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LEGISLATIVE ASSEMBLY DEBATES

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SIXTH SESSION

OF THE

FOURTH LEGISLATIVE ASSEMBLY, 1933



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Legislative Assembly.

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Deputy President :

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

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MIAN MUHAMMAD RAFI, BAR.-AT-LAW.

Assistant of the Secretary :

RAI BAHADUR D. DUTT.

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

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

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

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

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LEGISLATIVE ASSEMBLY.

Tuesday, 29th August, 1933.

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

QUESTIONS AND ANSWERS.

HUNGER-STRIKE BY CERTAIN POLITICAL PRISONERS IN THE ANDAMANS.

121. *Mr. S. C. Mitra : (a) Is it a fact that the political prisoners now detained in the Cellular Jail, Andamans, first resorted to hunger-strike some time between December, 1932 and February, 1933 ? If so, what was the actual date of commencing the strike, and what were the demands of the prisoners then ?

(b) Were the grievances of the prisoners at that time brought to the notice of the Government of India ?

(c) Is it a fact that the hunger-strike was given up after a week on an assurance from the Superintendent of the Cellular Jail, to remedy the prisoners' grievances ?

(d) Is it also a fact that the Jail authorities did not act according to their promise and that was the cause of the second hunger-strike, started on 12th May, 1933 ?

(e) Has Government's attention been drawn to the statement made by Swami Jnanananda, a prominent public worker in Bengal, on the 19th April and again on the 15th May last that appeared in almost all the leading nationalist papers of India ?

(f) What action was taken by Government on the statement referred to above which made some revelations of Jail negligence in the Andamans and disclosed the news of the first hunger-strike in the Cellular Jail ?

(g) Is it a fact that no action was taken at that time and that gave occasion for the second hunger-strike ?

The Honourable Sir Harry Haig : (a) Seven B class prisoners were on hunger-strike for a few days in January, 1933. Their demands were numerous and comprehensive, and were put forward under threat of hunger-strike.

(b) The answer is in the negative.

(c) and (d). The Superintendent made no report to the Chief Commissioner that he had given any such assurance and it is obvious that he had no authority to make any promise which involved an alteration of the rules.

(e) Government have seen these statements.

(f) and (g). Government took no action owing to the manner in which the demands were put forward.

Mr. Lalchand Navalrai : Will the Honourable Member be pleased to say whether the terrorist prisoners are still being sent to the Andamans ?

The Honourable Sir Harry Haig : Yes, Sir. There is no change in the policy.

CELLULAR JAIL IN THE ANDAMANS.

122. *Mr. S. C. Mitra : (a) Has the attention of the Government of India been drawn to the following remarks on page seven of the Census Report on the Andaman and Nicobar Islands for the year 1931 ?

“ During Colonel Beadon's (Chief Commissioner) tenure from 1920 to 1923 orders were received to close the Penal Settlement with the exception of 1,400 Moplah rebellion prisoners and some Punjabis and no more convicts were received ” During Chief Commissioner, Colonel Ferrar's tenure from 1923 to 1931 “ All troublesome habituals or violent convicts were repatriated. The recruitment of convicts was placed on a voluntary instead of a compulsory basis and volunteers, to be accepted, had to be youngish men free from pronounced criminal taint ”.

(b) Will Government please explain how this statement is consistent with the remarks of the Honourable the Home Member, Sir Harry Haig, made in the concluding portion of the communiqué of the 13th June last which runs as follows :

“ In concluding Sir Harry Haig pointed out that Mr. Jadhav was wrong in thinking that the Cellular Jail had ever been closed. It was, in fact, kept open in accordance with the recommendation of the Jail Committee ” ?

The Honourable Sir Harry Haig : (a) The Government have seen the remarks in the Census Report. The Honourable Member, however, has not correctly quoted the first passage and he has thereby changed the meaning of what was actually written. The Report did not say that no more convicts were received, but that with the exception of 1,400 Moplah rebellion prisoners and some Punjabis, no more convicts were received. It is correct that at that time deportation was confined to prisoners from Madras and the Punjab, and that later it was placed on a voluntary basis.

(b) My statement was correct. The Penal Settlement was never closed. A certain number of prisoners continued to be sent from India and all these prisoners were sent to the Cellular Jail for a period after arrival in the Andamans. This was in accordance with the recommendation contained in paragraph 566 of the Indian Jails Committee's Report.

