ?

**The Honourable Sir James Grigg :** Government have a good deal of general information, but no precise information.

**Sardar Sant Singh :** May I know what is the meaning of " stamp Scrip " ?

**The Honourable Sir James Grigg :** I am quite prepared to give the Honourable Member a lecture in private, or the Honourable Member can ask the Honourable Member who put down the question.

#### EXEMPTION OF ARTICLES OF DAILY USE OF PASSENGERS ON SHIPS FROM ASSESSMENT OF CUSTOMS DUTY.

232. **\*Seth Govind Das :** Will the Honourable the Finance Member please state :

- (a) whether it is a fact that articles of daily use of passengers on ships are exempted from assessment of custom duty ;

(b) if not, whether he is aware that it causes inconvenience to passengers when articles like combs, talcum powder, fruits, medicines, fountain pens, etc., are subjected to custom assessment ; and

(c) whether Government are prepared to modify or cause to modify the existing customs schedule, so as to exempt articles of daily use and articles intended for presents also ?

**Mr. A. H. Lloyd :** (a) Under the baggage rules, articles which are *bonâ fide* personal effects and not intended for sale are, with certain exceptions, exempted from import duty.

(b) Government are not aware that any inconvenience has been caused to passengers in respect of such *bonâ fide* personal effects.

(c) Government are not prepared to exempt from duty articles imported by passengers which are not meant for their own use.

#### PROHIBITION ON THE IMPORT OF CERTAIN BOOKS INTO INDIA.

233. \***Shrimati K. Radha Bai Subbarayan :** Will the Honourable the Home Member be pleased to state :

(a) if and when the import into India of the following books was prohibited :

(i) Fascism and Social Revolution ; and

(ii) World Politics, 1918—1936 ?

(b) if the answer to part (a) be in the affirmative, what are the reasons for such prohibition ?

**The Honourable Mr. R. M. Maxwell :** (a) and (b). Yes. The books fall within the scope of the general notification issued under the Sea Customs Act on the 10th September, 1932, prohibiting the entry of communist propaganda into India.

**Shrimati K. Radha Bai Subbarayan :** Could the Honourable Member inform us of the specific reasons for which these books are banned ?

**The Honourable Mr. R. M. Maxwell :** That is the specific reason.

**Shrimati K. Radha Bai Subbarayan :** May I know if the book to which the Honourable the Commerce Member referred yesterday is also banned under the same regulations ?

**The Honourable Mr. R. M. Maxwell :** I believe so.

**Shrimati K. Radha Bai Subbarayan :** Are Government aware that these books and several other books which have been banned by the Government are recommended by educationists in schools and universities in England to students to study, and that it causes serious inconvenience to students when they come home for their holidays and their books are confiscated in Bombay by the customs officials ?

**Mr. President** (The Honourable Sir Abdur Rahim) : The Honourable Member is giving information.

**Mr. Bhulabhai J. Desai** : The Honourable Member asks, Sir,—“ are Government aware that these books are recommended for study in English schools and universities ? ”.

**The Honourable Mr. R. M. Maxwell** : No, Sir, I am not so aware, but in any case the only thing we are concerned with is that they fall within the scope of the notification in force in this country.

**Shrimati K. Radha Bai Subbarayan** : May I ask the Honourable Member to inform this House of the particular danger Government hope to save this country from if they prohibit the entry of these books which Indians are allowed to read outside India ?

**The Honourable Mr. R. M. Maxwell** : That is too big a question to answer, Sir.

**Mr. S. Satyamurti** : May I ask whether Government are satisfied that these two books—“ Fascism and Social Revolution ” and “ World Politics, 1918—1936 ”—are written, with a view to propagating communist ideas ?

**The Honourable Mr. R. M. Maxwell** : Will the Honourable Member kindly repeat his question ?

**Mr. S. Satyamurti** : My Honourable friend said that these books are prohibited under the Sea Customs Act and that all books tending to propagate communist ideas would be prohibited. May I know whether Government have satisfied themselves that these two books do propagate communist ideas ?

**The Honourable Mr. R. M. Maxwell** : That was only a general description of the notification. The notification actually prohibits the importation of any documents issued or emanating from the Communist International or any organization affiliated to or controlled by or connected with the Communist International or any person holding office in any such organization. The author of the two books referred to in this question is one Mr. R. P. Dutt, who is an office-holder of the communist party of Great Britain.

**Mr. S. Satyamurti** : May I know if these books are prohibited because of the classification of the author under one of these categories, and not because of what is contained in these books ?

**The Honourable Mr. R. M. Maxwell** : Certainly, Sir.

**Mr. S. Satyamurti** : May I know if the Government have read these books, or anybody else has read these books on behalf of the Government, and may I know if Government have come to that conclusion because X is the author of these books, and, therefore, they must be prohibited ?

**The Honourable Mr. R. M. Maxwell** : Government have read the book but what applies is the notification.

**Mr. S. Satyamurti :** May I ask who read the books on behalf of the Government, and whether Government were advised by that gentleman that these books should be banned as they advocate communist propaganda, and whether that gentleman is competent to advise the Government to this effect ?

**The Honourable Mr. R. M. Maxwell :** That does not arise. I only said that books that advocate communist propaganda are debarred under the notification.

**Mr. S. Satyamurti :** Sir, my Honourable friend first said that these books are prohibited under the first category, and when I asked him as to whether they were prohibited because of the nomenclature of the author and not because of the contents of the book, he said that the books had been read and were prohibited because they came under the category of communist propaganda. I want an elucidation of the point as to whether any one had read the book on behalf of the Government and whether the Government came to this conclusion as the result of the advice of this gentleman.

**Mr. President (The Honourable Sir Abdur Rahim) :** The point is, whether any official advised the Government.

**Mr. S. Satyamurti :** May I know whether any human brain was applied to this book ?

(No answer.)

**Mr. N. M. Joshi :** May I ask whether the Government of India ban also books that propagate Fascist ideas or Fascism has become the creed of the Government of India ?

**The Honourable Mr. R. M. Maxwell :** We have not yet reached that stage.

**Prof. N. G. Ranga :** When were these books banned, Sir ?

**The Honourable Mr. R. M. Maxwell :** The notification was dated 1932.

**Prof. N. G. Ranga :** In view of the fact that these books were being sold by Higginbothams, authorised book-sellers for the Railways controlled by this Government even in 1936, and 1937, may I know whether this notification issued in 1932 still holds good, and if the books are today being sold anywhere and everywhere but they are still liable to be confiscated by Government ?

**The Honourable Mr. R. M. Maxwell :** Do I understand the Honourable Member to say that the books referred to are now on sale in railway book-stalls ?

**Prof. N. G. Ranga :** They were on sale in 1937, or at the end of that year.

**The Honourable Mr. R. M. Maxwell :** I am very much obliged to the Honourable Member for the information.

**Prof. N. G. Ranga :** May I know what action the Government propose to take against their customs officials and other people responsible for prohibiting these books while they have allowed entry of these books all these years ?

**The Honourable Mr. R. M. Maxwell :** I can assure the Honourable gentleman that we shall look into it.

**Prof. N. G. Ranga :** Can the Government of India assure us that any definite announcement was made by the Government of India, or did they depend only upon the arbitrary decision of the customs officials in regard to the banning of these particular books ?

**The Honourable Mr. R. M. Maxwell :** The customs officials merely have to apply the notification under the Sea Customs Act.

**Prof. N. G. Ranga :** Are we to understand that any book and every book that emanates from Mr. R. P. Dutt is to be considered by a customs official as being liable to be banned, or was a notification issued giving instructions in regard to any one of the books published by that particular gentleman ?

**The Honourable Mr. R. M. Maxwell :** Any book emanating from Mr. R. P. Dutt will be intercepted under the Sea Customs notification.

**Mr. Muhammad Azhar Ali :** May I ask whether universities and English clubs also are prohibited from keeping books like these ?

**The Honourable Mr. R. M. Maxwell :** If the notification is applied properly, the clubs would not be able to get hold of these books.

**Mr. T. S. Avinashilingam Chettiar :** Will Government consider the advisability of going through the books and not banning them omnibus ?

**The Honourable Mr. R. M. Maxwell :** That is merely a suggestion.

**Mr. N. M. Joshi :** In view of the fact that the banning of these books leads to smuggling and also leads to wrong ideas about communism being formed in this country, will the Government of India consider the advisability of re-considering their notification ?

**The Honourable Mr. R. M. Maxwell :** If the Honourable Member's argument held good, it would also apply to the removal of restrictions on the importation of opium and various other things.

#### CHANGES IN THE ARMY IN INDIA AS A RESULT OF THE TALKS BETWEEN THE GOVERNMENT OF INDIA AND THE WAR OFFICE.

234. **\*Sardar Mangal Singh :** (a) Will the Defence Secretary please state what changes have been, or are likely to be effected in the Army in India as a result of the talks between the Government of India and the War Office ?

(b) What will be their financial effect on the military expenditure of the Government of India ?

**Mr. C. M. G. Ogilvie :** (a) and (b). I refer the Honourable Member to my reply to starred questions Nos. 95, 113 and 131 asked on the 10th August, 1938, on the same subject, and to supplementary questions arising therefrom.

**Mr. Manu Subedar :** May I ask if it is the intention of the Government now to take the Leaders of the Parties in this House into their confidence and to place before them the subject-matter of these talks ?

**Mr. C. M. G. Ogilvie :** No, Sir. There is nothing as yet which can be laid before anybody.

**Sardar Mangal Singh :** Sir, the information asked in this question is entirely different. I want to know whether there will be any changes in the Indian side of the army as a result of those talks ?

**Mr. C. M. G. Ogilvie :** I am afraid the Honourable Member will have to wait for some little time to find that out.

#### CONDITIONS FOR THE GRANT OF MILITARY PENSIONS.

235. **\*Sardar Mangal Singh :** (a) Will the Defence Secretary please state whether it is a fact that Military Pensions are granted only on the condition that a pensioner actively supports the Government ?

(b) Is this condition, and other conditions, made known to the pensioner at the time of the grant of pension ?

(c) What is the significance of "Actively supports the Government" ?

(d) Is it permissible under the Military Pension Rules for a pensioner to vote for, to support, or himself stand as a candidate, on Congress ticket to any Legislature or a Local Body ?

**Mr. C. M. G. Ogilvie :** (a) No.

(b) and (c) Do not arise.

(d) I refer the Honourable Member to the answer given by me to parts (a), (b) and (c) of his starred question No. 91 on the 10th of this month.

**Mr. Lalchand Navalrai :** With regard to clause (d), will the Honourable Member tell me, in view of the fact that the Congress is no more their enemy, why they have put restrictions on the Congress ?

**Mr. C. M. G. Ogilvie :** I refer the Honourable Member to the answer I have just given.

**Mr. President** (The Honourable Sir Abdur Rahim) : The Honourable Member has answered this very question before and the Honourable Member (Mr. Lalchand Navalrai) ought to look it up.

**Mr. Lalchand Navalrai :** In view of the fact that they are prohibited—and I take it that that was the answer given before—I want to know, because the Congress are no more their enemies, why they have put that restriction ?

**Mr. C. M. G. Ogilvie :** The Honourable Member will save himself much trouble if he will look up the answer I gave to starred question No. 91 on the 10th of this month.

**Mr. Badri Dutt Pande :** Is it a fact that a certain soldier's pension was confiscated because he harboured a Congress man ?

**Mr. C. M. G. Ogilvie :** I must ask for notice of this question.

**Sardar Mangal Singh :** What I want to know, Sir, is whether a military pensioner can stand on the Congress ticket to any Legislature or a local body ?

**Mr. C. M. G. Ogilvie :** I again refer the Honourable Member to the answer I gave in full to his own question on the 10th instant.

**Sardar Mangal Singh :** In that answer the Honourable Member....

**Mr. President** (The Honourable Sir Abdur Rahim) : Has the Honourable Member got the answer.

**Sardar Mangal Singh :** I remember the answer in which he referred only to 'any political body'. He did not name the Congress. I want to know definitely whether a military pensioner can stand on the Congress ticket to any Legislature or to any local body. Last time, he gave an evasive reply to my question.

**Mr. C. M. G. Ogilvie :** I strongly object to that remark.

**Sardar Mangal Singh :** Will you please first read your previous answer ?

**Mr. C. M. G. Ogilvie :** I first demand that the Honourable Member should withdraw his insulting remark.

**Mr. President** (The Honourable Sir Abdur Rahim) : The Honourable Member (Sardar Mangal Singh) has not verified his remark.

**Mr. S. Satyamurti :** We have read the answer. Let me submit that in that answer there was no answer to the question whether the military pensioners can or cannot stand on the Congress ticket to Legislatures and to Local Boards.

**Mr. C. M. G. Ogilvie :** Here, Sir, is the answer and it completely covers everything that the Honourable Member asks.

"A military pensioner may vote for the candidate of any political party, or stand himself for election, or become a member of any committee or other organisation of any party, but it must be understood that active participation in any movement which aims at overturning the Government by unconstitutional or unlawful means may result in the forfeiture of pension."

**Sardar Mangal Singh :** In that question, I definitely asked whether a military pensioner can become a member of the provincial Congress Committee and whether a military pensioner can stand on the Congress ticket and the Honourable Member gave a reply in which even the word "Congress" is not mentioned.

**Mr. President** (The Honourable Sir Abdur Rahim) : I take it that "any political party" includes the Congress Party.

**Maulana Zafar Ali Khan :** In view of the fact that a definite declaration has been made on the floor of the House that the Congress is not the enemy of the British Government, I should like to know whether the Congress is the friend of the British Government or its enemy ?

**Mr. President** (The Honourable Sir Abdur Rahim) : That question does not require any answer.

**Mr. S. Satyamurti :** The Honourable Member said in his previous answer that any participation in activities tending to subvert the Government will lead to the forfeiture of the pension. I now ask what the present attitude of the Government is towards the Indian National Congress and whether, in view of that proviso, Government are agreeable to allow the military pensioners to stand on the Congress ticket to Legislatures and to local bodies ?

**Mr. C. M. G. Ogilvie :** So long as the Congress remains a constitutional party and operates in a constitutional manner, there is no possible objection of any kind to military pensioners joining it.

#### RECRUITMENT OF VETERINARY ASSISTANT SURGEONS.

236. **\*Sardar Mangal Singh :** (a) Will the Defence Secretary please state how many Veterinary Assistant Surgeons have been recruited to the Army from the 1st January, 1938 ?

(b) How many graduates from the Punjab Veterinary College, Lahore, have been taken in the Army from the 1st January, 1938 ?

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

(b) None.

**Mr. T. S. Avinashilingam Chettiar :** In view of the policy of the Government stated previously that civilians will be recruited to these veterinary posts, have they been recruited and have they replaced the British military officers in that Department ?

**Mr. C. M. G. Ogilvie :** I imagine they have.

**Mr. T. S. Avinashilingam Chettiar :** I do not want your imagination : I want facts ?

**Mr. C. M. G. Ogilvie :** Then the Honourable Member had better give notice of his question.

**Mr. M. Ananthasayanam Ayyangar :** May I ask why is it that not even one of these five was selected especially in view of the fact that a candidate was successful from the Punjab Veterinary College ?

**Mr. C. M. G. Ogilvie :** The reason why no one was selected from the Punjab was that no one from the Punjab applied.

SERVICES OF THE BRITISH TROOPS REQUISITIONED BY PROVINCIAL GOVERNMENTS TO DEAL WITH COMMUNAL RIOTS.

237. **\*Sardar Mangal Singh :** Will the Defence Secretary please state which Provincial Governments have requisitioned the services of the British troops in dealing with communal riots from July, 1937 ?

**Mr. C. M. G. Ogilvie :** Provincial Governments when asking for the assistance of troops are not allowed to lay down the composition of the force to be employed.

During the period stated, British troops were called out in connection with communal disturbances four times at the request of the United Provinces Government for military assistance and once at the request of the Bengal Government.

British troops were also kept in readiness in connection with communal disturbances three times at the request of the United Provinces Government, once each at the request of the Central Provinces and Bombay Governments and once at the request of the Chief Commissioner, Delhi ; but in these cases were not required to move.

**Mr. T. S. Avinashilingam Chettiar :** May I ask whether any Provincial Government has shown any anxiety to have British troops for internal security purposes ?

**Mr. C. M. G. Ogilvie :** They have not actually expressed that anxiety.

†238\*.

GENTLEMEN HAVING CONTRACTS OR AGENCIES OF SUPPLYING *Ghee* TO SOLDIERS OF THE ARMY.

239. **\*Mr. Sham Lal :** Will the Defence Secretary be pleased to state :

- (a) the names of different gentlemen having contracts or agencies of supplying *ghee* (clarified butter) to soldiers of the Indian Army, year after year, during the last decade ;
- (b) the length of period after which these tenders are being called ; and
- (c) if several of these gentlemen have had their monopolies during the major portion of the last ten years ?

†This question was postponed. See question No. 507 set out for the 25th August, 1938.

**Mr. C. M. G. Ogilvie :** (a) and (c). I refer the Honourable Member to my answers to Mr. Pande's starred questions Nos. 639 and 1247 asked during the last Session, and the agreements subsequently placed in the Library of the House.

(b) Tenders were last called for in 1932.

#### NON-INCLUSION OF CERTAIN AREAS IN THE BAZAR AREA OF THE LAHORE CANTONMENT.

240. **\*Mr. Sham Lal :** (a) With reference to starred question No. 1006 of Mr. N. V. Gadgil, answered on the 25th March, 1938, will the Defence Secretary be pleased to state whether it is a fact that since the question under reference was answered, the Cantonment Board of Lahore unanimously recommended that civilian areas like the High School playground, library and bazar garden, Mehtab Rai Ahata, Saddar Bazar market, Sanatan Dharm School, Aggarwal Dharamsala, Lalkurti Bazar, Lalkurti Tank, temple and garden, Saddar Bazar woodstalls, *Idgah*, Diggi temple, Saddar Bazar Primary School, No. 2, Ahata Ghasiram, and other areas, should be included in the bazar area of this cantonment ?

(b) Is it not a fact that military officers and the elected members supported the proposal to include this area within the bazar area ?

(c) Is it also not a fact that even the Brigade Headquarters agreed with the proposal ?

(d) Is it a fact that the proposal has now been turned down either by the Northern Command or by the Government of India ? If so, why ?

**Mr. C. M. G. Ogilvie :** (a), (b) and (c). Yes.

(d) Yes, because it was considered undesirable to include some of the areas in the bazar owing to the fact that they pertained to the British Military Hospital and others because they consisted of agricultural land, for the inclusion of which in the bazar area there appeared to be insufficient justification.

#### IMPORTING OF CLERKS FROM OTHER CANTONMENTS BY THE EXECUTIVE OFFICER OF THE LAHORE CANTONMENT.

241. **\*Mr. Sham Lal :** (a) With reference to his answer to question No. 1095 of the 30th March, 1938, will the Defence Secretary be pleased to state what steps Government took to stop the practice, which the Executive Officer of Lahore Cantonment followed in Deolali, of importing clerks from previous cantonment in which he served ?

(b) Is it a fact that in Lahore Cantonment the very same Executive Officer has framed the so-called reorganisation scheme in which the services of some servants of the Cantonment Board drawing salary below Rs. 25 are to be dispensed with and new ones are to be imported ?

(c) How many persons drawing Rs. 25 or less have been employed by the Executive Officer since his arrival in Lahore Cantonment and how many have been turned out ?

**Mr. C. M. G. Ogilvie :** (a) The necessary instructions were issued in 1935.

(b) No.

(c) 14 and 20.

**FAILURE OF THE EXECUTIVE OFFICER OF THE LAHORE CANTONMENT BOARD TO COMPLY WITH A REQUISITION FOR A SPECIAL MEETING OF THE BOARD.**

242. **\*Mr. Sham Lal :** (a) With reference to the information placed on the table of the House on the 1st April, 1938, in reply to starred question No. 898 of the 22nd March, 1938, will the Defence Secretary be pleased to state whether it is not a fact that the Executive Officer in his letter to the Vice-President to the Lahore Cantonment Board wrote that the matter for which a special meeting of the Board was being convened, was not a matter of public importance and therefore the President did not desire to convene the meeting ?

(b) Is it not a fact that the Vice-President of the Cantonment Board did not withdraw the requisition for the special meeting in question and had no authority to withdraw the same by himself, as it was signed by four elected members who were never consulted ?

**Mr. C. M. G. Ogilvie :** (a) No.

(b) The attention of the Honourable Member is invited to part (b) of the reply furnished on 1st April, 1938, to starred question No. 898 by Mr. N. V. Gadgil.

The Government of India have no information as to whether the other signatories of the requisition agreed to the action taken by the Vice-President.

**Mr. Sham Lal :** Was the meeting held or not ?

**Mr. C. M. G. Ogilvie :** No, Sir.

**ALLEGED MISBEHAVIOUR OF BRITISH SOLDIERS AT THE JUBBULPORE RAILWAY STATION.**

243. **\*Mr. Brojendra Narayan Chaudhury :** Will the Defence Secretary please state :

(a) if his attention has been drawn to the fact that on the night following the last Good Friday, a party of British soldiers got to the roof of the Jubbulpore Railway station, created a *golmal*, then got down and tried to start a railway engine, next they visited Raja Gopaldas Dharamsala whence they went to the Electric Power House and attempted scaling the chimney, and that they fled before the police arrived on the scene ; and

(b) if enquiry has been made, and if so, with what results ?

**Mr. C. M. G. Ogilvie :** (a) I have seen the newspaper report which made these allegations. It contains an exaggerated account of the occurrence.

(b) An enquiry has been made and it has been ascertained that the persons concerned boarded a locomotive which was standing in a siding and blew its whistle and that the Railway and Police officials considered the incident trivial.

**Mr. T. S. Avinashilingam Chettiar :** What about climbing the chimney ?

**Mr. C. M. G. Ogilvie :** On enquiry it was found that the statement that they climbed the chimney could not be substantiated.

**Mr. Brojendra Narayan Chaudhury :** Did they make any *golmal* ?

**Mr. C. M. G. Ogilvie :** There was no sort of *golmal* beyond blowing the whistle.

**Mr. Brojendra Narayan Chaudhury :** Did they visit the Dharam-sala ?

**Mr. C. M. G. Ogilvie :** All that they did was to drive past the Dharam-sala on the public road.

**Mr. Brojendra Narayan Chaudhury :** Did they get to the roof ?

**Mr. C. M. G. Ogilvie :** I have been unable to find any substantiation of the account of scaling the chimney ?

#### INCOME-TAX PAID BY TEA COMPANIES.

244. **\*Mr. Brojendra Narayan Chaudhury :** Will the Honourable the Finance Member please state :

- (a) the amount of British income-tax paid by Tea Companies, incorporated in England, but having plantations in India, during the last British financial year (failing, previous year available) ;
- (b) if they pay British income-tax on their whole income from tea ;
- (c) the rates at which the British tax is levied on income from tea ;
- (d) the rates at which they would get relief in British taxation if their whole income is taxed in India ;
- (e) the amount of income-tax paid by these companies in India on the non-agricultural portion of their income in the last financial year or, if not available, in the previous year ;
- (f) if 40 per cent. is the non-agricultural portion ; and
- (g) whether Indian income-tax on the whole income would be no additional burden, and would mean only transfer from British Exchequer to Indian Treasury ?