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

123. *Mr. Gaya Prasad Singh : (a) Is it a fact that the East Indian Railway authorities intend to divert the Up and Down Punjab Mails from the main line to the Grand Chord, via Gaya, as a precaution against train-wreckers ? If so, are Government aware of the hardship this will entail upon the travelling public of Patna, and of North Bihar generally, who constitute the largest number of passengers ?

(b) Are Government aware that with the diversion of the Punjab Mail, via Gaya, the Grand Chord will have two mails, and three Express trains,

while the main line will be deprived of the only mail train it has at present ?

(c) Do Government propose to take steps to prevent the diversion of the East Indian Railway Punjab Mails from the main line to the Grand Chord ?

Mr. P. B. Rau : (a) On and from the 1st of October, 1938, the Up and Down Punjab Mails will run *via* the Grand Chord (*via* Gaya) instead of *via* the main line (*via* Patna) to the following timings :

1 Up.

Dep. Howrah 21-36.

Arr. Delhi 20-30

2 Down.

Dep. Delhi 8-25.

Arr. Howrah 8-0.

These timings are more convenient than the present ones and the time taken on the journey each way will be reduced by over 2 hours.

Nos. 5 Up and 6 Down which at present run only between Moghalsarai and Lahore will be extended to Howrah and will run *via* the main line (*via* Patna) practically to the same timings as the Punjab Mails now run. To meet the convenience of through passengers a first and second class composite will be attached to 5 Up at Patna and transferred to 1 Up at Moghalsarai for Kalka in the summer and Lahore in the winter. A similar arrangement for through carriage will be made in connection with 2 Down and 6 Down.

These changes are not being made as a precaution against train wreckers but in order to improve the train services generally.

Government consider that, so far as can be seen, and particularly in view of the fact that through carriages will run between Patna and Delhi *via* Allahabad, the proposed changes in the East Indian Railway time-tables will not result in inconvenience.

(b) I understand that with other re-arrangements that are being made the number of mail and express trains over the Grand Chord and the main line will be the same as at present.

(c) Government do not consider that there is any necessity for their interference in the matter.

Mr. Gaya Prasad Singh : What would be the arrival time of the 5 Up and 2 Down and 6 Down at Patna ?

Mr. P. B. Rau : The 5 Up will run to the present timing of 1 Up.

Mr. Lalchand Navalrai : Were the members of the Advisory Committee consulted over these changes ?

Mr. P. B. Rau : I do not know.

Mr. Gaya Prasad Singh : Is it a fact that this matter was actually put in the Advisory Committee and some members took strong exception to it ?

Mr. P. B. Rau : I should like to have notice of that question. I am not aware of what happened in the last meeting of the Advisory Committee.

Mr. M. Maswood Ahmad : Have Government received any representation from the Bihar Chamber of Commerce and other public men of Patna about this ?

Mr. P. R. Rau : I am informed that the Honourable Member himself wrote a private letter to a Member of the Railway Board.

Mr. K. C. Neogy : May I ask, Sir, whether the timing of the trains is not more a concern of the Local Advisory Committee than of this Legislature ?

Mr. P. R. Rau : I entirely agree, Sir, and shall welcome the adoption of such an attitude by this House.

Mr. Lalchand Navalrai : Will the Honourable Member be pleased to say that these questions are properly discussed by the Local Advisory Committee ?

Mr. P. R. Rau : I am sure that if any member wishes to raise such questions, he will have an opportunity of doing so.

Mr. Gaya Prasad Singh : May I know, Sir, if the Bihar and Orissa Chamber of Commerce lodged a protest with the railway authorities against the proposed change ?

Mr. P. R. Rau : I have seen no such resolution.

Mr. B. V. Jadhav : Will Government see to the convenience of the third class passengers by having a whole through carriage from Patna ?

Mr. P. R. Rau : I will forward that suggestion to the Railway Administration.

PROMOTION OF SUBORDINATES IN THE ENGINEERING DEPARTMENT OF THE GREAT INDIAN PENINSULA RAILWAY.

124. *Mr. M. Maswood Ahmad : (a) Is it a fact that there are 16 posts in the Engineering Department of the Great Indian Peninsula Railway, for the promotion of subordinates ?

(b) Is it a fact that since the creation of this service in 1930, one subordinate only has been promoted who was officiating in the " Junior Scale " at the time ?