**Mr. A. H. Lloyd :** (a) The information is not available.

(b) Yes in the case of companies controlled from the United Kingdom.

(c) Income-tax at the full rate of five shillings and six pence in the £.

(d) At one-half of the appropriate rate of the United Kingdom income-tax.

(e) The information is being collected and will be laid on the table in due course.

(f) Yes.

(g) Under the Indian Income-tax Act the agricultural portion of the income of tea companies is exempt from tax nor can it be made taxable under the Act since tax on agricultural income is a Provincial subject. The last portion of the question does not, therefore, arise.

**ACQUISITION OF CERTAIN VILLAGES IN THE TRIPURA DISTRICT OF BENGAL FOR A MILITARY PURPOSE.**

245. **\*Mr. Brojendra Narayan Chaudhury** : Will the Defence Secretary please state :

- (a) if any survey has recently been made, or is being made, of the villages of Alipore, Kamalapur, Budhair, Gopalsar, Anandpur, Bhallabpur, Dhaniala, Khala, Mastakapur and Dighalgar near Maynamati, the famous centre of handloom industry in the district of Tripura, Bengal, with a view to permanent acquisition for a military purpose ;
- (b) if so, what is that military purpose ; whether it is establishment of a permanent garrison ; whether East Bengal is growing in military importance ;
- (c) if he is aware that mere money compensation for extensive acquisition of villages, such as above, still leaves the displaced population in a nomadic state ;
- (d) if he is aware that it will be impossible for the displaced population of entire villages to resettle in a group and thus keep their social and economic organisation intact, unless the State arranges to settle them in similar surroundings as regards geography, sanitation and markets for their produce ;
- (e) what is the total population that will be displaced ; and
- (f) whether any notice was given before survey of the intended acquisition, or of survey ; if so, in what manner ?

**Mr. C. M. G. Ogilvie** : (a) No. No orders have been issued by the Government of India for the survey of the area in question.

(b) to (f). Do not arise.

**Mr. Brojendra Narayan Chaudhury** : Did any high military officer visit the locality ?

**Mr. C. M. G. Ogilvie** : I think it is quite likely as the locality is frequently used for training purposes.

**Mr. Brojendra Narayan Chaudhury** : Has any survey been made of the value and size of the houses, trees, etc. ?

**Mr. C. M. G. Ogilvie :** Not so far as I know. Not by the orders of Government.

**Mr. Brojendra Narayan Chaudhury :** Has the Honourable Member any information that the survey was made by any other authority ?

**Mr. C. M. G. Ogilvie :** No.

#### APPOINTMENT OF CLERKS IN THE SECRETARIAT AND THE ATTACHED OFFICES.

†246. **\*Qazi Muhammad Ahmad Kazmi :** (a) Will the Honourable the Home Member be pleased to state if it is a fact that before 1934, the rate of increment and the maximum for the Second Division in the Secretariat was double that of the same division in the Attached Offices, and a combined examination used to be held for these two different scales, but candidates obtaining higher marks were appointed to the higher scale in the Secretariat and those obtaining lower marks were appointed to the lower scale in the Attached Offices ?

(b) If so, will Government be pleased to state whether some candidates who had obtained very high positions in the Second Division Examinations of 1925 and 1926, were appointed in the Attached Offices in a lower scale and many of those who were far lower in rank were appointed in the Secretariat in its higher scale ? If so, why ?

(c) What steps have so far been taken to compensate for the financial loss caused to such candidates ?

(d) Will Government please state whether, with a view to removing the long-standing grievance of these men, an exception to the recommendations of the Maxwell Report regarding the stoppage of further appointments in the Second Division, is proposed to be made in their case, (i) by permanent absorption in the Second Division of those temporarily employed in that Division in the Secretariat, and (ii) by permanent transfer to the Secretariat of those employed permanently in the Attached Offices ?

**The Honourable Mr. R. M. Maxwell :** (a) Before the introduction of the revised rates of pay, the scale of pay of the Second Division in the Secretariat was Rs. 100 to Rs. 300 with annual increments of Rs. 8 and that of the Lower Division in Attached Offices was Rs. 75 to Rs. 155 with annual increments of Rs. 4. As regards examinations, up to 1926 the late Staff Selection Board used to hold examinations for all Divisions in which vacancies were expected and candidates were assigned to each category according to the marks they obtained. Thereafter and up to 1934, one combined examination was held for recruitment to the First and the Second Divisions, and a separate examination for recruitment to the Routine Division.

(b) The system of posting has undergone several changes during the years 1920—1934. In the early years, a certificate to the effect that he had qualified for a particular Division was issued to each candidate, and the Departments and offices were left to select qualified candidates for appointment. Those who qualified were given no guarantee of appointment and candidates were not always posted in the strict

†Answer to this question laid on the table, the questioner being absent.

order of merit. When the Federal Public Service Commission started their regular competitive examinations in 1926 efforts were made, until the rates of pay in the Secretariat and Attached Offices were equalised, to post candidates at the top of the list to vacancies in the Secretariat and those below them to vacancies in Attached Offices.

(c) Does not arise in view of the reply to part (b).

(d) Presumably the Honourable Member refers to the decisions of Government on the Report of the Wheeler Committee which were announced in the Press Note of 17th November, 1937. The arrangements to give effect to those decisions so far as the ministerial staff are concerned are at present under consideration and it would be premature to say how the final decisions will affect the existing staff in the Government of India offices at headquarters

#### APPOINTMENT OF CLERKS IN THE SECRETARIAT AND THE ATTACHED OFFICES.

†247. **\*Qazi Muhammad Ahmad Kazmi :** (a) Will the Honourable the Home Member please state whether it is a fact that prior to 1934, there existed only one lower scale in the Attached Offices, in which candidates qualified for the Second Division and those qualified for the Third Division were both appointed without distinction, although a higher percentage of marks and a higher educational standard were prescribed for qualification in the Second Division, while a lower educational standard with a lower percentage of marks to be obtained were prescribed for qualification in the Third Division ?

(b) If so, will Government be pleased to state the principle which would govern the seniority for promotion to the First Division in the Attached Offices in the case of two candidates employed in the Lower Division—one having qualified for the Second and the other for the Third Division in an examination held simultaneously for the two different divisions, but the Third Division qualified man having been appointed earlier ?

**The Honourable Mr. R. M. Maxwell :** (a) Yes.

(b) The promotion is regulated in accordance with the principles and percentages prescribed in rule 18-A. of the Government of India, Ministerial Establishment (Recruitment, Promotion and Seniority) Rules, a copy of which is available in the Library of the House.

#### APPOINTMENT OF CLERKS IN THE SECRETARIAT AND THE ATTACHED OFFICES.

†248. **\*Qazi Muhammad Ahmad Kazmi :** Will the Honourable the Home Member please state whether it is a fact that prior to 1924, some candidates who had obtained high positions in the Second Division Examination for the Secretariat, but were appointed in the Attached Offices, were subsequently declared to have qualified for the First Division in the Attached Offices ?

**The Honourable Mr. R. M. Maxwell :** Ordinarily candidates qualified for the Lower Division in the Secretariat were not considered eligible for nomination to posts of Assistants in Attached Offices. In

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†Answer to this question laid on the table, the questioner being absent.

exceptional cases, however, the Public Service Commission declared a few candidates to be qualified for appointment to a Division higher than the one for which the Staff Selection Board had declared them qualified.

**INCLUSION OF CERTAIN VILLAGE LANDS WITHIN THE LAHORE CANTONMENT LIMITS AND REJECTION OF CERTAIN PLANS FOR THE CONSTRUCTION OF HOUSES.**

249. **\*Mr. Badri Dutt Pande :** (a) With reference to his answer to question No. 623 put by Mr. Sham Lal on the 4th March, 1938, in the course of which he said that the construction of houses in the area of the villages recently included within the limits of Lahore Cantonment for certain purposes has not been stopped by the Lahore Cantonment Board, will the Defence Secretary be pleased to state whether it is not a fact that certain plans submitted have been rejected by the Board ?

(b) Is it not a fact that in the course of a letter, dated the 30th September, 1935, the Headquarters, Lahore Brigade area, wrote to the Executive Officer that "Any proposition for building in the area cannot be considered ?"

(c) Is it not also a fact that in the course of another letter, dated the 12th August, 1937, the President, Cantonment Board, wrote to the General Officer Commanding-in-Chief, Northern Command, that there were objections to the erection of buildings in that area ?

(d) If the answer to the above be in the affirmative, why was compensation not paid to village owners, who were deprived of the right to build over their land, before the area was included in the Cantonment limits ?

(e) With reference to the answer to supplementary question by Prof. N. G. Ranga, has any money been spent by the Board on improving the health of the villages ?

**Mr. C. M. G. Ogilvie :** (a)—(e). I am collecting the information and will lay it on the table in due course.

**Mr. Badri Dutt Pande :** What is the objection to erecting buildings in rural area ?

**Mr. C. M. G. Ogilvie :** I really cannot tell until I have received the information I have called for.

**NEPOTISM IN THE AGRA CANTONMENT BOARD.**

250. **\*Mr. Badri Dutt Pande :** With reference to question No. 528, put by Mr. Sham Lal on the 1st March, 1938, will the Defence Secretary be pleased to state what information has been received by Government with regard to the enquiry in the matter of the employment of servants by Agra Cantonment Board who are related to a member, and what action has been taken thereon ?

**Mr. C. M. G. Ogilvie :** I refer the Honourable Member to the statement I laid on the table on the 8th August, 1938, containing the information promised in reply to a supplementary question to starred question No. 528 of the 1st March, 1938.

LEGAL ADVISERS ENGAGED BY THE LANDS AND CANTONMENTS DEPARTMENTS  
IN THE EASTERN, WESTERN AND SOUTHERN COMMANDS.

251. **\*Mr. Badri Dutt Pande :** With reference to part (e) of question No. 626, dated the 4th March, 1938, by Mr. Sham Lal, will the Defence Secretary be pleased to state whether Government Pleaders or persons other than Government Pleaders have been appointed as legal advisers to Deputy Director of Military Lands and Cantonments in the Eastern, Western and Southern Commands, and what amount has been paid to them during the last five years ?

**Mr. C. M. G. Ogilvie :** No legal adviser has ever been appointed to any Deputy Director.

PAYMENT OF INTEREST TO THE HOLDERS OF INDIAN RUPEE SECURITIES IN  
ADEN.

252. **\*Mr. Manu Subedar :** (a) Will the Honourable the Finance Member state whether there is any change with regard to the procedure in regard to the payment of interest to the holders of Indian rupee securities in Aden since the separation of Aden ?

(b) Are Government aware that much difficulty is experienced by the holders in Aden even when they are nationals of India, in the collection of interest on their securities in India ?

(c) Was there any reference to the Finance Department with regard to the position of Indians living in Aden as to their ability to buy Reserve Bank of India's shares, or to continue to hold the shares, which they have purchased in the past ?

(d) Has the separation of Aden from India made any difference to the Indian residents and merchants in Aden in this direction ?

**The Honourable Sir James Grigg :** (a) Interest on Government of India rupee securities is not payable at Aden since the 1st of July, 1937.

(b) No.

(c) Communications between the Reserve Bank and Government are confidential.

(d) The separation of Aden from India has disqualified shareholders resident in Aden from holding the Reserve Bank of India shares under section 4 (3) of the Reserve Bank of India Act.

**Mr. M. Ananthasayanam Ayyangar :** What is the amount of interest that has all along been paid to the holders of securities in Aden ?

**The Honourable Sir James Grigg :** I want notice.

**Mr. Manu Subedar :** May I put it to you, Sir, for your ruling whether communications between the Government of India and the Reserve Bank are confidential as claimed by the Honourable the Finance Member. He said so in a previous answer, but that answer was not read out orally and so I could not raise this point then. The Reserve Bank, I submit, is an independent corporation, entirely independent of

the Government, though there is a certain kind of contract and a statutory obligation. We claim that on an issue of public interest we are entitled to get this information. Is it open to the Honourable the Finance Member to say that these communications are invariably confidential ?

**Mr. President** (The Honourable Sir Abdur Rahim) : I think I gave a ruling the other day.

**Mr. Manu Subedar** : That was about the communication between the Secretary of State for India and the Provincial Governments.

**Mr. President** (The Honourable Sir Abdur Rahim) : I suppose the Reserve Bank is for certain purposes under the control of the Government of India.

**Mr. S. Satyamurti** : It is an independent statutory body.

**Mr. President** (The Honourable Sir Abdur Rahim) : Have not the Government of India some control over the Reserve Bank ? Any way, if the Government consider that the disclosure of any communication like that is not in the public interest, they are entitled to regard it so. I cannot compel them to disclose any such communication.

**The Honourable Sir James Grigg** : I might throw a little light on this question of confidentiality. Every Director of the Reserve Bank signs a declaration of secrecy on his taking office. If the Reserve Bank Directors are on their part bound to secrecy, then obviously if communications regarding day to day conduct of affairs between the Reserve Bank and the Government of India are to be broadcast, then the position would become impossible.

**Mr. S. Satyamurti** : I want to make one submission to you, Sir. They have walked away with the communications between the Secretary of State for India and Local Governments, and there we are helpless until we are able to amend the Standing Orders and rules. The present question comes under a different category altogether. The Reserve Bank is an independent statutory body in which the public hold shares. The Reserve Bank has got high statutory powers with regard to currency, exchange ratio, and so on and so forth. Now, Sir, you will kindly see part (c) of the question of Mr. Manu Subedar :

“ Was there any reference to the Finance Department with regard to the position of Indians living in Aden as to their ability to buy Reserve Bank of India's shares, or to continue to hold the shares, which they have purchased in the past ” ?

The Honourable the Finance Member said that the Directors of the Reserve Bank are pledged to secrecy, and he added “ if I am to make statements on the day to day transactions of the Reserve Bank, then the position would become impossible ”. I entirely agree with him there. We are not asking information about the day to day administration. We shall never ask such questions. So far as our party is concerned, we shall never put such questions. The present question is different, that is whether Indians in Aden can either purchase or retain the shares in the Reserve Bank which they have already bought. This is a matter of public importance governing Indians living in Aden. If my Honourable friend says that the giving of information in this particular matter will affect prejudicially some public interest, that

is of course a matter on which we are helpless. But the Honourable the Finance Member's claim this morning is that all communications between the Reserve Bank and the Government of India are confidential. I submit the Government cannot walk away with that. At that rate they can claim that a communication between Government of India and the Archaeological Department or even the Department of Education, Health and Lands is a confidential one. At that rate no question can be answered in this House.

**Mr. President** (The Honourable Sir Abdur Rahim) : The Honourable the Finance Member has pleaded that in the public interest he cannot disclose that information : and in view of that it is impossible for the Chair to rule that they should give information on any particular point which they think is not in the public interest.

**The Honourable Sir James Grigg** : The practice which I have referred to in my answer to clause (c) is, I think the House will be prepared to take from me, the practice which governs the relations between the Bank of England and the Treasury in England. Apart from that, if the Honourable Member will read what I said in reply to clause (d), there can be no shadow of doubt about the legal effect of section 4 (3) of the Reserve Bank of India Act.

**Mr. S. Satyamurti** : Sir, I submit that my Honourable friend did not claim public interest at all. I submit with great diffidence, that it is not the function of the Chair to interpret every time they refuse to answer a question, they do so, because it is against public interest. His original answer was that communications between the Reserve Bank and the Government of India are confidential. I object to that. If with regard to a particular question he says that the answering it is against public interest, the Chair is helpless. But they cannot say, as the Finance Member has now said, that all communications between the Reserve Bank of India and Government are confidential. On that plea, they can refuse to answer any question whatever.

**Mr. President** (The Honourable Sir Abdur Rahim) : I have given my ruling already.

**Mr. Manu Subedar** : I will ask an ordinary supplementary question. Will the Finance Member take the plight of the actual holders of Reserve Bank shares into consideration and make some provision to save them from this disability now ?

**The Honourable Sir James Grigg** : It cannot be done without legislation in the first place, and in the second place there were at the time of separation only 25 shareholders all told ; and they were certainly given time in which to dispose of their shares.

**Mr. Manu Subedar** : May I request the Finance Member to consider whether something cannot be done with regard to the facility to Aden Indians to receive the interest on Government securities which they are holding, as on the previous occasions ?

**The Honourable Sir James Grigg** : I have replied to that in part (a).

**Mr. Manu Subedar :** It is by administrative notification that the change has been made. I am asking whether the Honourable Member will consider the advisability of changing that notification.

**The Honourable Sir James Grigg :** I will look into that question and I am quite certain that the conclusion I shall come to is the ordinary legal maxim of *de minimis*.

**Mr. Ananthasayanam Ayyangar :** May I know what the practice is regarding payment of interest to holders of rupee securities in England ?

**The Honourable Sir James Grigg :** I cannot say without notice. Some of the rupee loans in the past have been made specifically payable in London, but I do not believe that is applicable to all loans.

#### ASSISTANCE BY THE RESERVE BANK TO SCHEDULED BANKS.

253. **\*Mr. Manu Subedar :** (a) Will the Honourable the Finance Member please state whether the attention of Government has been drawn to the memorandum of the South Indian banks submitted to the Reserve Bank of India on the question of assistance by the Reserve Bank to scheduled banks in the event of a run on them ?

(b) What are the amendments to the Reserve Bank of India Act suggested in this memorandum ?

(c) Do Government propose to bring in an amending Bill in order to give effect to these amendments ?

(d) Has the Finance Department been in correspondence with the Reserve Bank of India over this subject and, if so, will the correspondence be placed on the table ?

**The Honourable Sir James Grigg :** (a) to (d). Communications between the Reserve Bank and Government are confidential.

**Mr. Manu Subedar :** Sir, my question was whether the attention of Government has been drawn to the memorandum.

**The Honourable Sir James Grigg :** I have seen in the press that the South Indian banks had an interview with the Governor of the Reserve Bank.

**Mr. S. Satyamurti :** What is the answer to clause (c) ?

**The Honourable Sir James Grigg :** As the Honourable Member knows, I am in some difficulty in answering questions of this sort because they relate to a case which is at present *sub-judice* in the courts, and therefore it is extremely difficult to say anything at all on the question without getting into trouble on that account. But I have not the slightest doubt that whenever that particular affair is over the Reserve Bank will consider whether any action on their part is called for, and will take it if they think it necessary.

**Mr. S. Satyamurti :** I am asking about Government's intention, with regard to amending the Reserve Bank Act.

**The Honourable Sir James Grigg :** The initiative is with the Reserve Bank in this matter. I am not certainly going to rush in an amendment of my own without any mature consideration on the part of the Reserve Bank.

**Mr. M. Ananthasayanam Ayyangar :** Does the Honourable Member suggest that there is a case against the Reserve Bank ?

**The Honourable Sir James Grigg :** No, Sir. I suggested that all these questions arise out of the failure of a bank the name of which is well-known to Members of this House, and that proceedings are still pending before the courts in respect of that bank.

**Mr. M. Ananthasayanam Ayyangar :** Sir, on a point of order, how can the Honourable Member say that in respect of a matter which does not arise between the Reserve Bank and the Travancore National Bank ? The Travancore National Bank is under liquidation on its own merits, i.e., whether a liquidator ought to be appointed, the distribution of assets, the payment of liabilities, etc. Incidentally a question has been put as to whether the Reserve Bank was asked for some aid and the Reserve Bank refused that aid. That is not a matter which is *sub-judice*.

**The Honourable Sir James Grigg :** I have never said that there is a case pending between the Reserve Bank and the Travancore and Quilon Bank. And the questions which the Honourable Member from Bombay has put have been brought to his notice and to the public notice generally as a result of the failure of that bank. I said that I therefore was in some difficulty in answering questions of this sort until that particular affair had been cleared up.

**Mr. Manu Subedar :** The question which I have put arises out of the temporary difficulties which other banks in South India felt, which difficulties were put right by the Reserve Bank Managing Director coming in there and reassuring the public. But I understand that the Reserve Bank finds some difficulty in giving loans in a particular form on particular kinds of commodities not in their own possession, and that there is a little technical point affecting one section of the Reserve Bank Act. And I understand that this particular memorandum refers to that and makes a specific request to Government to consider a change in the Reserve Bank Act.

**Mr. President (The Honourable Sir Abdur Rahim) :** Memorandum by whom ?

**Mr. Manu Subedar :** By the South Indian banks ; it has nothing to do with the Travancore Bank. I submit, Sir, that the Finance Member ought to be in a position to give that information.

**Mr. President (The Honourable Sir Abdur Rahim) :** I thought he said that unless the Reserve Bank considered the matter and made a recommendation, the Government of India would not move in the matter.

**Mr. Manu Subedar :** He said that communications with the Reserve Bank are confidential.

**Mr. S. Satyamurti :** Then it comes to this that the initiative with regard to amending the Reserve Bank Act has passed out of the hands of the Government of India into the hands of the Reserve Bank !

**The Honourable Sir James Grigg :** In matters of detail such as regulating credit and that sort of thing, certainly the primary initiative is with the Reserve Bank. That was the purpose of the passing of the Reserve Bank Act.

**Mr. Manu Subedar :** Can the Honourable Member give an assurance to this House that he will look into this matter ?

**The Honourable Sir James Grigg :** I have answered that question. I have said that until the Reserve Bank have themselves considered the lessons, if I may so put it, of this recent failure and the scare caused by or following in the wake of this failure, it is not for Government to take any action.

**Mr. K. Santhanam :** May I know if Government have any responsibility to see how the Reserve Bank Act is working and how the Reserve Bank is functioning ?

**The Honourable Sir James Grigg :** The answer is that the initiative in all these matters has now been placed on the Reserve Bank.

**Mr. M. Ananthasayanam Ayyangar :** Apart from amending the Act, is it not a fact that the scheduled banks have written to the Government of India in the Finance Department that by a wrong construction of section 17, the Reserve Bank is refusing aid to these banks and that those banks are also likely to run the same risk which the Travancore Bank is running ?

**The Honourable Sir James Grigg :** That is an entirely different question. If the Honourable Member wishes for an answer, he can put it down.

**Mr. M. Ananthasayanam Ayyangar :** I understand that it is already covered by the answer that he has given.

**Mr. President (The Honourable Sir Abdur Rahim) :** The Honourable Member has said that notice should be given.

#### ORDER FOR BUILDING ESCORT SHIPS.

254. **\*Mr. Manu Subedar :** Will the Defence Secretary state :

- (a) whether it is true that an order for building three new escort ships has been placed on behalf of India ; if so, with which firm the order is placed, and at what price, and who has placed this order ;
- (b) if the order has not been actually placed, what is intended to be done and when ;
- (c) in which year's budget under the item of Defence expenditure will these amounts be debited, or whether there is a fund set aside, or intended to be set aside for this purpose ;
- (d) when the ships are expected to be ready ; and

- (e) when steps will be taken to fill up the personnel and what steps are being taken to train Indians for this purpose ?