Mr. P. R. Rau : (a) The sanctioned number of working posts in the Lower Gazetted Service of the Engineering Department of Great Indian Peninsula Railway is 16.

(b) Since the introduction of Lower Gazetted Service in 1931 only one subordinate has been permanently promoted to that Service.

SURPLUS POSTS IN SUPERIOR CADRES ON THE GREAT INDIAN PENINSULA RAILWAY.

125. *Mr. M. Maswood Ahmad : (a) Is it a fact that owing to the reduced number of posts in superior cadres (senior and junior scales) on the Great Indian Peninsula Railway there was on the 1st April, 1933, a surplus of 17 officers :

(i) six in the senior scale, and

(ii) eleven in the junior scale ?

(b) Will Government be pleased to lay on the table the printed " Statements of gazetted establishment, as on 1st April, 1933 " of the Great Indian Peninsula Railway, *vide* the Agent's office reference No. 21619-R. of 1st April, 1933, in which

(i) the six posts referred to in part (a) (i) above, are styled as " Supernumerary Executive Engineers ", and

(ii) the eleven posts referred to in part (a) (ii) above, are styled as " Supernumerary Assistant Executive Engineers " ?

(c) Is it a fact that in the face of the 17 surplus officers four temporary Engineers are still retained in the service ? Is not this retention to the detriment of the promotion of subordinates ?

Mr. P. R. Rau : (a) There is no excess on the Great Indian Peninsula Railway as a whole, but in the Engineering Department there are six senior scale officers and eleven junior scale officers in excess of the sanctioned cadre.

(b) There is only one copy available in the office of the Railway Board and I shall be glad to show it to my Honourable friend if he calls for it at the office.

(c) It is a fact that four temporary Engineers have been retained. It was decided by Government in 1931 that certain selected temporary Engineers among those who were to be retrenched may be retained against vacancies in the Lower Gazetted Service.

PERMANENT VACANCIES IN CERTAIN DEPARTMENTS OF THE GREAT INDIAN PENINSULA RAILWAY.

126. ***Mr. M. Maswood Ahmad :** (a) Is it a fact that according to the printed " Statements of Gazetted Establishment as on 1st April, 1933 of the Great Indian Peninsula Railway " there are six permanent vacancies in the under-noted departments of the Great Indian Peninsula Railway ?

(1) Agency :—Four.

(i) Superintendent of Statistics—one post :

(ii) Assistant Deputy Agents—three posts :

(2) Engineering—Bridge Branch :—One post of Assistant Bridge Engineer, consequent on promotions due to the retirement of Mr. A. E. Mould :

(3) Stores :—One post of District Controller of Stores ?

(b) Is it a fact that in four out of these six posts Engineers are officiating only, *viz.* :

(1) (i) Mr. C. N. B. Smart.

(ii) Mr. J. E. Jack.

(2) Mr. K. C. Bakhate.

(3) Mr. J. E. Barton ?

(c) Will Government please state (i) why six (including the four mentioned in para. 7) of the total surplus of 17 Engineers have not been transferred permanently to these vacancies, in accordance with the Railway Board's instructions, *vide* their letter No. 847-E.G. of 13th June, 1932 to

the Agent, Great Indian Peninsula Railway, and (ii) why the four temporary Engineers are still retained in the service in view of the 17 surplus hands ?

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

(c) (i) One post has been held in abeyance and another is actually held by an Engineering Officer.

(c) (ii) I would invite the Honourable Member's attention to the reply I have just given to part (a) of his question No. 125.

REMOVAL OF SURPLUS POSTS IN THE ENGINEERING CADRE OF THE GREAT INDIAN PENINSULA RAILWAY.

127. ***Mr. M. Maswood Ahmad :** (a) Are Government aware that the Agent's statement in paragraph 2 of his letter No. 21619-2 of 3rd April, 1933 to the Railway Board does not explain that six of this surplus could be, but are not yet, removed from the Engineering Cadre by transfers to vacancies in the departments ?

(b) Will Government be pleased to lay on the table a copy of the letter No. 21619-2 of 3rd April, 1933 from the Agent, Great Indian Peninsula Railway to the Railway Board ?

Mr. P. R. Rau : (a) and (b). The letter referred to is a purely departmental document and Government are unable to place it on the table of the House or to discuss its contents on the floor of this House.

PROMOTION OF SUBORDINATES TO LOCAL GOVERNMENT SERVICE IN AN OFFICIATING CAPACITY ON ALL STATE RAILWAYS EXCEPT ON THE GREAT INDIAN PENINSULA RAILWAY.

128. ***Mr. M. Maswood Ahmad :** (a) Is it a fact that the Engineering subordinates on all the State-managed Railways except on the Great Indian Peninsula Railway are promoted to local gazetted service in an officiating capacity ?

(b) Will Government be pleased to explain the reason for this differential treatment ?

Mr. P. R. Rau : (a) and (b). The rule is the same on all State-managed Railways. Qualified subordinates are eligible for promotion to the Lower Gazetted Service ; but actual promotion depends on the vacancies available.

SEPARATION OF THE DIFFERENT CADRES OF EACH RAILWAY.

129. ***Mr. M. Maswood Ahmad :** Is it a fact that the Railway Board are considering the separation of the cadres to make the cadre for Engineering subordinate and local gazetted service of each railway independent of others and before doing so contemplate making certain transfers to balance the cadres and make the prospects of promotion of officers in each railway comparable ?

Mr. P. R. Rau : The cadres for Engineering Subordinates and Lower Gazetted Services have, to the best of my knowledge, always, been separate for each State-managed Railway and there is no question of separating them now.

The Railway Board have under consideration a scheme for transferring certain officers between State-managed Railways roughly with the object mentioned by the Honourable Member as far as they may prove to be practicable.

NON-APPOINTMENT OF A MUSLIM ON COMMITTEES FORMED IN CONNECTION WITH THE SEPARATION OF ORISSA PROVINCE.

130. *Mr. M. Maswood Ahmad : Is it a fact that in all the committees formed in connection with the separation of Orissa Province such as Orissa Boundary Committee and Committee for enquiry into problems of administration under the Chairmanship of Mr. J. A. Hubback, I.C.S., no Muslim member was appointed ?

The Honourable Sir Joseph Bhoré : In regard to both Committees mentioned in the Honourable Member's question, the fact is as stated.

Mr. M. Maswood Ahmad : Will Government be pleased to say if there was any Committee in which not a single non-Muslim was taken ?

The Honourable Sir Joseph Bhoré : I am afraid I do not quite follow the implications of my Honourable friend's question.

Mr. M. Maswood Ahmad : My implication is that this is the Committee in which not a single Muslim was taken, and what I want to know is, if there was any Committee formed by the Government or by the Secretary of State in which not a single non-Muslim was taken ?

The Honourable Sir Joseph Bhoré : Obviously, Sir, I shall require notice of that question.

Mr. M. Maswood Ahmad : Will Government be pleased to state the reasons for not taking any Mussalmans for the Committee in connection with Orissa ?

The Honourable Sir Joseph Bhoré : No, Sir, I cannot give my Honourable friend any reasons for the fact. I take it that the selection of members for these Committees was based upon considerations of suitability.

Mr. M. Maswood Ahmad : Do Government propose that in future Muslims will be taken in connection with committees regarding Orissa ?

The Honourable Sir Joseph Bhoré : I can give the Honourable Member no assurance on that point.

Mr. M. Maswood Ahmad : Will Government be pleased to say how they propose to safeguard the interest of Muslims in Orissa if their attitude is such step-motherly towards them ?

The Honourable Sir Joseph Bhoré : I suggest to my Honourable friend that he should read the White Paper.

Mr. S. C. Mitra : Are there not Depressed Classes and Sikhs in Orissa, and how many of them were appointed to serve on these committees ?

The Honourable Sir Joseph Bhoré : I want notice of the question.

Mr. B. Das : Is it not a fact that although Muslims are only 1.5 per cent. in Orissa, there has never been any difference between Muslims

and non-Muslims in Orissa and that was why the Government of Bihar and Orissa never suggested the name of a Muslim on this Committee ?

The Honourable Sir Joseph Bhore : I am quite prepared to take my Honourable friend's suggestion on that point.

AMOUNT PAID TO WITNESSES FOR GOING TO LONDON FOR GIVING EVIDENCE BEFORE THE JOINT PARLIAMENTARY COMMITTEE.

131.*Mr. M. Maswood Ahmad : (a) Is it a fact that funds were provided to some of the witnesses for going to London for giving evidence before the Joint Parliamentary Committee ?

(b) If the reply to part (a) be in affirmative, will Government state what amount has been paid to different witnesses (each witness separately) ?