**Mr. C. M. G. Ogilvie :** (a) No.

(b) It is intended to place orders for the replacement of obsolete vessels and the addition of one extra ship when a final decision as to type has been arrived at and as funds become available.

(c) It is proposed to finance the replacement programme from the Royal Indian Navy Suspense Account, to which fund the amount of the naval contribution remitted by His Majesty's Government will be credited annually.

(d) Some 18 months after the order has been placed.

(e) Until the type of the ship to be ordered has been decided upon it is impossible to say whether any additional personnel will be required or not.

**Mr. Manu Subedar :** May I inquire whether an estimate has been made of the total cost which this country will have to incur when all the replacement and the addition of one vessel have taken place ?

**Mr. C. M. G. Ogilvie :** The details of the programme are not yet sufficiently fully advanced for any final estimate to be prepared.

**Mr. Manu Subedar :** Can the Honourable the Defence Secretary give this House a general idea of the order of sums involved—as to whether it will be a crore or five crores or ten crores ?

**Mr. C. M. G. Ogilvie :** All I can say is that at present it is hoped to cover the expenditure from the sources I have indicated.

**Mr. Manu Subedar :** That source is only £1,00,000 ?

**Mr. C. M. G. Ogilvie :** No : it also contains the amount annually credited or which normally is annually credited by the Government of India to the suspense account—Rs. 14 lakhs.

**Mr. Manu Subedar :** May I inquire whether the Honourable the Defence Secretary will make an estimate and give it to us before the end of this session ?

**Mr. C. M. G. Ogilvie :** I cannot give you anything more reliable than that we do hope at present to be able to finance the programme from the sums I have indicated.

**Mr. Manu Subedar :** Is it suggested that when India undertook this liability no estimate of any kind was made by the Defence Department and that it is a pig in the poke and that we do not know whether we are liable for 5 or 10 crores ? May I request the Defence Secretary again to give us a general estimate ?

**Mr. C. M. G. Ogilvie :** I have already given the Honourable Member not only a general estimate but a fairly close one : that is, it is contained in my answer to (c). The annual income we receive from the contribution is 14 lakhs—roughly £1,00,000 ; and another 14 lakhs is paid normally by the Government of India into the suspense

account. The answer to the question is that our suspense account from which we have always to effect replacements has in fact been doubled : that is all.

**Mr. Manu Subedar :** Do we take it then that as the funds become available in the suspense account mentioned by the Honourable Member, progress would be had and no faster ?

**Mr. C. M. G. Ogilvie :** That is precisely what I have said : as funds become available orders will be placed.

**Mr. K. Santhanam :** May I know if the remission of £1,00,000 was not in view of the increased maintenance charges of the six escort vessels and not for buying new vessels ?

**Mr. C. M. G. Ogilvie :** We cannot yet say whether the new escort vessels will cost any more to maintain than the old ones.

**Mr. K. Santhanam :** Am I to understand that it would not cost more to maintain a larger number of escort vessels than you have now ?

**Mr. C. M. G. Ogilvie :** You are maintaining five : ultimately you have to maintain six : but supposing that the crews of the new types we ultimately select are not so large as the crews we employ at present, you will get a counterbalancing saving : it is these details that I cannot tell you.

**Mr. K. Santhanam :** Are we to understand that the maintenance of six escort vessels will not be more than the cost of maintaining five ?

**Mr. C. M. G. Ogilvie :** I cannot tell you : it is quite impossible to say.

#### INDIA'S NAVAL DEFENCE.

255. **\*Mr. S. Satyamurti :** Will the Defence Secretary please state :

- (a) whether the Government of India have now agreed with His Majesty's Government in respect of the matter mentioned by the Finance Member in his last speech, namely the Government of India in conjunction with the Admiralty have recently had under examination the question of India's naval defence ;
- (b) whether the Government of India have agreed to maintain a sea-going fleet of not less than six modern escort vessels which will be free to co-operate with the Royal Navy for the defence of India and in addition fulfil their responsibilities for the local naval defence of Indian ports ;
- (c) what the cost of this agreement to the Indian exchequer will be ;
- (d) of which type the vessel is going to be ;
- (e) the composition of the crew of these vessels, Indian and non-Indian ; and
- (f) how many of them will be Indians to begin with and when the crew will be completely Indianised ?

**Mr. C. M. G. Ogilvie :** (a) If the Honourable Member will refer again to the speech of the Honourable the Finance Member, he will observe that it is stated therein that the agreement about which he enquires had already been concluded at the time of that speech.

(b) Yes.

(c) The eventual cost will depend upon a variety of factors which are as yet unsettled. No estimate can, therefore, be given at this stage.

(d) This has not yet been decided.

(e) and (f). The vessels will be manned entirely by Indian ratings. Warrant officers will be one British : one Indian ; and the proportion of commissioned officers will be two British : one Indian.

**Mr. S. Satyamurti :** With reference to the answer to clause (f), may I know if the Government have any programme of completely Indianising the crew and officers of these vessels, and if so when do they expect to do it ?

**Mr. C. M. G. Ogilvie :** The present policy has been laid down ; and the Honourable Member is aware of what that is ; and at the moment it has not been changed.

**Mr. S. Satyamurti :** With reference to the answer to clause (c) of the question, may I ask the Honourable the Defence Secretary and also the Honourable the Finance Member, if he will permit me, whether the Government of India included this provision as part of an agreement already concluded, in their budget, without knowing the exact commitments to the Indian exchequer on account of the new arrangements ?

**Mr. C. M. G. Ogilvie :** It seemed, and indeed is, obviously an extraordinarily good bargain.

**Mr. S. Satyamurti :** May I know if that answer covers not only the new charges for building extra ships, but also the maintenance charges ?

**Mr. C. M. G. Ogilvie :** As I have already answered to the previous question, we cannot say what the maintenance charges will be, whether they will be an increase or decrease or the same.

**Mr. S. Satyamurti :** May I know how the Government of India came to the conclusion that on the whole it is financially a sound bargain to the Indian taxpayer ?

**Mr. C. M. G. Ogilvie :** I should have thought that the Honourable Member would have no difficulty in seeing that if you have a fleet of five ships which gradually got out of date you have to replace them. We had made such provision as we could for replacing them. We are now asked to have only one more and to accept double the amount that we can afford to replace the ships with. A ship will cost perhaps 25 lakhs, perhaps 45 lakhs : but a gift of 14 lakhs a year is obviously good business.

**Mr. Manu Subedar :** May I inquire of the Honourable the Defence Secretary that the total of 2½ crores indicated by him for all the six vessels when they are finally ready, whether that is proposed to be spread over a period of 10 years ?

**Mr. C. M. G. Ogilvie :** As far as our arrangements have gone at present, nine years is the period that seems probable.

**Mr. K. Santhanam :** With reference to the answer to part (e) may I know whether the Government have no intention in the near future to revise their proportion of two to one of British to Indian officers in the Royal Indian Navy ?

**Mr. C. M. G. Ogilvie :** I have already answered that, but for the information of the Honourable Member I may call his attention to the fact that this year, a few months ago, three commissions in the Royal Indian Navy were offered by open competition and that it was possible to fill only two.

#### HARASSMENT TO INDIAN PASSENGERS BY THE STAFF OF THE CUSTOMS DEPARTMENT IN BOMBAY.

256. **\*Mr. S. Satyamurti :** Will the Honourable the Finance Member please state :

- (a) whether he is aware that Indian passengers are harassed and subjected to undue delays and unnecessary examination and to a great deal of insolence by the staff of the Customs Department in Bombay ;
- (b) whether Europeans are differently treated and are treated with a dispatch and a courtesy due to every passenger ;
- (c) if so, the reasons for this racial discrimination ;
- (d) whether it is a fact that one Mr. Naithani, an Indian business magnate, was recently unnecessarily detained in Bombay for three days at considerable inconvenience and expenses ;
- (e) whether Government propose to take steps to see that these complaints are enquired into and necessary action taken to prevent the recurrence of these incidents, and to stop harassment of Indian passengers ?

**Mr. A. H. Lloyd :** (a) No.

(b) Europeans are not differently treated.

(c) Does not arise.

(d) **Mr. Naithani** was not detained by the Customs, though there was delay in passing a part of his baggage. This was due partly to his failure to make a proper declaration in the prescribed form and partly to the large number of packages brought by him. It was not necessary for **Mr. Naithani** to remain in Bombay. He could have entrusted the work of clearing the goods to his agents.

(e) Government do not see any reason for the enquiry and action suggested.

**Mr. S. Satyamurti :** With reference to the answer to clauses (a), (b) and (c) of the question, may I know if the answer is based on the general assumption of Government that there can be no racial irregularity, or whether it is based on any information obtained since my question was sent to the Honourable Member ?

**Mr. A. H. Lloyd :** It is based partly upon my own personal observation in several ports and partly upon information obtained since the notice of the question was given.

**Mr. M. Ananthasayanam Ayyangar :** Is it a fact that when a European lands his word is accepted so far as the articles are concerned, whereas when an Indian lands every investigation is made into every article and his words are not accepted at all ?

**Mr. A. H. Lloyd :** That is not a fact.

**Seth Govind Das :** Is it a fact that in the case of some Europeans their word is taken for granted and their goods are not checked and they are allowed to go without their goods being checked ?

**Mr. A. H. Lloyd :** If the Honourable Member's question is meant to infer that there is discrimination, my answer is what I have already given, that there is no racial discrimination.

**Seth Govind Das :** Are the goods of every European checked when they come in ?

**Mr. A. H. Lloyd :** No.

#### (b) WRITTEN ANSWERS.

##### RECEIPTS FROM INCOME-TAX.

257. **\*Mr. S. Satyamurti :** Will the Honourable the Finance Member please state :

- (a) the receipts from income-tax during the last financial year ;
- (b) the receipts from income-tax so far during this financial year ; and
- (c) the expectations of Government in respect of income-tax this financial year ?

**The Honourable Sir James Grigg :** (a) The audited figures are not yet available.

(b) About rupees one crore and forty lakhs for the first three months of the year.

(c) The Budget estimate is fifteen crores and twenty-five lakhs. It is too early to say to what extent, if any, this will be exceeded.

##### REPRESENTATION FROM CERTAIN UNIVERSITIES URGING CHANGES IN THE METHOD OF RECRUITMENT TO THE INDIAN CIVIL SERVICE.

258. **\*Mr. S. Satyamurti :** Will the Honourable the Home Member please state :

- (a) whether sometime ago the Universities of Calcutta and Bombay made a representation to the Government of India urging changes in the method of recruitment to the Indian Civil Service, suggesting that the system of nomination should be

abolished and that the regulation requiring Indian candidates appearing at the competitive examination in London to hold an Honours degree of any British University, should be abolished ;

- (b) the reasons why Government declined to reopen this question ; and
- (c) whether Government have considered the handicap to Indian candidates if they are required to hold an Honours degree of British Universities ?

**The Honourable Mr. R. M. Maxwell :** (a) Yes.

(b) and (c). Recruitment to the Indian Civil Service is a matter entirely under the control of the Secretary of State for India who is not prepared to re-open the question of recruitment now as the changes were made after very careful consideration. Reasons for the decision were fully explained in a Press Communiqué published in April, 1936.

#### **APPOINTMENT OF SIR ROBERT BELL AS CHAIRMAN OF THE BOMBAY FIRE INSURANCE ASSOCIATION.**

259. **\*Mr. S. Satyamurti :** Will the Honourable the Home Member please state :

- (a) whether the Indian Merchants Chamber, Bombay, has telegraphed to the Government of India, Home Department, urging the Government not to accord permission to Sir Robert Bell, a retired civilian of Bombay, to take up appointment as paid Chairman of the Bombay Fire Insurance Association ;
- (b) whether Government propose to take any steps in regard to the non-employment of retired civilians or other Government servants in this country in respect, at least, of certain occupations ;
- (c) if so, what they are ; and
- (d) if not, why not ?

**The Honourable Mr. R. M. Maxwell :** (a) Yes.

(b), (c) and (d). The matter is under consideration in consultation with Provincial Governments.

#### **RESIGNATION OF CERTAIN MEMBERS FROM THE MEMBERSHIP OF THE LANSDOWNE CANTONMENT BOARD.**

260. **\*Mr. Badri Dutt Pande :** (a) Will the Defence Secretary be pleased to state if Government are aware of the fact that all the four elected members of the Lansdowne Cantonment Board have tendered their resignation from the membership of the Board ?

(b) Have the members concerned given any reasons for their resignation ?

(c) Have Government made any enquiry into the allegations made by the members concerned ?

(d) What action do Government propose to take in the matter ?

**Mr. C. M. G. Ogilvie :** (a) and (b). Yes.

(c) No, as a full report on the matter was forwarded at the time.

(d) Casual elections will be held for filling the vacancies.

#### PURCHASE OF ESCORT SHIPS FOR THE ROYAL INDIAN NAVY.

261. **\*Mr. K. Santhanam :** Will the Defence Secretary be pleased to state :

(a) whether it has been decided to buy four new escort ships for the Royal Indian Navy ;

(b) whether they will be in substitution of the existing ships, or additions thereto ;

(c) which are the ships to be substituted, their age and their original cost ;

(d) what the tonnage and cost of the new ships will be ; and

(e) with whom the orders will be placed ?

**Mr. C. M. G. Ogilvie. :** (a) and (b). Under the terms of the agreement referred to in the Honourable the Finance Member's budget speech, India is required to maintain a seagoing squadron of at least six modern escort vessels. Two of our present five—"Indus" and "Hindustan"—fall within this category. In order, therefore, to implement the agreement, it will be necessary to purchase four escort vessels in substitution of existing vessels and only one will be additional.

(c) "Cornwallis", "Lawrence" and "Clive", the respective ages of which are 21 years, 19 years and 18 years.

The "Lawrence" and the "Clive" cost (including armament) approximately 28 and 29 lakhs each respectively. The "Cornwallis" was not built for the Government of India and I have no information as to the cost of her construction. His Majesty's Government sold her to India on the conclusion of the War for the small sum of £5,000.

(d) and (e). No decision has yet been taken as to the type of vessel.

#### POSITION IN REGARD TO INDIANS IN ADEN IN RESPECT OF CIVIL SUITS.

262. **\*Mr. Manu Subedar :** (a) Will the Honourable the Home Member state the position with regard to Indians in Aden in respect of civil suits (i) in Aden and (ii) in India ?

(b) Is there reciprocal action with regard to court decrees, i.e., will a decree of the Bombay High Court or the Small Causes Court in Bombay, be dealt with by the Court in Aden and *vice versa* ?

(c) Are Government prepared to enquire whether Indians living in Aden have experienced any difficulty on this score and whether something requires to be done consequential to the separation of Aden in order to secure normal facilities to Indian merchants in Aden in respect of law suits ?

**The Honourable Mr. R. M. Maxwell :** (a) and (b). The Honourable Member presumably refers to the question of the enforcement in British India of decrees passed in Aden, and *vice versa*. The position in this respect is that there is at present no arrangement between British India and Aden for the reciprocal enforcement of decrees. Provision has, however, been made in the Code of Civil Procedure (Amendment) Act, 1937 (VIII of 1937) for such reciprocity, and the question of declaring Aden a reciprocating territory is under consideration. The Government of Aden also have under consideration the question of declaring British India a reciprocating territory under section 41 of their Civil Courts Ordinance, 1937.

(c) In view of what is stated above, Government do not consider it necessary to make an enquiry.

**FACILITIES TO MAULANA OBEDULLAH SINDHI TO RETURN TO INDIA.**

**263. \*Seth Govind Das :** Will the Honourable the Home Member please state :

- (a) whether it is a fact that Maulana Obedullah Sindhi, exiled in Mecca, appealed to Government for facilities to return to India ;
- (b) whether Government conceded to his request ; and
- (c) what action he took in the matter ?

**The Honourable R. M. Maxwell :** (a) Yes.

(b) and (c). Government have decided that they will raise no objection to his return to India, and have taken steps to inform him of this decision.

**WORKING HOURS OF CLERKS EMPLOYED UNDER THE GARRISON ENGINEER, BANNU.**

**264. \*Mr. Abdul Qaiyum :** Will the Defence Secretary please state :

- (a) whether the Garrison Engineer, Bannu, North-West Frontier Province, has issued on the 18th June, 1938, an order to clerks under him to work for 39 hours every week ;
- (b) whether clerks in similar offices in other places have to put in 34 hours work a week ;
- (c) whether the order of the Garrison Engineer, Bannu, is against the standing order of the Engineer-in-Chief, Army Headquarters, Simla ; and
- (d) whether Government propose to have this order rescinded in the interests of uniformity ?

**Mr. C. M. G. Ogilvie :** (a) Yes ; but the Garrison Engineer, Bannu, subsequently and with effect from 25th July ordered a reduction in the hours of work to 36 hours per week.

Hours of work for the Military Engineer Services, longer than the normal hours of work, have been necessitated by the recent abnormal conditions in Waziristan and particularly in the Bannu Area.

(b) Yes.

(c) Yes ; but the Engineer-in-Chief does not intend his Standing Order on hours of office attendance to apply to abnormal conditions.

(d) No.

#### ORDERS *re* NON-RETENTION OF INCOME-TAX CLERKS AND INSPECTORS IN THEIR HOME DISTRICTS.

265. \***Mr. Abdul Qaiyum** : Will the Honourable the Home Member please state :

- (a) whether eight-nine months ago the Commissioner of Income-tax, North-West Frontier Province, Punjab and Delhi, passed an order that Assistant Clerks, Head Clerks and Inspectors in the Income-tax Department should not be kept in their home districts ;
- (b) whether, before this order, they could serve in their home districts ; and
- (c) whether Government are prepared to withdraw this order ; if not, why not ?

**Mr. A. H. Lloyd** : (a), (b) and (c). The information is being obtained and will be laid on the table in due course.

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#### UNSTARRED QUESTION AND ANSWER.

##### UNDIVIDED HINDU FAMILIES ASSESSED TO INCOME-TAX.

9. **Mr. Brojendra Narayan Chaudhury** : Will the Honourable the Finance Member please state :

- (a) the number of undivided Hindu families assessed in 1937-38 (or previous year if 1937-38 figures not available) to income-tax on an income of :
    - (i) Rs. 2,000 and up to Rs. 3,000,,
    - (ii) above Rs. 3,000 to Rs. 4,000,
    - (iii) above Rs. 4,000 to Rs. 5,000,
    - (iv) above Rs. 5,000 to Rs. 6,000,
- and the average number of assesseees per family in each group ;

(b) of the above, how many are urban and how many rural families (the limit of urban being a town with a population of thirty thousand and more) ; and

(c) the total number of assessment in the year ?

**The Honourable Sir James Grigg :** (a) A statement is laid on the table. As regards the second part of the question the information is not available from the assessment records.

(b) The answer can only be obtained from a study of all assessment proceedings and this would involve an expenditure of time and labour which would be entirely incommensurate with the value of the results secured.

(c) The total number of assessments on Hindu undivided families in 1936-37 was 57,726. The total number of assessments on all assesses was 3,73,376.

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*Statement showing the number of Hindu Undivided Families assessed to Income-tax in 1936-37 in the following grades.*

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* Grades.	Number of Hindu Undivided Families.
Rs. 2,000 to 2,999	21,031
„ 3,000 to 3,499	5,355
„ 3,500 to 4,999	9,152
„ 5,000 to 7,499	6,206

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\*These grades slightly differ from those specified in the question but statistics are not maintained according to the grades in which the information is required.

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#### STATEMENT LAID ON THE TABLE.

*Information promised in reply to parts (a) to (c) of starred question No. 572 asked by Mr. Manu Subedar and to a supplementary question thereon asked by Maulana Zafar Ali Khan on the 2nd March, 1938.*

#### REFRESHMENT ROOMS AND RESTAURANT CARS ON STATE RAILWAYS.

(a) No subsidy is being given. On the North Western Railway, however, eight cleaners engaged by the contractors to work in dining cars are paid by the Railway Administration at the rate of Rs. 15 per mensem each. A sum of Rs. 25 per mensem is also paid to the contractors for each car, for the supply and maintenance of utensils and table equipment.

(b) and (c). The following statement gives the particulars required :—

Railway.	Number of Restaurant cars.	Capital cost.	Annual cost of maintenance and repairs.
		Rs.	Rs.
A. B. ..	2	42,099	1,324
B. N. ..	15	7,44,569	39,442
B., B. & C. I. ..	24	9,58,095	41,123
E. B. ..	5	2,12,000	13,000
E. I. ..	24	10,53,415	29,760
G. I. P. ..	29	17,37,616	21,000
M. & S. M. ..	14	3,96,700	16,086
N. W. ..	25	11,66,898	13,459
R. & K. ..	1	20,896	650
S. I. ..	10	2,70,963	5,132

*Maulana Zafar Ali Khan's supplementary question.*

Indian dining cars, which were previously running on Nos. 7 Up and 8 Down Karachi Mails, were from the 1st October, 1937, run on 19 Up and 20 Down (Sind Express). It was found, however, that the cars were not being patronised to the same extent as when they were running on 7 Up and 8 Down Mails, and as the majority of members of the two Advisory Committees on the North Western Railway were of the opinion that the cars would be of more use to the public on the mails than on the expresses, they were put back on to the mails from the 1st April, 1938.

THE CRIMINAL LAW AMENDMENT' BILL—*contd.*

**Mr. President** (The Honourable Sir Abdur Rahim) : The House will  
12 Noon. now resume consideration of the motion :

“ That the Bill to amend the criminal law be taken into consideration.”