(c) If the reply to part (a) be in affirmative, will Government be pleased to state whether the previous sanction of the Legislative Assembly was taken or not ?

The Honourable Sir Joseph Bhore : (a) His Majesty's Government have offered financial assistance to a specified number of witnesses from each association or organization invited by the Joint Select Committee to give evidence before it.

(b) I have no information.

(c) No. The expenditure is a charge on the British Exchequer, not on Indian revenues.

Mr. B. Das : Is it not a fact that the Government of India, through the Reforms Office, arranged the passages of these witnesses who went to London to give evidence ?

The Honourable Sir Joseph Bhore : That may be so, but in that case the Reforms Office were only acting as agents of His Majesty's Government.

Mr. B. Das : Is the Honourable Member aware that the Reforms Office not only arranged the passage for one of these witnesses, but also arranged the passage for his cook, because he alleged that, as the representative of 250 million orthodox Hindus, in England he must have his food cooked by his own orthodox cook on the boat ?

The Honourable Sir Joseph Bhore : I have no information on that point.

Mr. Gaya Prasad Singh : May I take it that the Reforms Office is in possession of the names of witnesses whose passages were arranged by them ?

The Honourable Sir Joseph Bhore : I think so.

Mr. Gaya Prasad Singh : Will the Reforms Office give the names of these witnesses to the House ?

The Honourable Sir Joseph Bhore : I will have no objection to give my Honourable friend that information if he puts down a question on the notice paper.

Mr. Gaya Prasad Singh : Those witnesses whose passage money was paid by Government ?

The Honourable Sir Joseph Bhoré : I made it quite clear that the Government of India paid no passage money for these witnesses. It was His Majesty's Government who bore all the expenses.

Mr. B. Das : Will the Honourable Member please enquire whether the passage for a cook was paid for Mr. M. K. Acharya, and the P. & O. made special arrangements for his cooking ?

The Honourable Sir Joseph Bhoré : If my Honourable friend will put down a question on the notice paper, I shall give a reply.

Mr. Gaya Prasad Singh : How many went there on this pleasure trip ?

The Honourable Sir Joseph Bhoré : If my Honourable friend means to ask how many witnesses gave evidence before the Joint Parliamentary Committee, I shall be happy to provide him with the information if he gives me notice.

Mr. M. Maswood Ahmad : Is it a fact that these witnesses were invited to the Joint Parliamentary Committee on the recommendation of the Government of India ?

The Honourable Sir Joseph Bhoré : Yesterday I made my position in regard to this matter perfectly clear and I have nothing to add to or subtract from what I said.

Mr. M. Maswood Ahmad : Will the Honourable Member please say whether the Government received any letter from any person in the name of the Secretary, Jamiat-ul-Ulema-i-Hind to give evidence before the Joint Parliamentary Committee ?

The Honourable Sir Joseph Bhoré : Does my Honourable friend refer to Mr. Abdul Aziz ?

Mr. M. Maswood Ahmad : No, Sir.

The Honourable Sir Joseph Bhoré : I have no information on that point, and will need notice.

Mr. Lalchand Navalrai : Were the delegates, who were sent to the Joint Parliamentary Committee, also paid by His Majesty's Government ?

The Honourable Sir Joseph Bhoré : I want notice.

Mr. M. Maswood Ahmad : Is it a fact that some one in the name of the Secretary, Jamiat-ul-Ulema-i-Hind, applied to the Government to allow him to go as a witness and to pay his expenses from the Indian Exchequer ?

The Honourable Sir Joseph Bhoré : My Honourable friend must really give me notice of such questions as I cannot carry in my head all details.

REPRESENTATIVE OF THE ALL-INDIA MUSLIM LEAGUE FOR GIVING EVIDENCE BEFORE THE JOINT PARLIAMENTARY COMMITTEE.

132. **Mr. M. Maswood Ahmad :** (a) Have Government received any letter from Mian Abdul Aziz, Bar.-at-Law, President, the All-India Muslim League informing the Government that no representative has been elected by the All-India Muslim League for giving evidence before the Joint Select Committee ?

(b) Have Government paid any amount to any witness for being the representative of the All-India Muslim League ?

The Honourable Sir Joseph Bhore : (a) Yes.

(b) The Government of India have no concern with payments to witnesses appearing before the Joint Select Committee.