**Mr. N. V. Gadgil** (Bombay Central Division : Non-Muhammadan Rural) : Sir, when the House adjourned yesterday, I was referring to the fact that the British Empire has done no good either to Hindus or to Muslims ; on the contrary, it has done more harm both to Hindus and to Muhammadans. In the course of yesterday's debate, an appeal was made by a Nominated Official Member to the Muslim League to support this Bill for reasons which, I think, did not weigh with most of us. Sir, if we take into consideration what the British Empire has done for the Islamic countries during the last thirty years, one cannot but come to the conclusion that if there is any institution which is more responsible than any other for the destruction of the Islamic power in

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the world, it is the British Empire. Sir, in the last world war, it was the British Empire which was responsible for the destruction of Turkish suzerainty on either side of the Straits. In the course of the last 25 years, you take any Islamic country from the Mosque of St. Sophia to the Jumma Mosque at Delhi, and you will come to the conclusion that the power of Islam has been destroyed by the British Empire. I want to know whether Maulana Shaukat Ali, who said the other day that he was not willing to contribute a single coin to Hore-Belisha the Jew so that he may be able to persecute the Arabs in Palestine more vigorously, will take up the same attitude and vote for the circulation of the Bill today. It may be pointed out that the Indian troops are not being used today in Palestine for the suppression of Arab freedom, but the constitutional position is this that the Indian troops can be despatched outside the Indian frontiers after a nominal consultation with Indian public opinion. It was done in a case very recently ; just a year ago some Indian troops were sent to China. It may be done again. Sir, the problem in Palestine is not an isolated one. It is a problem which is bound up with the Imperialistic ambitions of Great Britain. I want to know whether it is the considered opinion of the Muslim masses that by supporting this Bill they are going to prevent the Imperialistic designs of Britain in Palestine or elsewhere. The British Empire may be good for those who have something to gain materially from them, but for the Indian masses during the course of the last 150 years the British Empire has meant poverty, destitution, illiteracy, down-troddenness and nothing else. If the British Empire comes to an end tomorrow, the only catastrophe will be for those who hold titles or draw pensions, but for the masses it will mean an immense relief, it will mean the removal of the dead-weight which has been on the throat of India for the last 150 years. But I do not want to pursue this point further. Sir, it is our right, as has been clearly made out by some of the speakers who have preceded me, it is the right of every citizen to protest against war or even to preach that nobody should offer himself as a recruit if that war is not in the best interests of the country. That is a right of every citizen, and this Bill, in my humble opinion, goes to curtail the civil liberty of the people. Sir, at this stage, with your permission, I shall read a passage from 'Liberty in the Modern State' by Mr. H. J. Laski. This is what he writes :

"But let us rather take the position of a citizen whose country is involved in war as, say, England in 1914, or America in 1917. What are his rights and duties then ? I would begin by making the point that the fact of belligerency does not suspend his citizenship ; he owes as much, perhaps more than ever, the contribution his instructed judgment can make, to the public good. The scale of operations cannot, I think, make any difference to that duty. It is as real, and as compelling, when they are big, as in the war of 1914, as when, as in the Boer war, or the Spanish-American War, they are relatively small. If I think the war a just one, it is my duty to support it, and if I think it unjust there is no alternative open to me except opposition to it. I believe, for instance, that the opposition of Mr. Ramsay Macdonald and Mr. Snowden to the war of 1914 was a fulfilment, on their part, of the highest civil obligation. No citizen can assume that his duty in war time is so to abdicate the exercise of his judgment that the executive has a blank cheque to act as it pleases. No government, therefore, is entitled to penalise opinion at a time when it is more than ever urgent to perform the task of citizenship. If a man sincerely thinks, like James Russell Lowell, that war is merely an alias for murder, it is his duty to say so even if his pronouncement is inconvenient to the government of the day."

Therefore, our considered opinion is that any war in which the British Empire may be involved in would be an unjust war, not undertaken for the defence of Indian frontiers, and, therefore, it will be our right, our fundamental right of citizenship, to persuade people not to join the army. Sir, it was pointed out in the course of the discussion yesterday that war would bring in some profit to the peasantry. I want to know what was the experience gained after the last world war was over. Was it prosperity which dawned on other European nations after the war was over or was it bitterness? Was it not disillusionment, was it not destruction? Everything except prosperity was the lot of European countries. The rich heritage which had been gathered for ages and centuries was destroyed in a few months, and with the development of science, this destruction will be more quick and wider in scope if another war comes on. Why should we, as I said in the beginning of my observations, be entrapped in a war when we know that it is intended for the maintenance of the British Empire? That is with respect to the first point.

Now, I will take up the other aspect of the question. If the intention of the Bill was to secure the normal recruitment to the present army, then I think, Sir, nothing has happened in the course of the last 18 months to show that recruitment has been affected in the least. Sir, I have taken pains to collect some statistics from Government publications known as 'Returns showing the Actual Strength of the Army, Navy and the Royal Air Force in India'. I have compiled figures from the 1st July, 1936, right up to the last publication available, the last and latest, the 1st April, 1938. I have got figures for the army, the Reserves and the Indian States troops. I do not want to give all the statistics to the House but I want to say that in the course of these eighteen months nothing has happened to justify the bringing in of such a Bill as this. The normal recruitment has not been affected in the least. If you compare the sanctioned establishment with the actual strength, if anything, the position has slightly improved in the month of April, 1938. That holds good in all the three categories, the army, the Reserve and the Indian States troops. In the Bill it has been stated that it is to be made applicable immediately to the Punjab. I was, therefore, more anxious to know what was the position with respect to the various regiments in the Punjab. I have got these figures, and so far as the Punjab is concerned I crave your indulgence to give me time to read the whole of it. In the 1st Punjab Regiment the sanctioned strength is 3,445. On the 1st July, 1936, the actual strength was 3,460. On the 1st October, 1937, it was 3,432, on the 1st January, 1938, 3,384, and on the 1st April, 1938, 3,384. The Second Punjab Regiment : the sanctioned strength was 3,436 ; the actual strength was 3,439 on the 1st July, 1936, 3,389 on the 1st October, 1937, 3,438 on 1st January, 1938, and 3,489 on 1st April, 1938. The Eighth Punjab Regiment : the sanctioned strength was 3,436 and the actual strength on 1st July, 1936, was 3,410. On the 1st October, 1937, it was 4,312, on the 1st January, 1938, 4,248, and on the 1st April, 1938, 4,126. The Ninth Punjab Regiment : the sanctioned strength was 2,889, and the actual strength was 2,888 on the 1st July, 1936, 2,848, on the 1st October, 1937, 2,836 on the 1st January, 1938, and 2,919 on the 1st April, 1938. The 11th Punjab Regiment : the sanctioned strength was 4,295. The actual strength was 4,299 on the 1st July, 1936, 4,319 on the 1st October, 1937, 4,224 on the 1st January, 1938, and 4,189 on the 1st April, 1938. The

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14th, 15th and 16th Punjab Regiments : I do not want to go into all the figures but I have summarised the result and it is this. In the Punjab Regiments in July, 1936, the actual strength was more than the sanctioned strength by about 15. On the 1st October, 1937, it was by about ten, on the 1st January, 1938, by about 50 and in April, 1938, the difference between the sanctioned and the actual strengths is only 28. Incidentally, I may say here that the army as it is recruited at present is recruited from three main sources, firstly the Punjabi, secondly, the Gurkha, and thirdly, the Mahratta. So far as the Gurkhas are concerned, in 1936 the Gurkha actual strength was less by 150 than the sanctioned strength. In October, 1937, it was less by 400 than the sanctioned strength. In January, 1938, it was more by 288 and in April, 1938, again more by about 50. As regards the third category, namely, the Mahrattas, in July, 1936, it was more than the sanctioned strength by about 30, the same figure in October, 1937, in January it was less by about 35 and in April last it was less by about 80. I, therefore, fail to see if the normal recruitment to the army even in the Punjab is not affected in the least as will be seen from the figures that I have quoted,—I fail to see what is the object in bringing forward this Bill. Sir, it may be pointed out that in future when a war comes the recruitment may not be as desired by the Army Department. With regard to this point, as I have already said in my speech of yesterday, if the war is just and is waged for the maintenance of India's freedom and India's frontiers, you will not find that men will be lacking either in patriotism or in doing their duty under their own national flag. What has been your experience in the years 1914 to 1918 ? You will find from your own publications that even the so-called non-martial classes responded splendidly during the war time. You could then raise not merely a large army of regulars but you could raise about two lakhs by way of volunteers. And I have not the slightest doubt that when India is forced to fight such a war, not for the benefit of the British Empire, not for the furtherance of the imperial schemes and objects of the British Empire, but exclusively for the sake of the maintenance of India's independence, I think from the thirty-five crores here you will have an army raised—I do not exaggerate when I say in the shortest possible time, an army well equipped and which will not only defend India's frontiers but defend other countries similarly situated. Therefore, taking the present state of recruitment and taking into consideration what is likely to happen in case of such a war, I think this Bill is entirely unnecessary. But I feel that the object of this Bill is something more than what appears on the paper. I am told on very good authority that the Draftsman of the Government of India has been appointed additional Defence Secretary only yesterday. It only means, it lends colour to the suspicion that there may be other legislations more detailed in order to further carry out the objects that are now only thrown as feelers in this Bill. What the British Government has been doing during the last eighteen months since the publication of the White Paper on the Empire Defence by Mr. Baldwin is worth attention : one has only to watch what the British Government has been doing in order to further arm itself more and more in all the three arms of the defence, namely, the air, land forces and the navy, and one will realise that what is being done here is only a part of that big scheme. Only recently we have had proposals of the Government of India being carried out in practice, such as, mechanisation, motorisation,

etc., and I think this Bill is meant to further that object. I feel that we have no obligation to defend the British Empire. We have no gratitude, nothing has been done by the British Empire for us. Either on the ground of gratitude or on the ground of obligation there is no incentive for us to fight for the British Empire. Therefore, it will be perfectly right and patriotic on the part of every Indian here to throw out this Bill without the slightest regard for those who appeal to the communal passions or to any other considerations which are not in the best interests of this country. Sir, I support the motion for circulation.

**Mr. Akhil Chandra Datta** (Chittagong and Rajshahi Divisions : Non-Muhammadian Rural) : I rise to oppose this non-contentious Bill of Mr. Ogilvie. There could not have been a greater joke than when he declared that this Bill was a non-contentious one. The whole thing is a huge joke. The Bill is intended to penalise certain anti-war activities, or, to be more precise, certain anti-war opinion and speeches. The Honourable the Mover of this Bill has divided these speeches into two categories, speeches for spread of peace and pacifism, and speeches asking people not to take part in any war in which the British Empire may become engaged. As regards speeches which are intended to preach the gospel of peace, Mr. Ogilvie has very kindly left them untouched. We are grateful to him for that mercy but as regards speeches against war, certain penal provisions have been introduced. The public speeches which, he declared, form the cause of action for this Bill have not been proved but I shall proceed on the assumption that those speeches have been made, asking the people of India not to join in any war in which the British Empire may be involved. I shall proceed on that footing. This principle that an Indian cannot advise his countrymen not to enter the army is one that is not acceptable to us. It is a new principle altogether which has been enunciated by Mr. Ogilvie. I shall not go into details but I shall confine myself to the broad questions. The question is what is the real object of this Bill and what is the principle underlying it. It appears to me that the principle is this. If the British Empire becomes involved in any war, the question arises as to who is to decide as to whether India should take part in that war or not. Is it for India to determine that question for herself or is it for Great Britain and the British Empire to dictate to India. The question is—can India stand up and say that we are not satisfied that the war is just and necessary in our interests ? If after examining the whole question, as to the nature of the war, the countries with which it is waged and the causes and so on, India comes to the conclusion that it is not a just war and that it is not in her interests to join it, then the question arises as to who is to determine whether India should take part in that war or not. If Pandit Jawahar Lal or Subhash Bose advises his countrymen not to join the army, does Pandit Jawahar Lal or Subhash Bose become a criminal ? That is the question raised in this Bill. The question is not whether as a result of war the prices of commodities will go up in the Punjab or in any other part of India. The question is not the solution of the unemployment problem. It was said by one gentleman on behalf of the Government that the result of a war is increase of prices. I do not know whether that gentleman was put up on the side of the Government to make or make out a case like this. Is that the case of the Government that they want war because war will increase prices ? Mr. Ogilvie nods his head and declines to accept that view. I do not know on whose authority he spoke on behalf of the

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Government. What was the instruction received by him from the Government ? Was that the instruction received by him from the Government that he should make out a case like this ? However, I shall not trouble the House with this. The question is what is the principle of the Bill. It is a fundamental constitutional question of paramount national importance. The principle for which we stand is the principle of self-determination. So far as the question is concerned as to whether India shall participate in a war or not, that is a question which India must determine for herself and not any outsider. On that point I want to make this submission. This is a piece of legislation which is entirely new in the history of British India. Will Mr. Ogilvie answer this question as to whether or not this is an absolutely new principle which he has introduced ?

**Mr. C. M. G. Ogilvie** (Defence Secretary) : Yes, it is an absolutely new offence which has been invented.

**Mr. Akhil Chandra Datta** : It was reserved for Mr. Ogilvie to inculcate this new principle after 175 years of British rule. He calls it a Criminal Law Amendment Bill. He says it is a Bill to amend the criminal law. Was there any such law in existence before this ? Amendment presupposes the existence of some law and, therefore, when you call it a Bill to amend the criminal law, that is a misnomer. What is really intended is stated in another portion of the Bill, namely, a Bill to supplement the criminal law. Do you want to supplement or to amend ?

**Mr. C. M. G. Ogilvie** : You can call it either, as you like. I am not sure whether this volley of questions is purely rhetorical or whether I am supposed to carry on a conversation with the Honourable Member ?

**Mr. Akhil Chandra Datta** : We Members of this House ought to be able to make a distinction between what is supplementary and what is in the nature of an amendment. Sir, the Indian Penal Code was enacted in 1860 immediately after the sepoy mutiny. In fact although it was passed in 1860, we know as a matter of fact that it had been drafted some time before. So it would be correct to say that the Indian Penal Code was drafted and passed at the time of the sepoy mutiny, and, surely, this portion of criminal law did not escape the attention of the great jurist, who drafted that great code. We find that although provisions with regard to offences relating to the army, the navy and the air force were made in Chapter VII in section 131 and the following sections, this point was not touched. My point is this that although the Indian Penal Code was passed in 1860 immediately after the mutiny and although provisions were made with respect to offences relating to the army, the navy and the air force, yet such an outrageous law is not to be found in the Indian Penal Code. The author of that criminal code was no other than Macaulay, a very great jurist, and now, after about three-quarters of a century, we have got another Macaulay in the person of Mr. Ogilvie to supplement the Penal Code. Let us now come to the Great War of 1914. Now was there any such law at that time either passed or attempted to be passed ? Was there no Ogilvie at that time in India ? Now, Sir, even without any legislation like this, India gave her money, her men and her materials lavishly and spontaneously. The question arises,—in view of that experience of the Great War of 1914,—what is the reason which has actuated Mr. Ogilvie

to bring forward this measure, this compulsory co-operation ? The pertinent question arises—what happened after the experience of the Great War ? What has happened since then which has prompted a measure like this ? Sir, I may be uncharitable but my own reading of the situation is this, that large promises were made at that time, large promises followed by smooth excuses. There was a breach of faith, a breach of solemn pledges made at the time to India and to Indians in order to induce them to join the war. Now, Sir, in view of that breach of faith, probably,—of course I cannot read the mind of Mr. Ogilvie,—probably he feels that it is not possible to cheat people always and for all time, and that explains this new chapter of criminal law on the eve of what is apprehended to be another great war. I should like to add this that there was in 1911, the Indian Army Act, there was in 1932, the Indian Air Force Act, and there was in 1934, the Indian Navy Discipline Act. Even on those occasions it was never proposed to carry legislation to such an extent. Therefore that will show that something has happened since then, .....

**Mr. C. M. G. Ogilvie :** Yes.

**Mr. Akhil Chandra Datta :** ..... which has prompted this measure,—and that is a lack of confidence in themselves. They want the support of Indians, they want the co-operation of India but they feel that no longer will that co-operation be forthcoming spontaneously and voluntarily. Now, Sir, before I am asked to vote in support of this Bill and before any Member of the House is asked to cast his vote in support of this Bill, we ask one question : “ Will you, before you declare a war, have the consent of the Indian people ? ” Give me that guarantee and I shall vote in favour of your Bill. Will you give me that assurance that no Indian will be required to serve outside India, that no Indian or Britisher who receives his pay from the Indian exchequer will be required to fight outside India if any war is declared without our consent, give me that assurance and I am prepared to vote for this Bill. Now you want a blank cheque. Sir, in the Statement of Objects and Reasons it is said that the object is to penalize “ speeches designed to dissuade persons from enlisting in the Defence Forces or, in the alternative, to incite would-be recruits to commit acts of mutiny or insubordination after joining those Forces ”. Whatever may be the character of the war—for imperialistic purposes or for crushing a small nation—whatever may be the object of that war, we are asked indiscriminately to support this measure. You want to penalize the dissuasion of people from taking part in any such war, and you want a blank cheque. Now can you reasonably ask us to vote in support of this Bill without any discrimination between war and war ? So, Sir, we cannot support this Bill in this form. The next question is supposing you obtain our consent before, well and good. But if on the contrary, in the teeth of opposition, in defiance of Indian opinion you declare a certain war, can you reasonably and with any moral justification ask us to fight for you, to fight as your mercenaries, as hired *lathials* ? Allow me, Sir, to ask one more question—for whose benefit has Mr. Ogilvie brought forward this Bill ? He said in the preamble to his Bill, “ whereas it is expedient to supplement the criminal law ”—expedient for whom ? (*An Honourable Member from the Official Benches :* “ For India.”) I am sorry. The whole nation has not become so perverse as not to mind their own interest. If it is expedient for India, can you suggest any reason why we should not support this measure ? Have you got any personal quarrel

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with Mr. Ogilvie? You want us to support this Bill but, before we do so, we must be satisfied that it is in our interests and it is for our benefit. Now, the question resolves itself into this: Is it in the interests of India to support any Imperialistic war for Imperialistic purposes? Will it not be cutting our own throats if we support such war? Will it not be suicidal for India to support a war like that? What is the verdict of the Indian people on the subject of war? Indian people have clearly expressed their opinion that they are not going to repeat the blunder of 1914. Here is the Resolution of the Indian National Congress. It is a long Resolution and I shall not trouble the House with the reasons given in support of it. The material portion of that Resolution is this:

“India can be no party to such an imperialist war and will not permit her manpower and resources to be exploited in the interests of British imperialism. Nor can India join any war without the express consent of her people. The Congress, therefore, entirely disapproves of war preparations being made in India and large scale manœuvres and air-raid precautions by which it has been sought to spread an atmosphere of approaching war in India. In the event of an attempt being made to involve India in a war, this will be resisted.”

That is the considered verdict of the Indian National Congress. I hope I shall not be misunderstood, but may I be permitted to say this that although this is the opinion of the Indian National Congress and I do not say that it is binding on the Muslim League, it is a matter in which there is no communal question. Therefore, I feel that I am not asking too much if I request the Members of the Muslim League to take into consideration the merits of this Resolution. As a matter of fact, there is no conflict between the Hindus and the Mussalmans, at all events so far as this question is concerned, there is no manner of conflict between the interests of the Hindus and the Mussalmans. I repeat that this verdict of the Indian National Congress is not binding on the Muslim League, yet I do hope that they will consider the merits of this Resolution. Now, Sir, that is the Congress Bill and here is Mr. Ogilvie's Bill. Therefore, I think I may say that it is really a challenge to the Congress Resolution. Mr. Ogilvie shakes his head. He will further agree that it is practically a declaration of war against the Congress. He does not nod his head now. We should be able to realise the far-reaching implications of this Bill. If this Bill is placed on the Statute-book, the Indian politicians will not be able to say that they cannot join the war. Speaking for myself as an old man of 69, I should like to say this that before I advise my countrymen to join any Imperialistic war, I would rather be in jail for years under this law.

Another question that I would like to ask is, on whose advice has this Bill been brought up? Will Mr. Ogilvie take the House into his confidence and place the inner history of this Bill before the House? Will he place the history of this Bill frankly, honestly and without any reserve before this House. I hope he is inclined to do this. I hope in his reply he will tell us what is the origin of this Bill and from where the inspiration has come? Has the inspiration come from the Punjab or has it come from overseas? It is said that the Punjab Government had been carrying on correspondence in this matter. The Punjab Government have the power to enact this legislation for the Punjab and yet they have not done it. We all know, Sir, that Mr. Mardy-Jones is now touring in India.

**An Honourable Member :** Leave him alone.

**Mr. Akhil Chandra Datta :** I can leave him alone for other provinces, but not for the province of Mr. Satyamurti, where he is now preaching the Gospel of co-operation of Indians with the British Empire in the next war. This Bill and the tour of Mr. Mardy-Jones appear to be parts of the same scheme. That is the point. If Great Britain wants our co-operation and support, is this the way to get them? Co-operation should be a willing co-operation and the support should be a spontaneous support and not a sullen and unwilling support at the point of a bayonet. May I point out that such a support has no value at all; it will frustrate its own object if you compel people against their own wish to join the army and to fight for some people other than their own people. Sir, I do not wish to go into the details. But I would like to say just a few words about the two *Exceptions*.

The first *Exception* says that 'the provisions of clause (a) of this section do not extend to comments on or criticism of the policy of Government'. The most important policy about this question is the policy as to whether the Indian army should be sent out to other countries for Imperial purposes. But if you discuss that policy, you are within the mischief of this Bill.

*Exception 2* says :

"The provisions of clause (a) of this section do not extend to the case in which advice is given in good faith for the benefit of the individual to whom it is given or for the benefit of any member of his family or of any of his dependants."

I am very anxious to invite the attention of the House to this aspect of the question, namely, you can advise to the benefit of an individual; but that very advice you cannot give for the benefit of the nation or for the benefit of the country. That is what it comes to. In other words, although it is said to be an exception, it is only in fact emphasising that aspect of the question, namely, that you cannot advise for the benefit of the country and for the benefit of the nation. It must be only for the benefit of the individual. Therefore, this Bill is really a fresh fetter on the freedom of speech and freedom of opinion. In fact these provisions go far beyond the Statement of Objects and Reasons. There it is said that public speeches are to be penalised. That is what is said in the Statement of Objects and Reasons. But when you come to the actual provisions, you find no question of public speeches. Even a whisper in a private chamber between two friends will come within the mischief of this Bill, because all that is said there is: "if he dissuades or attempts to dissuade". So that not only the principle is mischievous, but also the detailed provisions are extremely dangerous. In fact it will not be very wide of the mark if this Bill is characterised as martial law, because it seeks to supplement the Indian Army Act, the Naval Discipline Act, the Indian Air Force Act. But these Acts apply only to those people who, according to the provisions of those Acts, are subject to them. In fact they apply only to military people. But those military provisions are sought to be applied now by this Bill to non-military people. So, I submit this law is much more martial than those other laws.

I do not like to take up any more time of the House. I shall conclude with one observation, that is self-interest and self-respect should decide

[Mr. Akhil Chandra Datta.]

the whole question and so far as we, on this side of the House are concerned, our interest is to oppose this Bill, and our self-respect dictates that this Bill must be thrown out.

**Maulana Zafar Ali Khan** (East Central Punjab : Muhammadan) : Sir, since yesterday, I have been closely following the trend of speeches made on the Bill introduced by the Honourable the Defence Secretary. In these speeches there has been an anxiety shown by the Congress as well as by the Official Benches to win the sympathy of the Honourable Members belonging to the Muslim League and to obtain their support and their vote. Why this anxiety ? Outside the Assembly, the Congress has not recognised the Muslim League as the representatives of the Muslim community. One Honourable Member from the Official Benches yesterday appealed to the Members of the Muslim League not to be led by the nose by these Congresswallahs. Why this anxiety on the part of the Official Benches to get our support ?

The Congress goes to the Britishers in the person of Mahatma Gandhi, or in the person of Pandit Jawahar Lal Nehru or in the person of Mr. Bhulabhai Desai. All these go to the Britishers. Till now Mr. Jinnah has not even been invited by the Secretary of State or the Viceroy. I say that the Congress and the Britishers are close allies. There are two kinds of imperialisms in this country. If imperialism means anything, there is the British imperialism and there is the Hindu imperialism, or if you like Congress imperialism. To me Congress imperialism and Hindu imperialism mean the same thing. The Congress and the Hindu Mahasabha are one and the same thing. Between the two imperialisms stands the Muslim League raising the standard of democracy aloft and its principle is not to consider a question on any other consideration except justice and fair play on the merits of it. We stand by justice and fair play. We mean to be the determining factors in the solution of all problems which are vital to India. We mean to remain that determining factor in the Assembly as well as outside. Let the world listen to my words and to my declaration and the world will see that we are gathering strength. We are going from strength to strength, every day strength is being added more and more. Those who run away with the idea that there is a split among us, are wrong. We are a small block of 16 or 17 or 20 today. We hold the balance of power. Whichever side we go that side wins. But as I already told you, we will never go to the side of wrong. We will never go to the side of injustice. If my Honourable friend, Mr. Ogilvie, is under the impression that we are tied to the apron strings of Dame Britannia, he is mistaken. We here want to uphold the standard of justice, the standard of fair play and the standard of strength. I, as a Muslim, want India to be emancipated, I want India to be free, although as a Muslim, I cannot forget what the Britishers did to us in 1914. I do not forget how the Khilafat was dismembered. I do not forget how the Muslims were made the cat's paw of the policy of Great Britain so far as the Islamic countries were concerned. I cannot forget all these things. But as one friend over there, Mr. Akhil Chandra Datta, pointed out, since 1914, much water has flowed under the bridges

of the Hughli. Since then, much water has certainly flowed, volumes have flowed down the bridges of Attock, the Jhelum, the Chenab, the Ravi, the Beas and the Sutlej. A change has come over India. A change has also come over the Britisher's mentality. He is not the same Britisher as he used to be in 1914. With his war panoplies, with his naval fleets, with his aeroplanes he used to thunder at the gates of Bosphorus and he used to threaten Turkey with instant annihilation. Since then many changes have come over the world. Younger States have risen. Germany, Italy and Russia have risen and in the East there is the growing power of Japan. Would you believe that small States like Roumania and Bulgaria have increased their military strength immensely? Even small States have an army of ten lakhs today. What is the military strength of India? It is only three lakhs or even less than that. It is 50 or 60 thousand Tommies with their orange marmalade, butter and toast and other amenities of life and about 2½ lakhs of Indian soldiers with their *chapati* and *dal* and *bhaji*. So if a war comes, we cannot ignore the world situation. We do know and we do realise that we are standing at the present moment on the brink of a great precipice. The war came in 1914 and this time it will be a terrible war. This time it will be a greater Armageddon. Can India defend herself? Certainly not with the meagre forces at her command. I have not forgotten the wounds inflicted upon the Mussalmans in the year 1914 and from the year 1914—18. But I want the people to come down from the transcendental heights of theory and come into the realm of practice. It is a world of stern realities; and what are these stern realities? Germany stands armed to the teeth, France stands armed to the teeth, Italy stands armed to the teeth, and so does Japan and so does Russia. And where does India stand with an unarmed population of 37 crores? You say you will turn the Britishers out of India and I am with you there; I want the Britishers to clear out bag and baggage. But how is that to be done? Is it going to be done by the spinning wheel and by non-violence? No. Even Mahatma Gandhi, that high priest of pacifism, comes down from the transcendental heights of non-violence to the lower plane and has a talk with the Viceroy. That talk was confidential but, somehow or other, the Editor of the *Civil and Military Gazette* disclosed everything. And what was the trend of that talk?

**Mr. President** (The Honourable Sir Abdur Rahim): I think the  
1 P.M. Honourable Member had better deal with the Bill.

**Maulana Zafar Ali Khan**: I am coming to that: what I wanted to point out relevantly was that Mahatma Gandhi was very anxious that the centrifugal tendencies of a province should be neutralised by the centripetal forces of the Federation. In other words, he meant that no province should be made strong enough to fly off at a tangent when the time comes. And what are these provinces? The United Provinces with 14 per cent. Muslim population and 86 per cent. Hindus; Madras 95 per cent. Hindus and 5 per cent. Muslims; the Central Provinces with 5 per cent. Muslims and 95 per cent. Hindus; Bombay with 10 per cent. Muslims and 90 per cent. Hindus. There are only two provinces, viz., Bengal and the Punjab, where unfortunately for the Congress the Muslims happen to be in a slight majority.

**Mr. President** (The Honourable Sir Abdur Rahim) : I must ask the Honourable Member to address himself to the subject matter of the Bill before the House.

**Maulana Zafar Ali Khan** : I am coming to the subject of recruitment to the army, but what I am trying to show is that even a man of Mahatma Gandhi's non-violent nature admits that we must have an army here although he does not want that the Punjab should have an army in which the proportion of Muslims should be 64 as it is at the present moment. I was just referring to that.

Now, I come to what our friend, Mr. Ogilvie, says with regard to the Bill. I certainly am with my Congress friends when they say that the military resources of India shall not be exploited for Imperialistic purposes. But I also realise that the mainstay of India is the army ; we must have an army and a vast army. I want every son of India to be a soldier ; and when a war is so near, India should be prepared for that. So, when we want an army we want it for the defence of India ; we want it for the defence of those with whom our interests do not come into conflict. We are even prepared to be the allies of Britain if she requires our military help and if that help does not run counter to our interests.

**Sardar Sant Singh** (West Punjab : Sikh) : On what terms ?

**Maulana Zafar Ali Khan** : Yesterday my Honourable friend, Sardar Sant Singh, was saying that we are prepared to co-operate with the Britishers if they give us something in return, that is to say, a *quid pro quo*. It is for Sardar Sant Singh and for our friends over there to have a bargain. That bargain is going on in London and in Delhi and we know nothing about it. So if they want our support they must take us into confidence. Then we will put our heads together and see what can be done. So far as this Bill is concerned, Mr. Ogilvie has not made out a good case. In this connection he referred to the gallantry of the Punjab people. Certainly the people of the Punjab are gallant. The Muslims are gallant and the Sikhs are gallant ; only those people are not gallant who the other day held a conference in Lyallpur. So they are gallant and they are loyal also.

**Mr. N. M. Joshi** (Nominated Non-Official) : What about us poor Hindus ?

**Maulana Zafar Ali Khan** : Some of them are gallant like Mr. Joshi for instance. Well, we are gallant men, but so far as loyalty is concerned. I know my Punjab and I know my India from Cape Comorin to Srinagar and from Quetta to Rangoon. I have my finger on the pulse of the Muslims and the Muslims of the Punjab say that they are loyal to Islam in the first instance and then to any other power. Then the Sikhs and the Hindus of the Punjab of the type of Sir Chottu Ram say that they are loyal to the country and their bread first and then to any other interest. So loyalty to Britain is a secondary thing. But we have to pull on with the Britishers and that is a stern reality. We want them to realise our strength. Since 1919 they have come down from the high pedestal of Imperialism on which they were sitting. They have parted with their power in the provinces and the power of the provinces will go on increasing. So, in so far as this Bill wants to treat as an

offence punishable by law all attempts at dissuading any one from enlisting in the army or the navy or the air force, I agree with the principle. But when it comes to the question of using these recruits and using this army for Imperialistic purposes, may be for blowing up Palestine or bombing Waziristan or the dismemberment of Arabia, I put my foot down.

**Sardar Sant Singh :** And for caging you.

**Maulana Zafar Ali Khan :** I am an old bird and cannot be caged. If only you appreciated what I am saying you would not be caged but, unfortunately, you want to use us as a pawn on your chessboard and we are not going to agree to that. This Bill from that point of view is a mischievous Bill. It might have been introduced in all good faith : such Bills have been introduced and placed on the legislative anvil in all good faith but later on they are used for purposes other than those for which they were originally intended. Take the Press Act. In 1910 this law was passed and we were then told that because Chapekar murdered Lieut. Rand, therefore, they were placing this instrument in the hands of the authorities so that no such incident should occur again. The Muslims joined the bureaucracy and the Act of 1910 was passed, but what was the result ? The Muslim press was butchered ; and when I went to England and saw members of Parliament in 1914 when the war broke out, they promised me in the House of Commons that this Press Act would be repealed. That promise was fulfilled, but later on other conditions arose and we were as before. Therefore, this Bill may be brought from very good and honest motives but when the time comes to put it into practice what would be the result ? Anybody saying : " We must not join the army because this army would be used for the annihilation of Palestine ", would be clapped into jail and sentenced to two years. This two years is too much. This rigour should be reduced. There should simply be a fine. There are other modifications also which should be made. After this general discussion is over and amendments are moved, then there should be some modifications and my definite and studied opinion is that this Central Government, consisting as it does of irresponsible gentlemen, who are not responsible in certain matters to the public and who can have their own way, should not have this instrument of repression in their hands. Let it go to the provinces : let it go to the United Provinces, the Central Provinces, Bombay, Bengal and the Punjab, and let those Governments who are directly concerned be invested with the power to enforce the Bill whenever they consider it necessary, three months hence or six months hence or whenever they want it. I am sorry I cannot see eye to eye with Mr. Satyamurti in his proposition to circulate the Bill for public opinion. I am of the opinion that the power of the Provinces should be increased : this Bill should be sent to them and they should be invested with the power of enforcing it whenever they like. With these words, I do not support the motion of Mr. Satyamurti.

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

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

**The Honourable Mr. R. M. Maxwell** (Home Member) : Sir, this debate has so far proceeded mainly on very very general lines, but in the course of yesterday's debate, two specific points were raised, both of them, I think, material to the consideration of this Bill, and I propose to deal with those first. The first point raised was that when the Criminal Law Amendment Act of 1932 was re-enacted in an amended form in 1935, section 2 of the 1932 Act which dealt with dissuasion from enlistment was then dropped from the new Act, and the reason was asked why that was so, and why, in the second place, if that was so, Government have now reversed their policy and find it necessary to put in that section again. The reason why section 2 was not re-enacted in 1935 was that this section was originally framed at a time when civil disobedience held the field. When, however, the Act was revised in 1935, conditions had changed, and there was at that time no anti-recruitment campaign in active progress. Therefore, when considering the terms of the 1935 Act, Government felt that the House should not be pressed to pass measures which were then not immediately necessary, since the view was taken that if anti-recruitment propaganda re-commenced at any time, it could then be dealt with by means of *ad hoc* legislation such as in fact the present Bill is.

Then, I turn to the question why the present circumstances justify a reversal of that policy. What are the actual facts in view of which the Government have decided that a measure of this kind is now necessary ? Well, I can only give the House a brief resumé of the information in the possession of Government which has led them to conceive this measure. Information has been coming in ever since the beginning of April, 1937,—that is, since the beginning of the new Constitution,—to the effect that what I may broadly describe as anti-recruitment speeches were becoming a more frequent feature of public meetings. In the period from the beginning of April until some time in December, 1937, intelligence was received that 115 different speakers made, what I may call, anti-recruitment speeches at 71 meetings in the province of the Punjab alone. Nine of those meetings took place in the Ambala Division of the Punjab, four of them being in Rohtak. Fifteen of the meetings took place in the Jullundhur Division eight of them being in Jullundhur. Thirty meetings took place in the Lahore Division, 15 of them being in Amritsar. Ten meetings took place in the Rawalpindi Division, four of them being in Shahpur. Seven meetings, again, took place in the Multan Division, three of them being in Lyallpur. One feature of these meetings at which anti-recruitment speeches were made was that they were largely promoted by speakers from outside the Punjab. In fact, it appeared during that period that a dead set was being made at the Punjab recruiting area by outside speakers. I admit that some of this propaganda originated with speakers who are themselves inhabitants of the Punjab, but the most frequent occasions on which speeches of the kind I am referring to were made were socialist meetings, *Kisan* conferences, Youth League conferences and so forth, and in fact this propaganda, it has been noticed in other parts of India, appears to prefer meetings of that description, that is, meet-

ings having a definite socialist bias. Well, the advice usually given at these meetings takes two forms, one of which is direct, that is, the audience is urged not to supply recruits to the Indian army, and another class of more general propaganda is uttered urging that the audience should refuse to help the British Government in the event of a war by providing men for the army, or that Indians generally should not take part in any future war in which the British Government might be engaged. Actually, as an effect of this propaganda, it was reported by a recruiting officer in the Lahore area as early as May, 1937, that there was a falling off in the number of recruits at Sheikhpura, Gujranwalla and Shahpur districts. I have given the House some figures showing the actual volume of this propaganda during the period from April to December, 1937, but since December, 1937, about 130 cases of similar meetings have been reported from the Punjab alone ; also similar reports have come in from other provinces more occasionally. The last information which I saw, which is not quite up to date, mentions cases occurring in the Central Provinces, in Bihar, in Orissa, and in Bengal during the second half of July. There was only one meeting of that kind in each of those provinces, and also one in Bombay, and a larger number of meetings of the same kind in the Punjab and the United Provinces. In the Punjab the number of meetings in the second half of July was nine, and also meetings were held at various places in Amritsar District, of which I have not got the exact figures. Those were held under the auspices of the District *Kisan* Committees. In fact, two speakers in the Punjab even advised Indians to join hands with the enemies of Britain and fight the British in the event of a war. Now, Sir, I have not got the actual text of these speeches. I do not believe that most of them were reported *verbatim*. I am not telling the House that I have got evidence I have not got, but I do tell them that reports in similar terms have been coming in with almost monotonous regularity ever since April, 1937. They have been coming in from a large number of totally independent sources and widely separated places, and on such evidence it must be accepted by Government that this propaganda is at present wide-spread. The information which we have is as well vouched for as any information on which Government ordinarily act, and I must ask the House to accept it from me that Government are satisfied that this propaganda is at present in very active existence.

Now, I will turn to the more general aspects of the case and to the attitude which I wish this House to take up towards the present measure. I should like to begin by saying that I in no way misunderstand the motives of those Honourable Members who have urged the rejection of this Bill. I doubt myself whether any Honourable Members really believe that the cause of pacifism would be advanced if propaganda of this kind were allowed to succeed and the Indian army was thus depleted of its strength. The House will remember the saying that it takes two to make a quarrel, and I would suggest as a corollary that it also takes two to keep the peace.

**Mr. S. Satyamurti** (Madras City : Non-Muhammadan Urban) : Not with non-violence.

**The Honourable Mr. R. M. Maxwell** : If two are non-violent then the peace can be kept, but if only one is non-violent, it cannot be. (Interruption.) Nor do I believe that Indian opinion generally is pacifist in the

[Mr. R. M. Maxwell.]

sense of repudiating all desire to fight for what it believed to be right, but I shall allude to that point a little later. I doubt indeed whether many of the Honourable Members who have opposed this Bill would support the type of propaganda I am referring to if they really believed that it would be successful, because they must see that, if over a sufficient period successful propaganda were carried on against recruiting to the army, in the end there would be no army left to India.

**Mr. Bhulabhai J. Desai** (Bombay Northern Division : Non-Muham-madan Rural) : Say, Army recruited by you.

**The Honourable Mr. R. M. Maxwell** : I will come to that later. As I have said, I do not believe that Honourable Members oppose this Bill with the desire or belief that this propaganda would be successful. Certainly those who really care for the interests of the peasantry in the recruiting area would not wish the propaganda to be successful. We have heard about that yesterday from one of my Honourable friends on this side. And indeed I question whether there are many Honourable Members who would really wish to see the Indian army defeated on Indian soil for want of recruits. Nor, lastly, do I believe that any Honourable Member would regard it as a matter of national honour that Indians should enter the army only in order to act as traitors when they had got there. That is the kind of thing against which clause 2 (b) of the Bill is directed. Now, Sir, as I said, I do not believe that Honourable Members really think that this should happen. I believe the real object of the opposition to this Bill is not to give a blessing to activities which the Bill seeks to prevent, but rather to assert an abstract proposition, namely, that India desires to make and manage its own army ; and, in fact, one of the objects is to assert the general desire for self-determination. Now, I realise that those sentiments are honestly held by many Honourable Members opposite and I have no desire to discuss them. I have no quarrel with the expression of such sentiments. But if this Bill were to be rejected merely as a gesture, regardless of the immediate practical requirements of India, regardless of the merits of the Bill, but merely as a gesture to assert, " We want self-determination ", then I would suggest to the House that to throw out a Bill of this kind, designed to protect the army, is the wrong way to assert those sentiments. It is an utterly short-sighted policy ; it is playing with fire, gambling with the safety of India.

**Mr. M. Asaf Ali** (Delhi : General) : What is the right way ?

**The Honourable Mr. R. M. Maxwell** : I will now turn to constructive ideas about India's army. I remember what the Honourable Member, Mr. Asaf Ali, said on the adjournment motion the other day, where he said something like this, " Leave it to us, we will find the men ". I may not have quoted his exact words but that was the sense of what he said. Again, in his very able and interesting speech on this Bill Mr. Satyamurti remarked, " We want a national army ". These are not pacifist sentiments !

**Mr. S. Satyamurti** : On a point of personal explanation. We want an army, not to fight others, imaginary enemies, but to preserve our territorial integrity and to promote world peace. Not an aggressive army, but a defensive army.

**The Honourable Mr. R. M. Maxwell :** I would like to say that I have observed the same desire for military training to be widespread throughout the country. I gather from press reports that the United Provinces Government are considering a scheme for compulsory military training in high schools and colleges. In Bihar there is talk of a special college combined with preparatory military training in schools, and it is said that a pamphlet, a long pamphlet on the subject has been published by that Government urging a regular course of instruction and drill in secondary schools. I have heard of similar ideas advanced also in the Central Provinces. We know again about Dr. Moonje's Military School at Nasik, and such institutions have, I believe, been started or proposed elsewhere. The President of the Hindu Mahasabha himself has, as we know, often urged in the course of his tours the need of training India's manhood for their duty of protecting the country. Similar ideas lie behind the resolutions of the Calcutta Corporation and the Madras City Council demanding physical training for all males fit to receive it. And in another place I have heard Government criticised for not doing more to throw open recruitment to the so-called non-martial classes. Does all that mean pacifism ?

**Some Honourable Members :** Yes.

**The Honourable Mr. R. M. Maxwell :** But Mr. Satyamurti explains that idea by saying that he wants an army in order to keep the peace of the world. How he is going to do this in a way different from that always pursued by Britain is not very clear.

**Mr. S. Satyamurti :** Wait and see.

**The Honourable Mr. R. M. Maxwell :** But Mr. Satyamurti speaks as though non-violence were the solution. It is instructive to hear his comments on the non-violent policy of Britain. Britain, he says, has become like an old woman afraid of every dictator. The idea that when Britain holds her hand she does so because she is afraid of other people is a mistake which other nations have made in the past and they have learnt it to their cost. But it is surprising to me to find Mr. Satyamurti of all people criticising Great Britain for being insufficiently violent.

**Mr. S. Satyamurti :** On a point of personal explanation, Sir. If England be following Mahatma Gandhi's gospel of non-violence, I should congratulate her ; but she won't fight for right, because she is dead to all sense of honour.

**The Honourable Mr. R. M. Maxwell :** Now, Sir, let me proceed with the subject of non-violence. Assuming that that is our creed, is there not a danger that a non-violent Indian army might meet with contempt from marauding nations, similar to that which Mr. Satyamurti has poured upon Great Britain ? Or that the jest, though I am sure it was not ill-meant, which he levelled at the alleged British habit of invoking God on all occasions, might by unsympathetic people be turned against the odour of sanctity surrounding non-violence ? I should like Mr. Satyamurti to remember the saying that " God is on the side of the big battalions "....

**An Honourable Member :** That is what you believe.

**The Honourable Mr. R. M. Maxwell :** ....and so, I may add, is non-violence. But, again, it will be said, perhaps, that all we want is to build up our own army : but does not every Honourable Member in this House realise that the building up of an army requires much time and much training ? Mr. Satyamurti referred with disgust to the modern methods of war, and I entirely share his sentiments, but does the repudiation of these methods mean that they will not be used against us or that they can be repelled except by training men in the repelling of those methods and making provision for all the engines of war necessary to deal with them ? India may boast of numbers and it may, and I am sure will, have the will to serve, but numbers and the will to serve by themselves are not enough. Have those things helped in Spain, China or Abyssinia against a better equipped opponent ? To pit an amateur army against modern engines of destruction may be magnificent but it is not war. It is rather the slaughter of the innocents. Therefore, I believe it is the height of rashness to say that because we have not yet an army made by ourselves, therefore, we can contemplate with equanimity the subversion, the destruction of the Indian army which we now possess. This army is today and for a long time to come at any rate must be India's own army, its only army, and this army must be the foundation stone of any different or larger army which may be created under a nationalist Government in India in the future. I wish this House to realise that disloyalty to the Indian army which is now theirs is the same thing as disloyalty to India.

**An Honourable Member :** Question.

**The Honourable Sir R. M. Maxwell :** At any rate if any Honourable Member were prepared to entertain the rash sentiments to which I have just alluded, the Government cannot be a party to any such rashness. No Government, this or any other Government which may follow it, can afford to gamble with a big risk when the safety of the whole country is at stake. This propaganda against recruitment may be merely a gesture but we must assume that those who pursue such activities wish them to succeed. That is, they wish India to be left without an army or with an unreliable army long before she has any other means of defending herself. Government are bound to regard this propaganda as a serious danger and to take steps to meet it which they nevertheless hope will not prove to be required if this Bill is passed. Therefore, they have placed this measure before this House in the belief that the House, realising its own responsibilities to India, as well as those of Government, will help Government in passing it into law.

**Mr. A. Aikman (Bengal : European) :** Mr. Deputy President : I am very grateful to Mr. Satyamurti for raising the point of the influence which Great Britain today holds in international councils, which he rated as very low, for while I must refute his statement entirely it gives me an opportunity to pay a tribute, where a tribute is due. Mr. Satyamurti tried to belittle Britain's prestige in this respect, whereas the truth is that it is higher than that of any other country. If proof were necessary, may I remind this House that a British *ex-Cabinet* Minister has been received by one of the smaller but most important countries of Europe as an adviser with a view to the settlement of a most difficult international problem—almost an unique proceeding—and the choice of an Englishman would have been impossible if Britain's prestige were not as high as I

have declared it to be. As regards the tribute, a great deal of the credit for the high place which Britain undoubtedly does hold is due to the untiring energy, the ability and the honesty of purpose of a gentleman for whom I believe every Member of this House has a considerable regard and certainly great admiration, because he laboured here in India for India with such conspicuous success. I refer to Lord Halifax.

Now, Mr. Satyamurti contended that when the British Empire breaks up, and I would make it clear that I am not prepared to concede that it will, it will be an occasion for peace and prosperity throughout the world. Just the contrary must be the case. The attitude of all other countries—the example of one country's attitude is Lord Runciman's mission to which I have just referred—shows clearly that the prestige of the British Empire as a force for peace stands as high now as ever. She has been referred to as the cornerstone of the world's peace. I need not search very far amongst those daily papers which are the mouthpieces of the party to which my Honourable friend, Mr. Satyamurti, belongs to find occasions where they have demanded that England should intervene to stop active aggression by Japan, by Italy and Germany. Apparently they depend still on the British Empire as a peacemaker. Certain allegations have been made regarding speakers at numerous meetings and it has been claimed that attempts have been made to prevent recruitment and to stir up mutiny amongst troops. It has been argued that such attempts are dangerous to the security of this country but these are not new allegations. They have been made before and justified before. Action has been found necessary to deal with them before. I find difficulty in seeing the point of trying to disprove the truth of these allegations even by an ingenious quibbling. My Group feel that putting political and party considerations on one side it would generally be agreed that at this critical juncture in international affairs—and today's news is not too reassuring—it would be in the highest degree unwise to put any obstacle in the way of those who are responsible for carrying out the duty of providing for the safety of this country.

**An Honourable Member :** Safety for whom ?

**Mr. A. Aikman :** In these circumstances, Sir, I must oppose the amendment.

**Mr. Sham Lal (Ambala Division : Non-Muhammadian) :** Sir, this

3 P.M.

subject is being debated for the last two days, and the impression is that the Bill is being introduced because there is danger of a war and it is in order to avert that danger and not to have any obstacle in the way of recruiting that this Bill is being discussed, and my friend, the Honourable Mr. Aikman, has stated before you that the British prestige is very high and that Mr. Satyamurti is wrong that the British power is now like an old woman. But I want to quote to you Mr. Lloyd George, the *ex*-Premier. Has my friend read the speech of the *ex*-Premier ? Sir, he said that Britain has become the jest of the whole world ; if its hat is taken off, if its coat is taken off, it raises not its little finger.

Sir, Abyssinia was conquered by Italy and they said they were going to enforce sanctions against Italy. Manchuria was invaded by Japan and war is going on in Spain round about the British lands there. I say,—well,

[Mr. Sham Lal.]

you may raise an alarm in England, you may raise an alarm in India that there is going to be a war. Sir, there is not going to be any war, and if there is, England is not going to fight. The Honourable Mr. Maxwell has stated that it takes two to quarrel. Sir, Britain is not going to quarrel; you might as well ask a wealthy man to quarrel. Having taken possession of one-third of the globe covering most of the wealth of the world, why should she go to fight? I think, whatever might be said in this House, the impression is gaining ground in the world that whatever steps you might take, whatever country is invaded, Britain is not going to fight. Sir, a wealthy man loses the motive for a fight, and a wealthy man loses courage, and Britain has lost courage. There is *not* going to be a fight. What they want is to raise an alarm in India. Britain raised the pay of British soldiers and officers in the name of war, and by their war preparations in England they are exploiting the poor people of England so as to have more war materials and more war ships so that they might divide the dividends. England is not going to war and, therefore, I say this Bill is quite uncalled for. England also knows its position. Why should she go to war? Every sacred promise that it has given it has broken. England, Sir, stands discredited throughout the world. Now, it is not by way of a joke that I am telling you this. The Congress has in the past supported England in its war. I was present at the time when the Indian National Congress held at Delhi in 1919 congratulated the allies on their victory. I have followed and everybody has followed the proceedings of the Imperial Conference when Mahatma Gandhi supported the war and supported Britain. Sir, if you read the history of the Rohtak district and its war services, you will know the facts. I was the publicity Secretary, and why is it that we have now changed? Every promise that you gave you have broken. The few persons who helped you in recruiting men you have rewarded by rectangles, jagirs, etc. But so far as the soldiers are concerned, I have heard from soldiers themselves that at Bombay their uniforms were taken away and how you otherwise treated them. You made a declaration that it was His Majesty's desire to give responsible Government to India and Mr. Montague came here, but what took place afterwards? Martial law, the crawling order, shooting at Jallianwala Bagh, the Rowlatt Bills, and what not. This is what you do after winning the war. You felt secure and disregarded Indian opinion.

Sir, the Honourable Mr. Maxwell stated that it would be a disaster. Well, what I submit is this. Suppose the position is this that you gave promises at the time of the war and you broke them. You refuse to Indianise the Indian Army. On every occasion you break your promise. You are raising the army expenditure and you are raising the pay of the British soldier. You cancel the commissions for Indians on one pretext or another. You shoot people and use your army for bombing the frontier, and you use your army for suppressing the Arabs in Palestine. You talk of self-determination, you talk of democracy, you talk of the freedom of small nations, and what are your secret treaties which have been published by Russia? While you are shouting the slogan of self-determination and the freedom of small nations, it seems from the treaties published that you were allotting various regions to various allies and so it turns out that a particular area is allotted to one or other of the several allies. Your fraud is exposed. You may be powerful, you may be keeping a very large pro-

portion of the globe, you may be commanding all its resources, but the word of Britain and its Prime Minister, as Lala Lajpat Rai once said, is not as good as that of a grocer. What is your word, what are you doing? Of course you have got the army, you have got the police, you are bombing the frontier, you can set up one speaker against another, and what is the argument of the Honourable Khan Bahadur Nur Muhammad? His arguments cancel the arguments of Mr. Ogilvie and Mr. Maxwell, and what he says is: "look here, there is poverty in the district, people are unemployed, I have to post punitive police because they are a turbulent people, they are unemployed, they want their agricultural produce to be sold. If there is a war, there is no question of an Indo-British agreement, there is no question of heckling the Commerce Member, well, your products would be purchased. That is the position". Is that an argument? Does it show, as Mr. Ogilvie stated, that 99 per cent. of the peasants of the Punjab are loyal and it is on account of serving king and country that these people are anxious for recruitment? Sir, they want to be recruited, they want their agricultural products to be sold, and they want war, which England does not want. Why then do they want it? I say it is disloyalty. Really then these peasants want to exploit the troubles of the British people, they want war, and I think his statement is quite correct. If I go to the Rohtak district and that is also a recruiting district, I find people asking me: "When is there going to be a war? These British people now ignore us, they have become very stiff. When we went to England and France, English girls washed our faces, they kissed us, they promised us everything, they said to us, 'you are our equals, you have saved us', but now when we go, what do we find? They stand in a martial posture and say, 'what do you want'?"

I just remember the case of an officer how the position is being exploited. In 1922, when Mahatma Gandhi stopped the civil disobedience movement and I was walking on the railway station, a deputy collector shouted to me and called me, and said: "Come here, Sham Lal, what is the matter, when are you going to start this non-co-operation movement again?" I said: "Why do you want it?" and he said, "Oh, when your non-co-operation movement was going on, every British officer respected me and salaamed me and gave me a chair, but now they are kicking me. When are you going to start the non-co-operation movement?" Sir, that is the game that is being openly played. When I came to the Assembly in 1935, some Nominated Member said the same thing and everybody was saying the same thing. Now they realize their difficulties. They said: "If we support Government, well, we get some reward". I have been a publicity Secretary and what did I see when the War was going on? War meetings were held and demonstrations were staged for persons who offered their sons and no names were mentioned. Then people got their rewards from Sir Michael O'Dwyer. He wired to them: You have given 3,000 recruits and so this reward is being given to you, although not a single relation of theirs took part in the War. Sir, this is a trade just as you have got your trade in the Clive Street of Calcutta and this is what Mr. Nur Muhammad meant when he said that people want war. Sir, people have got their programmes ready. People in the districts either want election or war. Peace does not help them. They are being taxed and money is being taken away from them. If the election comes some candidates give them a motor drive and also something to eat. If the war comes, then, of course, the Recruiting

[Mr. Sham Lal.]

Officer goes here and there and some of these people become Recruiting Officers themselves and they draw first class travelling allowance. I remember the instance and I can substantiate it. What is your attitude ? A very eminent person, who was your pillar in the War for recruiting, went to the Colonisation Officer on the 6th April, 1919, because he had got some rectangles and he wanted good ones. The orderly wanted some bribe from him. When he went to the Colonisation Officer, the war had stopped and he was stiff and he did not talk to him. This gentleman was also a man of strong character. He said : " Oh, yes, now the War is over. We wish that there may be war again and you require our services." That is the spirit. Do you think these people whom you are going to recruit are going to fight for the King and the country ? Do you sincerely believe it ? Can any Englishman, who has been in charge of a district, say that these people fight for the King and the country and there is a spirit of loyalty in them ? Mr. Ogilvie said that 99 per cent. people are loyal. I say, this is wrong. Even if we start a propaganda and even if we do our best to dissuade the people from joining the army, there is the stomach question. The question of the bread is such an important question that it is difficult even for us to succeed. If you want soldiers and if you want people to fight who are starving, you get any number. Therefore, my submission is that it is wrong to say that the people are loyal to you. Having broken all your promises, you dare not ask the people to have any faith in you. Of course, if there is hunger and poverty, they will come to you. Here is the argument of Mr. Nur Muhammad and here is the argument of Mr. Maxwell. Mr. Nur Muhammad has been the Deputy Commissioner of Sheikhpura and he has stated that people are offering themselves for war and they want to be recruited. Mr. Maxwell has just now quoted that there has been a falling off of recruitment in the Sheikhpura district. How are we to reconcile these two statements ?

My own view is that there is not going to be a war. We want that there may be a war and you may know your strength. I wish that the Honourable Mr. Nur Muhammad and other people were able to induce this Government to go to war. I have got a grievance against Mr. Satyamurti because he is threatening these people that India will not help. I wish that they may not be frightened and they may go to war and then let them realise their position. Let me assure you that it is not the Honourable Mr. Nur Muhammad who would come to your help, and your money would last only for a short time. But I think it is quite probable that England will not go to war. I rather wish that it may go to war not because, as Mr. Ogilvie said, that we want another foreign power which would reward us with independence. No foreign power can reward us with independence. It is our own strength and our own power which will give us independence. We do not want any other foreign power. But we do want war so that you may realise your own position. I remember a story which is current in our district. Once the god of rain wanted to punish the peasants. He collected all the clouds and said : ' Look here, these peasants have not been behaving properly. Let us punish them.' Then, most of the clouds except one said : ' Let us not give rain and let us not hold out any expectation. Let there be no rain, and these peasants would starve.' But there was one very wise cloud and in our district he is called : " Kana Badal " (one-eyed cloud) and he came forward and said : ' You are all fools. They have

got store for one year. If there is no rain, they cannot starve ; they will live. I will tell you how you should proceed and that is the way of punishing them. You appear to be raining and some of the clouds should burst, so that if there is some rain in their houses it will be sown in the fields and when their store is exhausted, there should be no further rain. In this way they will starve and that will be the proper way of punishing them'. I do not like the position that the Congress has taken up. I have many complaints against them. They want to frighten the British people. Let them feel secure that India is going to fight with them and let them go to war, and then they will realise that in the world there is no supporter. What did Mr. Nur Muhammad say ? He said that Sardar Sant Singh is a drawing room politician and he does not come in contact with the masses and he (Mr. Nur Muhammad) alone knows the reality. He further said that it is these hired people who are getting Rs. 10 or Rs. 15 a month who are asked to dissuade the people from joining the army and he, a real patriot, getting an honorarium of Rs. 2,000 a month, knows the real position. We are the hired people and you are the honorary worker. We are the mercenaries and he is an honorary worker. He said that the people of the villages in which he has posted the punitive police and the turbulent people, the murderers and the dacoits, who are unemployed will be let loose on the enemy if there is a war. This is your recruiting. Is that the recruiting that you want ? Do you want this recruiting which is suggested by Mr. Nur Muhammad, that most of the unemployed people are starving, they have become decoits and thieves, and if there is a war, there will be an opportunity for them ? Do you want such an army, an army of persons who live in villages in which punitive police has been posted ? You want to exploit them.....

**Dr. Sir Ziauddin Ahmad** (United Provinces Southern Divisions : Muhammadan Rural) : Sir, I rise on a point of order. The Honourable Member is misrepresenting Mr. Nur Muhammad.....

**Some Honourable Members** : No, no.

**Mr. Deputy President** (Mr. Akhil Chandra Datta) : The Honourable Member had no business to interrupt the Honourable Member's speech.

**Mr. Sham Lal** : I am sorry it was left to my Honourable friend, Dr. Sir Ziauddin Ahmad, to take up cudgels on behalf of Mr. Nur Muhammad. I have not even seen the face of this gentleman ; I have read about him and I had defended his victims.

**The Honourable Sir Muhammad Zafrullah Khan** (Member for Commerce and Labour) : And yet you do not know his name.

**Mr. Sham Lal** : I know his achievements, I can perhaps make a mistake only about his name. Anyhow, I do not want to go into that point. I believe Mr. Nur Muhammad to be an honest gentleman. I have got nothing to say against him. Whatever he did, he did so according to his own conscience and according to his own light. The difficulty is he is more loyal than the King himself. He reported against certain persons, because they joined the Congress jubilee celebrations.....

**The Honourable Sir Muhammad Zafrullah Khan** : Is that in order, Sir ? Having reported against certain people, is it relevant to the discussion ?

**Mr. Deputy President (Mr. Akhil Chandra Datta) :** I want to know the precise statement made by the Honourable Member that is taken exception to.

**The Honourable Sir Muhammad Zafrullah Khan :** The statement that is being taken exception to by me is the reference to some report made by Mr. Nur Muhammad as an officer of Government in the discharge of his duty as a public servant. I submit this is not relevant.

**Mr. S. Satyamurti :** I want to make a submission to you, Sir, before you give your ruling. The Honourable Member, Mr. Nur Muhammad, yesterday regaled the House with his experience as a District Magistrate, and the opinions of various people under his charge, as to why they wanted war, how they were anxious to be recruited for war, and why, therefore, we should support the Bill. I submit, my Honourable friend, Mr. Sham Lal, is quite right in rebutting the statements of Mr. Nur Muhammad on the ground that he does not know what he is talking about. Mr. Nur Muhammad yesterday made out that he knew far more about the masses than all of us put together, and that the masses wanted this Bill. My Honourable friend, Mr. Sham Lal's contention is that Mr. Nur Muhammad is a bad judge of men and things, and, therefore, his statement ought not to be accepted by the House.

**Mr. Deputy President (Mr. Akhil Chandra Datta) :** Let Mr. Sham Lal proceed.

**Mr. Sham Lal :** I was submitting, Sir, that my Honourable friend, Mr. Nur Muhammad, was making out that he was in contact with the masses and he understands the feelings and sentiments of the people. I say that that statement is wrong. I submit he has got no contact with the real masses. He has got contact only with certain *jolichuks* and certain title holders. If there is any Deputy Commissioner in the Punjab who is quite out of touch with the masses it is my Honourable friend, Mr. Nur Muhammad, because it was in his district that he reported to the Government that certain Congressmen who were Municipal Commissioners and one of them the President of the Municipal Committee should be unseated because they joined the Congress jubilee celebrations.

**Khan Bahadur Shaikh Nur Muhammad (Punjab : Nominated Official) :** On a point of order, Sir. I would have Mr. Sham Lal as my judge. I would state the case to him privately.

**Mr. Deputy President (Mr. Akhil Chandra Datta) :** That is not a point of order.

**The Honourable Sir Muhammad Zafrullah Khan :** Mr. Sham Lal is referring to what Mr. Nur Muhammad did as a District Magistrate. I would again urge that that is not relevant to the discussion of the Bill. When Mr. Nur Muhammad spoke, he spoke as a Member of the House. He no doubt stated his own experience. He said he had come in contact with various people and he had observed their activities. Surely, what he did in his capacity as District Magistrate is not relevant to the discussion of this Bill.

**Mr. Deputy President (Mr. Akhil Chandra Datta) :** I am afraid the Honourable Member has himself brought on his head all these troubles. Mr. Nur Muhammad deliberately referred to his own activities as a

District Magistrate and so the Opposition is perfectly at liberty to traverse those grounds and demonstrate that he had really no contact with the real masses.

**Mr. Sham Lal :** I do not mean for one moment to cast any reflection upon my Honourable friend, Mr. Nur Muhammad. But he has got his own mentality. It is not my fault. In the Punjab, Government had to turn down his recommendation on the ground that he was moving too fast.

**Mr. Deputy President (Mr. Akhil Chandra Datta) :** I would advise the Honourable Member not to be personal.

**Mr. Sham Lal :** Then I would leave it at that. I submit, Sir, we are being misrepresented when it is urged that we are against any recruitment at all. The Congress Resolution is that we should not join in any imperialistic war. The Honourable the Defence Secretary in his speech said the Congress—of course he did not refer to it by name—he said that people here want the collapse of the British Empire. They want to dissuade people from joining any war, without any regard being paid against whom it is waged. My point is this : if you want to wage war, it may be against any friendly power and your position is that we should not dissuade people from enlisting as recruits. That is the position of the Government. Our position is perfectly clear. If you do not consult us in the war, if you do not Indianise our army, if you do not want to make India self-sufficient, if you want to wage war for imperialistic purposes, if you want to crush other powers, if you want to bomb the Frontier, if you want to suppress the Arabs in Palestine, then we have every right to ask the people not to be your recruits. We do not say do not join the army. Nobody says there should be no army. You are misrepresenting us when you say that we advocate that in no case we should join the army. The only question is this : so far as India is concerned, do you give the assurance, or is there any law which says that when England declares war against any other country, she would consult India. Are the Government prepared to show by their conduct that they have been doing anything to Indianise the army ? Or do you want only cannon fodder and you do not want Indian officers ? Is it not a fact that the late Commander-in-Chief said the other day that we do not get the right type of material ? Is there anything in our blood that makes us unfit as soldiers ? Is there anything in our traditions that debars us from being military officers ? You declare us unfit and then you condemn us. I say yours is a queer way. When you begin to recruit people, you recruit only sons of title-holders and sons of men in position who are not brought up in hardship and who are having an easy going life and who cannot become good officers.

**Sir Muhammad Yamin Khan (Agra Division : Muhammadan Rural) :** Question.

**Mr. Sham Lal :** My Honourable friend says 'question'. I can give him two instances. There were two captains in our district in 1916. When the Great war was at its height, they danced with their sword before the recruiting officer saying that they would shed their blood for the British Empire. The result was that their two sons were granted commissions in the army. Afterwards they were found unfit.

**Sir Muhammad Yamin Khan :** These two cases do not prove your proposition. They may be exceptions.

**Mr. Sham Lal :** There are hundreds of cases like these. Therefore, my position is this. Do the Government think that they can manufacture loyalty. You say, "we want recruits, and it would be a bad day for India if people do not join the army". I say where is the question of joining the army which army is not for our protection. This army is for your imperial purposes. This army is used to antagonise other nations against us. I remember the speech of the late Maulana Muhammad Ali in September, 1920, when he came to Rohtak. What did he say ? He said that he went to Egypt on his way to Europe. But the Egyptians did not receive him warmly. They said, "We do not want to look at an Indian. You have not only enslaved yourselves but you have enslaved other nations." That is what Maulana Muhammad Ali reported. If you want to use Indians for enslaving other nations and for your own purposes and if there is an army of occupation whose salaries are always increasing, and then you ask me why I am discouraging recruiting, I say that no self-respecting Indian can encourage recruiting ; and if the army is to be used against his will, I think he would be quite right in dissuading people from joining such an army. But that does not mean that you would ask people not to join a national army. I, therefore, think this Bill should be rejected and this motion should be passed.

**Mr. N. M. Joshi :** Sir, I rise to oppose this Bill. This is a Bill which places unjustifiable restrictions on the civil liberties of the people of this country. It places restrictions on the freedom of speech, the freedom of the press and on the freedom of action of the people of this country, and I hold, Sir, that those restrictions are unjustifiable. The Bill not only places restrictions on the freedom of public speech but even on the freedom of private speech. Before we agree to pass a Bill placing restrictions on the fundamental freedom of the people we must know from the Government of India what is the justification for it. Unfortunately the Honourable the Secretary for Defence did not give much justification for the Bill which he has himself placed before this House. I heard carefully the speech of the Honourable the Home Member also. There is no doubt that the speech which he made was a very able one and in an excellent tone. But I must admit that his speech has not convinced me that the Bill is necessary. There are people who hold that it is wrong to get international disputes settled by the arbitrament of war. They, therefore, hold that it is not right that people should engage themselves in the profession of soldiering which involves not only killing others but also placing one's life in jeopardy. Those people who hold this view have a right to hold this view and express this view and try to convert other people to their view. Therefore, if the freedom of these people is to be curtailed you must make out a case as to the moral justification for curtailing that freedom. The Honourable the Home Member said that an army is necessary and, therefore, any restrictions placed on the freedom of the people who obstruct recruitment are justified. Sir, I do not hold that view. Supposing for a moment that an army is necessary,—and I feel that in the present circumstances armies are necessary,—still is it proved that in order to have an army Government can do anything without a moral justification ? He has not proved that.

Therefore he has to prove, although we may accept that armies are necessary, that the restrictions which he is placing are morally justifiable. He told us that if the pacifists succeed what will happen? I have some sympathy with pacifism although I have not yet come to the stage when I would abolish all armies in the world. But, Sir, I do not feel afraid of the success of pacifism. I feel that if I succeed in converting my country to pacifism and if the army in my country is abolished, the armies in other parts of the world will also be abolished. I do not hold that the other parts of the world are more blood-thirsty than India. I feel that if India can be converted to the pacifist view other parts of the world can also be converted. Therefore I am not afraid of the success of my views. Therefore if the Government of India want to keep an army,—and let us assume that an army is necessary,—they must make out a case that an army cannot be maintained without placing restrictions on the liberties of the people. If the Government of India want an army and if there are people who preach that they should not join the army, we have not passed a Bill yet prohibiting the Government of India from recruiting or engaging propagandists asking the people to join the army. After all the number of people who are preaching in the whole of India as given by the Honourable the Home Member is 165. Am I to understand that if the socialists and the *kisans* in this country can bring forward a small number of preachers against recruitment, the mighty Government of India which spends 45 crores of rupees cannot engage many times larger number of preachers to preach that serving in the army is the right thing to do? And not only that, but that service in the British army is the most paying thing in the world? Why do they not do it? The number of people whom the socialists and *kisans* engaged is only a small one. I do not think the number is 71 even. The Honourable the Home Member said the number of meetings is 71.

**The Honourable Mr. R. M. Maxwell :** I think I said that the number of speakers was 155, and that was upto December.

**Mr. N. M. Joshi :** The Government of India are rich enough to engage 1,500 preachers telling people the advantages of serving in the Indian army.

**An Honourable Member :** Who will pay the money?

**Mr. N. M. Joshi :** The Government of India are spending 45 crores. In order to save a lakh of rupees or even five lakhs of rupees are you justified in placing restrictions on the freedom of the people? That was not the argument of the Honourable the Home Member, that the Government of India have no money. Therefore if the Government of India want to maintain their army in its fullest strength let them meet the arguments of these people who are preaching against recruitment. Let them engage men and instead of 155 let them engage 1,500 men. But the Government of India are quite sure in their own mind that even if they engage 1,500 men their preachings will not be of much use, because most of these 1,500 men will be mercenary. They will not be speaking from their heart but for money. Then there is another thing. The conditions which the Government of India give to the soldiers in the army may not be favourable. Is it the intention of the Honourable the Home Member that whatever conditions the Government of India

[Mr. N. M. Joshi.]

give to the army, recruits must come ? No, Sir. He knows very well that when British recruits do not come they improve the conditions. Therefore my suggestion to the Government of India is that instead of placing restrictions on the freedom of the people they should improve the conditions of the army if they want to get recruits. That is the way to secure recruits. Sir, the Honourable the Home Member also realises that even though we may believe in the existence of the army, and an army is necessary and may be used, still does it follow that we should recruit or encourage recruitment or at least we should not discourage recruitment and dissuade the people from being recruited for a war in which we do not believe ? Is that the argument of the Home Member that every war in which Great Britain is engaged and in which Great Britain wants or uses Indian forces is a just war ? The British people may believe that every war in which their government is engaged is a just war, but the Honourable the Home Member knows very well that even all British people will not agree that every war in which the British Government engages itself is a holy war and, therefore, it should be supported by every Britisher. The Honourable the Home Member and the Government of India must recognise the special condition of India. Even if we believe in a war, still we do not believe in every war. We may not dissuade people from being recruited in a war which we know is in the interests of India ; but certainly every war which is in the interests of Great Britain is not in the interests of India. I hope the Government of India will recognise this fact. Therefore it is wrong to expect that every Indian, whatever may be his views, should abstain from preaching against recruitment for a war in which Indians do not believe. I hope that the Government of India will not try to restrict the freedom of the people without any moral justification for restricting that freedom. If the Government of India want to maintain an army, let them show the advantages of employment in the army. It is open to them to do so. Let them give proper conditions to the people. It is open to them. I have no doubt that India is such a vast country that in spite of the fact that there are hundreds of people preaching against recruitment, there will be sufficient number of recruits coming. Not only that. Not only is India vast, but India is a poor country. There are millions of people starving in India. If you will give good conditions for your soldiers, whatever may be the number of people preaching against, you will not find it difficult to get recruits.....

**An Honourable Member** : But who will ultimately pay them ?

**Mr. N. M. Joshi** : Therefore it is wrong for the Government of India to adopt the easier method of securing recruits by trying to put people in jail : and that kind of recruitment will not be of much use. I, therefore, hope that the Government of India will reconsider their position.

**An Honourable Member** : And withdraw this Bill.

**Mr. N. M. Joshi** : If the Government of India on account of the preaching of, say, 155 people find it difficult to get sufficient number of recruits in the whole of India, they have to thank themselves for this difficulty. The Government of India is following a very wrong policy in the matter of recruiting for the Indian army. In the first place for reasons

best known to themselves they have divided the country into martial and non-martial. That fact itself creates difficulties for the Government of India. If that division had not existed, the difficulty in recruitment will not exist. Not only that. But the Government of India is following another wrong policy. They recruit from very restricted areas—a large proportion of the recruitment comes from the Punjab. By concentrating recruitment in the Punjab, the Government of India are exposing themselves to a great danger and they must thank themselves for that danger. If you recruit your men from all over the country, even 155 preachers will not be sufficient to prevent recruitment. We shall have to find out not 155 but perhaps 15,000 people to prevent recruitment. But the Government of India are following a wrong policy in the matter of recruitment.

The Honourable the Home Member also said something about discipline. He said : " Do any people here like the Indian soldiers being traitors ? " Sir, nobody here likes Indian soldiers, or for the matter of that any Indian, to be traitors. But, is it being a traitor if soldiers in an army sometimes feel it necessary to rebel against the conditions which are imposed upon them ? I quite understand the desirability of discipline, and the justification for maintaining a very strict discipline in the army. But is it not equally necessary that the discipline which you impose has a moral justification ? I have recently heard something which has given me some idea about the discipline which is being maintained in the army. I met some boys who are being trained as Indian officers in that college at Dehra Dun, called the Indian Sandhurst. I was told that these boys cannot read newspapers conducted by Indians : they must read only the *Times of India* or the *Statesman*. May I ask whether action of this kind tends to the maintenance of discipline ? Why do you expect Indian boys to be satisfied by reading the *Times of India* and the *Statesman* ? If your discipline is that the boys must read the *Times of India* and the *Statesman*....

**An Honourable Member :** And the *Civil and Military Gazette* !

**Mr. N. M. Joshi :** ...and no other paper, and if I am one of the students, I shall read an Indian newspaper anyhow, and I have absolutely no doubt in my mind that the boys who are studying in the Indian Sandhurst at Dehra Dun do read Indian papers....

**Mr. Sri Prakasa** (Allahabad and Jhansi Divisions : Non-Muhammadan Rural) : We did that in jail !

**Mr. N. M. Joshi :** I was told that the boys could not bring books in their mother tongue. If you are a Hindi-speaking student, you cannot bring a Hindi book there. You must read only English books. Now, if your discipline is of that kind and if that discipline is not maintained, can any one blame those people who rebel against that discipline ? I, therefore, feel that simply because by the speeches of some people some discipline is disturbed, it is not right to put those people in jail. You have to make out some case that your discipline was a just one and had a moral justification, and secondly, that the man who was preaching against that discipline was doing a wrong thing. It is not right that when you find that your discipline is disturbed by the speeches of some people, whatever may be the justification, the man must be put in jail. I feel that the Bill goes too far and has absolutely no moral justification in placing these restrictions upon the freedom of the citizens of this country.

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

**The Honourable Sir Manmatha Nath Mukerji** (Law Member) : Sir, I rise to say a few words in connection with this Bill. My Honourable friend, Mr. Satyamurti, did me the honour yesterday, in the course of his brilliant speech, of inviting me to answer some points of law which, in his opinion, have arisen in connection with this Bill. And I should be extremely discourteous if I were not to respond to his call. So far as the policy, the propriety or the necessity of the Bill is concerned, they are matters which have been dealt with fully, clearly and satisfactorily by the Honourable the Mover of the Bill, the Defence Secretary, and also by the Honourable the Home Member. With such facts as it was possible for the Honourable the Defence Secretary to place before the House he has shown that the Bill is not only not an unwanted measure, but that it has become absolutely necessary to pass a Bill of this nature. My Honourable friend, the Home Member, has placed before the House this afternoon various other facts and figures and I take it that the House is now convinced....

**Some Honourable Members** : No.

**The Honourable Sir Manmatha Nath Mukerji** : ...that the Bill is one which should be passed. (Interruption.) If there is yet one Honourable Member in this House who is not satisfied as regards the urgency or the propriety of the measure, I may tell him that it will not be possible for me with my feeble voice and the insufficient knowledge I possess of this matter to supplement the speeches of the two Honourable Members to whom I have referred, and to convince him that he is wrong or to persuade him to convert himself to the view that the Government take....

**Mr. Sri Prakasa** : You will be the first recruit.

**The Honourable Sir Manmatha Nath Mukerji** : I shall not be sorry. I propose, with the permission of the Chair and the House, to deal with certain legal aspects which have been discussed and certain questions of law which have been raised as standing in the way of the passing of this Bill. I shall ask the House not to expect from me a fiery speech or a brilliant speech or even an interesting speech, for points of law have got to be discussed in a calm atmosphere and only with such reasoning as may appeal to those for whom the arguments are meant....

**Mr. Sri Prakasa** : But <sup>all</sup> recruits have to go to fiery war.

**The Honourable Sir Manmatha Nath Mukerji** : One of the points made by my friend, Mr. Satyamurti, was that this is a Bill which we are being made to pass for the benefit of the Punjab Government, and if I may be permitted to quote his words, he said, 'why should we carry the child for the Punjab Government'? In support of this contention, he placed before the House certain considerations, and the main consideration in connection with it was this, that this Bill relates to a subject which is to be found in the concurrent list, and, therefore, it is in the fitness of things that it should be brought, not before this Legislature, but before the Punjab Legislature. My learned friend was shrewd enough, if I may be permitted to use that word without meaning the slightest dis-

respect, to refrain from asking the Chair to give a ruling on the point, on the other hand, he expressly stated that he did not ask a ruling from the Chair on the point. I take it that he did so for the reason that it is not possible for the Chair to go into the question, nor is it possible for the House to arrive at any other conclusion than, that the Bill is one which is outside the scope of the Provincial Legislature. I hope to be able to satisfy the House on this point in a few minutes. It will be seen that the two lists, list No. 1 and list No. 3, are not exclusive of each other in all respects and on all points. It will be seen that there are items in the two lists which overlap. That is quite plain from a reading of the two lists. The principle upon which one should proceed in order to interpret the two lists, I take it, is this,—you have got to look into list No. 1 first, and if you find that the subject matter is one which is covered by it, then you need not go any further. If you come to that point and if you are satisfied that, as a matter of fact, the subject falls within the purview of list No. 1, it is not necessary for you to go into any of the other lists in order to see whether the subject also falls under those other lists or under any one of them. This position will be perfectly clear if one reads the plain provisions of section 100 and section 107 of the Government of India Act; because the proposition that emerges from the provisions of these two sections taken together, is this, that if there is any particular matter with regard to which list No. 1 and list No. 3 overlap, then to the extent of such overlapping, it is list No. 1 that should prevail, and not list No. 3. Now, Sir, I do not propose to dilate on this point, because this is a proposition with regard to which there can be no doubt or dispute, and, therefore, in construing these two lists in order to find out whether this piece of legislation comes within the exclusive jurisdiction of the Federal Legislature or it is a matter to be found in the concurrent list, it would be enough for our purposes if we could find that as a matter of fact it is covered by list No. 1. That is the principle upon which one should proceed in order to decide this matter. But, Sir, I am not going to be too technical, and I would follow the same procedure which was followed by my esteemed friend, Mr. Satyamurti, yesterday. I would refer first of all to list No. 3, and I propose to show that, as a matter of fact, the subject matter of this Bill is not covered by item No. 1 of list No. 3. My esteemed friend, Mr. Satyamurti, read, or rather tried to read, list No. 3 yesterday,—I say tried to read, because I recollect, unless I am very much mistaken,—that on no less than three or four occasions he read only a portion of the clause, and not the whole of it. He did so, carried away as he was by his emotions and the indignation, as he felt, at the unrighteous and iniquitous, as he supposed, nature of the Bill that is now before the House.

**Mr. S. Satyamurti :** I plead guilty !

**Mr. K. Ahmed** (Rajshahi Division : Muhammadan Rural) : Then sentence him to six months.

**The Honourable Sir Manmatha Nath Mukerji :** It is not a matter of an occasion on which it is possible for me to pass any sentence,—indeed it was very good of my esteemed friend, Mr. K. Ahmed, to have come to my rescue and pass a sentence on Mr. Satyamurti.

**Mr. Badri Dutt Pande** (Rohilkund and Kumaon Divisions : Non-Muhammadian Rural) : Then you add a fine.

**The Honourable Sir Manmatha Nath Mukerji** : Item No. 1 of list No. 3 runs thus :

“ Criminal law including all matters included in the Indian Penal Code at the date of the passing of this Act.”

This is the point up to which the Honourable Member was good enough to read this clause. But there are other words that follow, and they have got to be taken into account. They are these : “ But excluding offences against laws with respect to any of the matters specified in list No. 1 or list No. 2 and excluding the use of His Majesty’s naval, military or air forces in aid of the civil power ”. Now, Sir, the word “ but ” appearing there has got a special significance, and the plain meaning of this clause is,—for my present purposes I omit the words “ excluding the use of His Majesty’s naval, military and air forces ”,—this. Criminal law comes within this list,—criminal law including all matters to be found in the Indian Penal Code,—but the word “ but ” is there,—but excluding such matters, whether they are to be found in the Indian Penal Code or not, as come within the purview of List No. 1 or List No. 2. That, I submit, is the meaning of this clause. It may be argued,—I do not know whether it is in the mind of any Honourable Member in this House,—that, after having said that all matters included in the Indian Penal Code are to be included in the criminal law—whether in those circumstances the use of the word “ but ” in that clause would detract from the position which is thus arrived at and would take out offences which would come within List No. 1 or List No. 2, even though such matters are included in the Indian Penal Code. But, Sir, I do not propose to rely upon this ; it is not necessary for my purposes to find out whether any offence included in the Indian Penal Code which is also included in List No. 1 or List No. 2 is to be taken as excluded from item No. 1 of list No. 3.

My point before the House is that, as a matter of fact, if the subject matter of the present legislation comes within the purview of list No. 1, if we arrive at that conclusion, then it must be excluded from List No. 3 because it is so expressly stated there in item No. 1 of List No. 3. It is not suggested that the offences against which the present legislation is going to be passed are offences which are covered by the Indian Penal Code, and if there is in the mind of any Honourable Member present in this House any impression to that effect, I would most humbly submit that that impression is wrong. Therefore, what we have got to do is to look at List No. 1. It is clear that the matter comes within item No. 1 of List No. 1 read along with item No. 42 of that List, and in this way, item No. 1 of List No. 1 is this : “ His Majesty’s naval, military and air forces borne on the Indian establishment and any other armed force raised in India by the Crown, not being forces raised for employment in Indian States or military or armed police maintained by Provincial Government.” Item No. 42 says : “ Offences against laws with respect to any of the matters in this list.” The two offences which are provided for in the Bill now before the House are these. Clause 2, sub-clause (a), says : “ wilfully dissuades or attempts to dissuade the public or any person from entering the mili-

tary, naval or air forces of His Majesty". That is one of the two offences. If this offence is not provided for and if this offence be allowed to continue, if acts detrimental to recruitment are allowed to go on with impunity, the result would be that His Majesty's naval, military and air forces would be depleted and a time would come, sooner or later, when the army such as it exists at the present moment will disappear altogether.

**Mr. Sri Prakasa :** Where is the harm ?

**The Honourable Sir Manmatha Nath Mukerji :** I am not concerned with the question as to whether the disappearance of the army will cause any harm to this country or not. That is a matter, as I have already said, of policy, and if any Honourable Member in this House really believes that the disappearance of the Indian army at the present moment would be a boon and not a disaster, I should like to let him remain content with that opinion of his. Honourable Members will please see that so far as this question of law is concerned, sub-clause (a) of clause 2 of the Bill states that it is an offence to wilfully dissuade or attempt to dissuade the public or any person from enlisting in the army. This provision that we are making now is a provision in aid of recruitment for His Majesty's Forces, and therefore it does come clearly within the provisions of item No. 1 of List No. 1.

**Mr. Sri Prakasa :** We shall not dissuade you to recruit yourself; we shall encourage you to do so.

**The Honourable Sir Manmatha Nath Mukerji :** I shall be glad if you encourage us in that respect. But as regards sub-clause (b) of clause 2 it is still more plain that the offence of instigating a person to infringe military discipline or refuse to obey orders after that person has enlisted himself is an offence which would relate to the naval, military or air forces of His Majesty. Therefore, there can be no question, I submit, that, as a matter of fact, the subject matter of this legislation is not covered by item No. 1 of List 3 but falls directly within the purview of item No. 1 of List 1 read along with item No. 42 of that List. Now, Sir, it may be said, and indeed it has been suggested in the speeches delivered by some of the Honourable Members in this House, that this is criminal law and that in the Title of the Bill you have said that it is a "Bill to amend the criminal law". With regard to this Title, I have heard my Honourable friend, Mr. Akhil Chandra Datta, to say in this House that this is not a Bill to amend the criminal law, but it is a Bill which adds to the existing criminal law. Well, speaking for myself, I say, and I say this with very great deference to my esteemed friend, Mr. Datta, that what he has pointed out is no real distinction. A piece of legislation which adds to an existing law can, I submit, be said with propriety to be an amendment in respect of that existing law. And in interpreting the lists it is not that we have to see only the title of the Bill. The title undoubtedly is there—a Bill to amend the criminal law,—but you have got to see the pith and substance of the Bill. That has been laid down, I may inform the House, in a very large number of decisions, but I shall not tire the patience of the House by referring to any of them excepting one in which the whole law has been summarised in about eight or ten lines. The decision that I want to refer to, and from which, with the permission of Mr. President, I beg to place a few lines is the case of Attorney-General for Ontario vs. Reciprocal Insurers and others. It is

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1924 Appeal Cases, page 328, the passage is to be found at page 337. There also the question was as to whether a particular enactment fell within the purview of one list or another.

**Mr. Ram Narayan Singh** (Chota Nagpur Division : Non-Muhamadan) : But we are not bound by the decisions of courts.

**The Honourable Sir Manmatha Nath Mukerji** : If we are not bound by the decisions of the courts, then we have got to rely entirely upon our common sense, and, as far as my common sense has enabled me to find out the true legal position, I have placed that before the House for their acceptance. If anything more is wanted in support of the conclusion at which I have arrived and which I have submitted before the House, I think I may be permitted to refer to these decisions.

**Mr. Sri Prakasa** : I thought it was the court of Timbuctoo !

**The Honourable Sir Manmatha Nath Mukerji** : I am much obliged to my very esteemed friend for interrupting me in this way. I am used to this sort of interruptions and I don't mind them. On page 337, their Lordships of the Judicial Committee say this :

"It has been formally laid down in judgments of this Board, that in such an inquiry the Courts must ascertain the 'true nature and character' of the enactment : *Citizens' Insurance Co. v. Parson* (1) ; its 'pith and substance' : *Union Colliery Co. v. Bryden* (2) ; and it is the result of this investigation, not the form alone, which the statute may have assumed under the hand of the draughtsman, that will determine within which of the categories of subject-matters mentioned in sections 91 and 92 the legislation falls ; and for this purpose the legislation must be 'scrutinised in its entirety'."

So, there can be no dispute whatsoever with regard to this proposition that we are not to run away with the words 'criminal law' which have been used at the top of this Bill. We have got to look into the substance of it.

**Mr. Bhulabhai J. Desai** : There is no dispute about that.

**The Honourable Sir Manmatha Nath Mukerji** : The Honourable the Leader of the Opposition says that there is no dispute as to that. I am very much relieved. That being the position, I submit we have got to look to the substance, and, if the substance of the Act is looked into, I submit that there can be not the faintest room for doubt that as a matter of fact this is a piece of legislation which was not within the function of the Provincial Legislature to undertake but that it is a piece of legislation which, if it is to be taken up at all, should come before this House.

There is also a further point which I want to bring to the notice of the House and it is this. The Bill has received the sanction of the Governor General under section 108 (1) (c) read with section 313 (4) (a) of the Government of India Act, 1935. Now, this endorsement has a special significance and for this reason. If these two sections of the Government of India Act are referred to, it will be found that sanction has been given on the footing that this is a matter lying within the discretion of the Governor General such as is contemplated by section 11 of the Government of India Act and that because Part II of the Government of India Act has not yet come into operation, therefore, in a legislation of this description, the Governor General has to give his sanction under section

313 (4) (a) of the Government of India Act. Now, Sir, the four matters which you will find in section 11 of the Government of India Act are these, Defence, No. 1, Ecclesiastical Affairs, No. 2, External Affairs, No. 3 and Tribal Areas, No. 4. This is not a matter which can be said to be covered by the expression Ecclesiastical Affairs. This is not a piece of legislation relating to External Affairs. Nor again does the legislation relate to tribal areas. So, we are left with this, that this piece of legislation, in the opinion of the Governor General, is a piece of legislation connected with or in relation to Defence, a matter with regard to which he will have special responsibility when Part II of the Act will come into play. And, therefore, we have got to see if Defence by any chance is a matter falling within the purview of List III, that is, the Concurrent List. Honourable Members will find that whereas Defence, which is not specifically mentioned as a legislative subject in any of the lists and has been separately dealt with in the body of the Act, may perhaps be spelt out of Item I of List I, but it cannot, by any means, be taken as referable to in any of the items of List No. III. This again, I submit, conclusively shows that such a piece of legislation, whatever its character may be in the opinion of the House, is a piece of legislation which has to be brought before this House and with the sanction of the Governor General. I submit, therefore, that there is nothing in the point which my esteemed friend, Mr. Satyamurti, raised with regard to this matter.

I now pass on to another objection which has been taken but before I do so I may say also this, that the question as to whether the Governor General was right in giving his sanction to this Bill as falling within section 108 (1) (c) of the Act is a question which cannot be debated on the floor of the House and any decision which this House may come to on that point will, I submit, be wholly *ultra vires*, because it is a matter which really concerns the courts before which, if at all, this objection may be taken.

Then, Sir, it has been said in the next place—you are creating a new offence and at the same time it has been said that this is a matter which is covered by the existing law. So far as creating a new law is concerned, I submit before this House that we plead guilty to the charge. It is a new law which we are creating. We are creating new offences but the justification for the course we are adopting is that acts which previously were not used to be committed are now being committed and which in the interest of the State and, for the safety of the country, should be condemned and checked. So far as necessity for the Act is concerned, it has been brought to the notice of the House that the Punjab Government has asked for a Bill of this description. The question was put by one of the Honourable Members at the time when the Defence Secretary was moving his motion asking him to state whether the present Government or its predecessor had made that requisition. I most humbly submit for the consideration of this House that, as a matter of fact, it matters very little which of the Government did so. The Government, such as it is, that is the Punjab Government, felt the necessity for this Bill. There were other materials before the Government of India. In such circumstances this Bill has been brought. So far as the existing law is concerned, I have heard some of the speakers saying that the existing law is sufficient to cope with the situation. If the existing law is referred to, I submit it will be found that the two provisions which are now to be found in the Bill,

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in its sub-clauses (a) and (b) of clause 2, are not covered by any of the provisions of any existing law. So far as the Indian Penal Code is concerned, I remember—unless I am very much mistaken—the Honourable Mr. Asaf Ali suggesting that there is chapter VII of the Indian Penal Code, and that if you read that chapter along with the provisions of section 108 or some of the other sections relating to abetment you will be able to cope with the situation. My answer to that argument is this, that as a matter of fact chapter VII does not contemplate offences of this description at all. Reading the sections of chapter VII Honourable Members will at once see that there the offences are in relation to persons who have already enlisted themselves. An attempt to deter a person from enlisting or an attempt to dissuade a man from getting himself recruited, as also instigation prior to enlistment or recruitment, in consequence of which indiscipline takes place after enlistment cannot, by any stretch of imagination, be covered by chapter VII of the Indian Penal Code read along with any of the sections relating to abetment. I submit, Sir, that while we plead guilty to the charge of creating a new offence, we, at the same time, stand on this footing, that as a matter of fact the existing law does not cover cases of this description and, in the opinion of the Government of India, is not sufficient to cope with the difficulties.

Now, Sir, the third and perhaps the most serious objection that has been taken to this Bill is that it contravenes all cardinal principles of natural justice. It has been said that the elementary principle of presumption of innocence in favour of the accused and that the ordinary principle of law of the burden of proof resting upon the prosecution have been infringed. Sir, I have considered the matter with all the care that I am able to bestow on it, but I do not really see any point in any of these arguments. We were referred, I think,—if I remember aright—to a portion of a speech delivered by one of my predecessors which was read out to the House in connection with this matter. But if what was said on that occasion—was that provisions of this description constitute an infringement of the rule of presumption of innocence on the part of an accused person or the rule of burden of proof lying upon the prosecution has been infringed, I must respectfully differ from that opinion. I have not been able to find in any of the provisions anything contravening those cardinal principles. Sub-clause (a) of clause 2 says: “wilfully dissuades or attempts to dissuade the public or any person from entering the military, naval or air forces of His Majesty”, and sub-clause (b) says, “instigates the public or any person to do, after entering any such Force, anything which is an offence”, etc. The burden of proof certainly is on the prosecution according to the Bill as it has been drafted. Exception 1 has been provided with the object of taking of the category of offences speeches as to pacifism *bona fide* delivered, lectures on doctrines of humanity, and matters of that description which people would be perfectly within their rights to make even though this Bill is passed into law. It has also been designed to meet those classes of cases where a man *bona fide* ventilates his own opinion with regard to a question of policy. Exception 2 has been designed to cover such cases where, having regard to the position that the offender occupies in relation to the person to whom he gives his advice, it is his duty to give him such good and sound advice as he thinks necessary. These cases have been exempted. But it is well-known to

Members of this House that matters which come within the exceptions have got to be proved, not by the prosecution but by the accused. That is the ordinary law contained, if I remember aright, in section 105 of the Indian Evidence Act, and, in this respect, there has been no departure from the existing law in drafting this Bill. There has been as a matter of fact no attempt to over-ride the cardinal presumption of innocence or the ordinary rule as regards the burden of proof. I submit, therefore, that that objection also does not hold good. As regards what was said by my Honourable friend, Sardar Sant Singh, I think it would be an insult to the intelligence and experience of my Honourable friend, Sardar Sant Singh, if I ventured to point out to him that the provision of criminal law to which he referred, *viz.*, section 144 of the Code of Criminal Procedure, is really a sufficient deterrent. In fact in Houses of Legislature as also outside I have read and heard of speeches made condemning the action taken by authorities under the provisions of section 144 of the Code of Criminal Procedure where there is no specific provision of the penal law dealing with the matter. Unless there is some substantive provision specifically dealing with this subject, the mere fact that there is a preventive remedy such as is contained in section 144 of the Code of Criminal Procedure, I submit, should not deter Members of this House from passing this Bill into law, provided they are satisfied that a situation has arisen in which such a Bill should be passed. ....

**Dr. P. N. Banerjee** (Calcutta Suburbs : Non-Muhammadan Urban) : That is a big proviso.

**The Honourable Sir Manmatha Nath Mukerji** : .... a proviso which Members of this House will give proper attention to. I have no doubt and I submit that if the matter is examined carefully and without any pre-dilection or prejudice there can be but one conclusion to which the House will come and that is the conclusion that the Bill should be passed into law. I shall not detain the House any further with regard to the objection I have last dealt with. But if any example is necessary I can place before the House numerous instances in which substantive provisions have been made and exceptions enacted and by such exceptions the rigor of the substantive law has been modified.—and it is always the case that with regard to those exceptions the onus of proof lies upon the accused person. I refer, for instance, to section 500 of the Indian Penal Code. There is the substantive enactment. There are four explanations given to tighten up the substantive enactment as much as possible. Then ten exceptions are laid down so that matters which ought not to be punished may be excluded from the purview of the Act. I submit that upon all these considerations the House will hold that as a matter of fact. ....

**Mr. M. A. Jinnah** (Bombay City : Muhammadan Urban) : May I interrupt the Honourable Member and may I ask him one question ? Will he inform the House whether the Government of India have brought this Bill simply because the Punjab Government wants it or whether the Government of India, as the Government of India, are satisfied as to the necessity of it ?

**The Honourable Sir Manmatha Nath Mukerji** : Both the elements are present. As a matter of fact, the Punjab Government have asked for some measure of this description, and the Government of India, as far as I know, have had materials before them to the effect that similar offences

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are being or are likely to be committed in the immediate future in the other provinces as well. These are the considerations which weighed with the Government of India in putting forward this measure.

**Mr. M. Ananthasayanam Ayyangar** (Madras ceded Districts and Chittoor : Non-Muhammadan Rural) : How is the Punjab Government interested in recruiting directly ?

**The Honourable Sir Manmatha Nath Mukerji** : That is not a question for me to answer.

**Mr. Abdul Qaiyum** (North-West Frontier Province : General) : Mr. President, I have very carefully listened to the maiden speech delivered by the Honourable the Law Member and the wonderful way in which he took us into the intricacies of the law. The major portion of his speech was directed against the arguments advanced from these Benches by the Honourable Mr. Satyamurti that this is a subject on which the Central Government as well as the Provincial Governments have concurrent jurisdiction. After listening very carefully to the arguments of the Honourable the Law Member, I am sorry to say that I still remain unconvinced and I still maintain that this is a subject which comes under List No. 3, which is a concurrent list. I am not going at any great length in trying to reply to the arguments of the Honourable the Law Member, because I know that far abler persons than myself are here who will be able to meet all his arguments. I shall mention only one thing in passing, and it is this very thing which forces me to the conclusion that the subject-matter of the present Bill falls under the purview of List No. 3. In List No. 1, the first item runs thus :

“ Any law dealing with His Majesty's Naval, Military and Air Forces borne on the Indian establishment and any other armed forces raised in India.”

This law certainly does not deal or purport to deal with His Majesty's Naval, Military and Air Forces. It has nothing to do with the people who come under the purview of the Indian Air Forces Act, or the Indian Army Act, or any other military law which is known to this country. This Bill is of a far-reaching nature inasmuch as it tries to rope in persons who have absolutely nothing to do with military laws and military discipline. It tries to penalise the expression of opinion on the part of the members of the public at large, who have nothing to do with the army. The civil population of this country may not believe that the war which is being pursued by the Government of the country is a just war. Therefore, I contend that this Bill has nothing to do with Item No. 1 of List No. 1 and that it deals with civil population and, therefore, it certainly comes under Item No. 1 of List No. 3, which is the concurrent legislative list.

It has been stated that it was the Punjab Government which moved the Government of India to bring in a law of this nature. It is really surprising to hear this statement, because the Punjab Government has nothing to do with the army, nor has it anything to do with the military affairs. The military affairs are the exclusive concern of the Government of India, and, therefore, to bring in the Punjab Government in support of a measure which is highly unpopular is not. I submit, the right sort of thing to do. After all, the fact remains that the Government of India

are the Government which is primarily responsible for the defence of this country and it is the Government of India which has felt the necessity of bringing in a measure which is of a highly unpopular nature. It is not fair on the part of the Government of India to drag in the Punjab Government or any other Provincial Government. If they were really so very anxious about the opinions of Provincial Governments, may I ask why they did not consult the other Provincial Governments? After all, the recruits for the Indian army do not come entirely from the Punjab. You have to recruit people from the Frontier Province, and you do recruit people from the Bombay Presidency and other parts of India. Why did you not consult the other Provincial Governments? Therefore, I think that it is the Government of India which is mainly concerned with this Bill, they alone will have to shoulder their responsibility. It is a very clever argument and I think that there is much more behind this mention of the Punjab Government. Probably, the idea is to canvass support in this House. I submit this is not a fair method of canvassing support for an unpopular measure like this.

**Maulana Zafar Ali Khan :** Is the Punjab Government much more popular in this House than the other Provincial Governments?

**Mr. Abdul Qaiyum :** I am not holding any brief for the Punjab Government. Anyway, it is much better than the Central Government. The Punjab Government is not so bad as the Government of India is, because here we have a Government which is absolutely irresponsible.

Now, coming to the Statement of Objects and Reasons, we find it stated in so many words :

“ The object of the speakers is clearly not the spread of pacifism, but to dissuade would-be recruits from taking part in any war in which the British Empire may become engaged.”

Now, the question is : Is this British Empire really worth fighting for? We are called the members of this British Empire. Has the British Empire done anything for us of which we can really be proud as a people, so that without any incentive, and without any repressive laws of the nature which you bring on the floor of the House, the Indian people may fall in with your notions of war? We know what the British Empire stands for. The British Empire has deprived the Indians of their self-respect, their manhood and their independence. You have made cowards of 35 crores of people, nearly one-third of the human race. What is our position in the British Empire? We are treated worse than outcasts in your Colonies. If an Indian goes abroad to a foreign country, he receives some measure of consideration, and he receives some courtesy and his self-respect is not hurt so much. But as soon as he steps into the British Colonies, say, South Africa, East Africa, Zanzibar or any other British Colony, he finds that Indians are being insulted, they are being treated as if they were not human beings, that the Indians are being segregated and they are looked down upon. I have heard that there are proposals afoot to bring in the Jews who have been expelled from Germany and Austria and to give them lands in the Highlands of Kenya. If this is so, I for one should not be surprised at all. The Indians are absolutely shut out from these Highlands of Kenya because they are the members of this British Empire. Therefore, to say that the British Empire is in danger is not an

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argument which is going to carry any weight with us. I, for one, wish for the day when the British Empire will go to pieces because, I believe, that the British Empire stands for the negation of liberty, for the negation of justice, that it is an engine of oppression, and that it has deprived a very large part of this world of the liberty to which the people inhabiting those parts are entitled. Therefore, I have got absolutely no love for the British Empire and, speaking purely personally for myself, I can confess in this House that I have got feelings of hatred and contempt for this Empire.

Now, coming to the Indian army about which this Bill has been brought. The idea is that there should be a freer flow of recruits for the Indian army. Now, what is this Indian army? I, for one, refuse to believe that it is an Indian army. I think it is an army which is being maintained to bolster up the Imperialist designs of Great Britain in this country, to oppress our people and, as soon as we express any desire to be free in our own country, to crush us, to shoot us and to do all sorts of horrible things. This is the Indian army, and this is my conception of the Indian army as it is and I think it is but fair that this view should be explained to the Members who are seated on the Benches opposite. The Honourable Member from my province (Major Nawab Sir Ahmad Nawaz Khan) is nodding his head in approval. Now, talking of this Indian army, I have reasons to be entirely against it in two capacities. Firstly, as an Indian, I know that this army is responsible for the enslavement of this great country of ours. This is the army which has destroyed the independence of our people in India. Talking as a Mussalman, I know that this is the army which has ruined the Islamic States from the Atlantic right up to the Pacific Ocean. What has happened after the British came into possession of India? They got hold of the immense riches in this country, they began to exploit the man power in this country, and with the Indian army and with the Indian money they began to engage in wars and expeditions against other countries, and invariably the victims of British aggression were the Islamic countries. Afghanistan has always been in great danger from this army. I know that this so-called forward policy on the North-West Frontier is not so much intended for the defence of India, as it is a pistol which the Government are holding against the head of Afghanistan so that the people of Afghanistan should not be able to come into their own. The idea of the Government in bombing the tribes on the Frontier is that if they get hold of them and unnerve them, they will weaken the position of Afghanistan. The Government say that their forward policy on the Frontier is intended purely for defensive purposes in order to save India from these marauding tribes. This is an argument which will carry weight with those who follow the doctrine of the Hindu Mahasabha, but it is not likely to appeal to people who believe in the Indian National Congress and all that the Congress stands for. As a Muslim, can I be a party to any measure which aims at strengthening an army which ruined the Ottoman Empire in Turkey, which is responsible for the present degradation of the Arabs, which is responsible for the bringing in of the Jews into Palestine, which is responsible for the state of dependence into which Iraq has been reduced after promises had been made in the last war that the principle of self-determination would be applied to these people. It is this army which has been responsible for the misfortunes of Egypt which is predominantly a Muslim country. I know something about this army. Whenever it has been sent abroad, it

has been sent mostly to crush the independent Muslim States, and in India also it was used to bring about the downfall of the Mughal Empire. (Interruption.)

I am not going to enter into arguments with my Honourable friend, Maulana Shaukat Ali. He has got certain grievances against the Congress which he is entitled to have. But I may assure the House that when I am making this statement that this army has been responsible for the downfall of the Mughal Empire in India, I am voicing the real sentiments and feelings of the Muslims in India. I know that the Muslims in India generally and the Muslims in my province, the Frontier Province, particularly, have got absolute hatred and contempt for this Government and its army. Our Premier, Dr. Khan Sahib, has been going round the province and telling the people that it is absolutely no use, poor though we are, to enlist ourselves in an army which is an engine of oppression, an army which stands between us and our cherished desire to be free. When I told him that I would like to put some questions in the Assembly as to why the recruitment of Pathans had fallen in numbers in the army, he told me : " We do not want our Pathans to go into the type of army which the Indian army represents. We want these Pathans to stay away from the army ". This is what the Premier of the Frontier Province said.

Now, talking of this Indian army, what is this so-called Indian army. I have stated at the very outset of my speech that this is not the real Indian army. This British Government, while professing lip sympathy with the principle of Indianisation, have taken very good care to see that the pace of Indianisation is as slow as possible. Their late Commander-in-Chief had the effrontery the other day to defame all Indians who had taken up commissions in the Indian Army.

**Mr. C. M. G. Ogilvie :** No.

**Mr. Abdul Qaiyum :** It is a matter of regret to me that the Government of India seem to share the views of Sir Philip Chetwode in this matter.

**Mr. C. M. G. Ogilvie :** No.

**Mr. Abdul Qaiyum :** I know something of this matter. I know something about this Indian army. I know the treatment which is being meted out to Indian officers who are in the army. By racial segregation, you make the life of every Indian commissioned officer a veritable hell. You make his life impossible with the result that he is forced to resign and leave the army. In the end you go out and say that Indians are not fit to hold commissions in the army. I assure the House that this is a conspiracy to defame the Indian commissioned officers of the army so that when occasion arises to review the pace of Indianisation it should be possible to say that Indians are unfit to hold commissions. It is really surprising that in this great country of ours which is inhabited by 35 crores of people officers cannot be found in sufficient numbers to hold positions of command in the Indian army. Leave aside the other parts of this country, if this Government were honest enough, they can find sufficient number of officers from one tiny province, the North-West Frontier Province. If you are really in earnest about Indianisation I assure you that we alone can give you as many officers as you really want for your army. If you do not believe in their efficiency, then I can challenge you that after you have

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given them some training, put them face to face with an equal number of British officers equally well armed and you would yourself see whether they are more efficient or the British. The British Government are fighting the battles in this country through these Indian commissioned officers. The British officers themselves are having a good time. You send the Indian army to Waziristan, where people from my Province are fighting against people with whom they share a common language, a common religion and a common race. While the Indian army is fighting its battles there, all the rewards go to the British officers. After so many years of all this tall talk of Indianisation, I should like to know from the Honourable the Defence Secretary why is it that not a single Indian has been taken into the Gilgit, Tochi or the Waziristan scouts or in the Zhob Militia? Is it not a fact that officers who go to these various scouts get real training in warfare? Is it also not a fact that the British officers who get into debts and who cannot pay off their debts are posted to Zhob militia or Waziristan scouts because their pay and allowances there are three times as much as the average army officer gets in this country. So far, you have followed the policy of exclusion. You have not admitted a single Indian into these battallions because you do not trust them. After all is said and done the fact remains that the British do not really want to Indianise the army. They are actuated by feelings of mistrust of our people. I do not blame them, because we really do not like them. We do not want them to remain in this country for a single day. For goodness sake let us not talk of Indianisation. Let them give up all this hypocrisy.

**Maulana Shaukat Ali** (Cities of the United Provinces : Muhammadan Rural) : Why do you allow them to stay in this country?

**Mr. Abdul Qaiyum** : You start, and I will follow.

**Maulana Shaukat Ali** : Why don't you start?

**Mr. Abdul Qaiyum** : The Honourable Member is always voting with the Government. Whenever an occasion arises, he always walks into the Government lobby. On the adjournment motion regarding the appointment of a European as Insurance Superintendent, he did not have the slightest hesitation to walk into the Britisher's lobby. It was through his vote that we lost a very important adjournment motion.

**Mr. President** (The Honourable Sir Abdur Rahim) : The Honourable Member will proceed with his speech without referring to personalities.

**Mr. Abdul Qaiyum** : My Honourable friend, Maulana Shaukat Ali, may be asked to keep quiet and not to disturb my speech.

I know it has been stated from many platforms in my province. ....

**Mr. President** (The Honourable Sir Abdur Rahim) : The Honourable Member had better proceed with his speech. He had better not discuss any individual Member.

**Mr. Abdul Qaiyum** : It has been stated from several platforms in my province that the Mussalmans should not join the Congress, because the Congress really does not want the British to go away. Let us ask the British whether the Congress wants them to go away or any other organisation in this country.

Now, Sir, coming again to this Bill, if Maulana Shaukat Ali will permit me to proceed....

**Maulana Shaukat Ali :** Why is the Honourable Member unnecessarily bringing in my name ?

**Mr. President** (The Honourable Sir Abdur Rahim) : The Honourable Member should go on with his speech.

**Mr. S. Satyamurti :** Sir, on a point of order, I submit that this morning Maulana Zafar Ali Khan delivered a long speech the burden of which was that the Congress and Government are one and that they (i.e., the Muslim League) were the only Independent people in this House, etc., I submit that that requires an answer.

**Mr. President** (The Honourable Sir Abdur Rahim) : If allegations were made against any one, they can be answered, but a general discussion of the Congress or other parties would not be relevant.

**Mr. Abdul Qaiyum :** It is a well-known fact, Sir, and Government are well aware of it that war is imminent ; and the reason why this Government are so anxious to increase the pace of recruitment in this country is also very obvious. They have grabbed all the possible countries of this world that they could lay their hands on, and now they are out to defend their ill-gotten gains with the blood and money of our people. That is their object. And they have the effrontery to say that when and if they join in any war they will not consult us ; as if we who inhabit this country and provide them with money and men for continuing this war do not at all matter. They will not even consult us before they join in a war, and they will not even say which particular country they are going to fight. It is really a very amazing proposition advanced by the Honourable the Defence Secretary. What it comes to is this. The Defence Secretary in this year of grace 1938 is forcing us by means of this repressive law and at the point of the bayonet to provide recruits for him so that he may carry on his Imperialistic wars in any part of the world he likes. We are not even to be asked what our views are about such a war. If it is going to be a war purely for the defence of our country I can assure Mr. Ogilvie that whether he brings in this Bill or not, and whether he agrees to stay in this country or leaves it, there will be a large number of patriotic men and women in this country who would be willing to shed the last drop of their blood for the defence of their country. He is trying to force us at the point of the bayonet to indulge in a war against some other country. I may tell the Defence Secretary that if India had the power to decide which country to fight against the Indians would not take more than a second to decide the question. I know that if my people had the power to declare war the first country that they would go for would be Imperialist Britain. After all you must thank Mahatma Gandhi for his doctrine of non-violence ; you must thank the saint of Sabarmati that he has been preaching the gospel of non-violence on the turbulent frontiers. But for Mahatma Gandhi, I can assure the Defence Secretary, weak as we are and disarmed as we are, we would have given a very good account of ourselves even against your mechanised battalions. I can assure the Defence Secretary that this Bill is not going to carry out the purpose which he has in view. Do you think you can frighten us into submission by bringing in this small Bill of two clauses wherein you say that if anybody has the courage to announce what he really believes in, and

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if anybody goes to a public platform and states what is an article of faith with him namely, that the war which you are waging is unjust and unrighteous and that it is a war of aggrandisement and oppression, you are going to clap him into prison for two years? If you are to judge the provisions of this Bill on its merits then from the very first word to the last, this Bill is rotten to the very core. My Honourable friend, Maulana Zafar Ali Khan, who is always telling me that we should try to get rid of the oppressors in this country really advanced a remarkable proposition today in the course of his speech. I expected Maulana Zafar Ali Khan to line up with me in throwing out this measure which is a most mischievous and dangerous measure. But I was surprised that Maulana Zafar Ali Khan did not say anything about the merits of this Bill. He did not realise the implications of this Bill. He easily forgot that the army which we are creating and trying to raise in this country may be used against the people for whom he and I profess the greatest possible love in this world,—the Arabs, the Turks, the Persians and the Afghans.

**Maulana Zafar Ali Khan :** I do not believe in non-violence as an article of Faith.

**Mr. Abdul Qaiyum :** I can quite believe that Maulana Zafar Ali does not believe in non-violence. I can quite believe that had he carefully read this Bill, he would certainly line up with us in throwing out this very obnoxious measure. But I was surprised that in the course of his speech he threw out a suggestion that the Bill, bad as it is, requires modification and that its application should be left to the provinces. I submit that this is a very strange proposition. The Government are very anxious to apply this Bill in the Punjab. Our object, and I think the object of Maulana Zafar Ali Khan, is that such a Bill should not be placed on the Statute-book. We want to put off the evil day as far as we can. Are we really going to put off this evil day by passing this Bill and leaving it to the Provincial Governments to apply it when and where they like? Constituted as it is at present I think the Punjab Government will be only too glad to apply such a law.

**Sir Muhammad Yamin Khan :** Sir, is the Honourable Member in order in casting any reflection on the Provincial Governments?

**Mr. President** (The Honourable Sir Abdur Rahim) : The Honourable Member should be careful not to cast any aspersions on any Provincial Government.

**Mr. Abdul Qaiyum :** I had no idea of casting any aspersions on the Punjab Government. The Punjab Government is a Government which has a big majority behind it and I have really nothing to say against it. I have far more respect for the Punjab Government than for the Government which is sitting in front of me here. Even though I violently disagree with the views of the Punjab Government, even though according to me it is a reactionary Government, even though it represents....

**Mr. President** (The Honourable Sir Abdur Rahim) : I must ask the Honourable Member not to make these reflections on the Punjab Government.

**Mr. Abdul Qaiyum :** In spite of all these, Sir, I have great respect for it, far greater than I have for the Government here. Now, Sir, I am really surprised how my Honourable friend, Maulana Zafar Ali Khan, is going to carry out his object of throwing out this nefarious Bill. Does Maulana Zafar Ali Khan really think that if power is to be left to the Provincial Governments this Bill will not come into force ? Is he really satisfied that there are no Governments in at least some of the provinces in India which would be only too willing to apply such a measure and carry out the behests of an irresponsible Government at the Centre ?

**An Honourable Member :** What about the Frontier Province ?

**Mr. Abdul Qaiyum :** As far as the Frontier Province is concerned,

5 P.M.

I will say something for the satisfaction of the House.

I had great pleasure in reading this morning in the papers that a provincial conference was held at Abbottabad which was attended by all the Ministers of the Frontier Government, including Khan Abdul Ghaffar Khan, and a resolution was passed that if and when Great Britain engages in any war the people of the Frontier and of this country will have nothing to do with it. That represents the spirit of 2½ millions of people whom I have the honour to represent in this House. That represents the spirit of the people of whom I have great pleasure in stating, 95 per cent. are Mussalmans : and those Mussalmans are really wide awake. They have understood the policy of British imperialism they have seen your forward policy at work ; they have seen your bombing of innocent tribesmen ; they have seen your methods whereby you stifle all discussion of frontier problems in this House. Last year, there were questions put on the floor of the House by my Honourable friend, Mr. Satya-murti, asking whether there had been any bombing on the frontier, and, if so, how many bombs were dropped. We saw the Honourable Mr. Ogilvie getting up and stating that there had been bombing on the frontier on many occasions, and that 7,000 bombs in all had been dropped up to a particular date. But only the other day when I repeated that question whether there was any bombing since the 1st January, and if so, what was the number of bombs which had been dropped on the tribal areas, the Governor General came in with his special powers and said that these questions could not be allowed.

**Mr. President** (The Honourable Sir Abdur Rahim) : The Honourable Member can continue his speech tomorrow.

The Assembly then adjourned till Eleven of the Clock on Wednesday, the 17th August, 1938.