CONSTRUCTION OF QUARTERS IN NEW DELHI.

133. ***Mr. S. C. Mitra** (on behalf of Mr. Bhuput Singh) : (a) Is it a fact that tenders for building 600 additional quarters for Government of India clerks, assistants, superintendents and other gazetted officers have been invited by the Central Public Works Department, New Delhi ?

(b) If so, will Government be pleased to state the number of each type of orthodox and unorthodox quarters for which tenders have been invited ?

(c) Will Government also be pleased to state the sites on which such quarters are being proposed to be built ?

(d) Are Government aware that there is a strong feeling amongst the Government of India staff against the defective plan and construction of the quarters that are already in existence ?

(e) Do Government propose to consult the Service Associations of the different classes of Government servants for whom new quarters in New Delhi are being constructed as to the modifications in those quarters that might have been found necessary by their experience ? If not, why not ?

(f) Will Government be pleased to state whether they received any representation from the Service Associations of the Government of India employees regarding additions, alterations and modifications to the existing quarters, and if so, how many representations were received by them since 1920 and in how many cases they accepted the suggestions ?

(g) Do Government propose to carry out all the suggested alterations, additions and modifications that have been received by Government from time to time from the different Service Associations in constructing the new quarters for which tenders have been invited ? If not, why not ?

The Honourable Sir Frank Noyce : (a) and (b). Tenders have been invited for building additional quarters for the Government of India staff. A statement showing the number of each type of quarters which it is proposed to construct is laid on the table.

(c) It is proposed to build the quarters on vacant sites in the developed area in New Delhi and in the undeveloped area between the old city wall and the main railway line in the vicinity of the Government Press.

(d), (e), (f) and (g). I propose, with your permission, Sir, to answer the last four parts together generally. The various suggestions made by the Service Associations from time to time have been given due consideration by the architects, and as many of those suggestions as possible have been incorporated in the revised plans, consistent with economy and cost. If the Associations concerned wish to make further suggestions, they will be carefully examined, but Government cannot give an undertaking that the different associations will necessarily be consulted before plans are approved.

Statement showing the number of each type of quarters for Government of India clerks, Assistants, Superintendents and other gazetted officers for which tenders have been invited.

Officers' bungalows.

A class houses	..	..	..	..	7
B class houses	..	..	..	..	13
C class houses	..	..	..	..	10
D class houses	..	..	..	..	7
					<hr/> 37

Clerks' quarters.

A Orthodox	..	..	..	..	3
B Orthodox	..	..	..	..	27
B Unorthodox	..	..	..	..	33
C Orthodox	..	..	..	..	90
C Unorthodox	..	..	..	..	30
D Orthodox	..	..	..	..	272
D Unorthodox	..	..	..	..	22
E Orthodox	..	..	..	..	150
					<hr/> 627

Mr. Lalchand Navalrai : May I know from the Honourable Member whether tenders were actually invited and, if so, whether the contract will be given to the lowest bidder or will it be settled in any other manner ?

The Honourable Sir Frank Noyce : Tenders have been invited and they will be dealt with in the usual manner.

CONSTRUCTION OF NEW QUARTERS FOR MEMBERS OF THE LEGISLATURES IN NEW DELHI.

134. ***Mr. S. C. Mitra** (on behalf of Mr. Bhuput Sing) : (a) Will Government be pleased to state whether any quarters are being proposed to be constructed for the Members of the present Legislative Assembly or the future Indian legislatures ? If so, how many ?

(b) Have Government consulted the House Committee of the Legislative Assembly and the Council of State regarding the modifications, additions and alterations that they might suggest for making them more suitable to Indian Members both orthodox and unorthodox ? If not, why not ?

The Honourable Sir Frank Noyce : (a) Yes, 33 quarters.

(b) The design suggested for the Legislators' quarters is the type for which there is the greatest demand and it has been influenced by suggestions made by the House Committee from time to time. If the House Committee wish to make further suggestions, Government will gladly give them careful consideration.

Mr. Gaya Prasad Singh : Will Government lay their proposals before the House Committee so that they may be able to give their considered opinion thereon ?

The Honourable Sir Frank Noyce : If the House Committee desire to see the plans, I have no objection to doing so.

Sirdar Harbans Singh Brar : Is the Honourable Member aware that the Chief Engineer gave an undertaking in the House Committee that on his own motion he will lay the plans before the House Committee for their approval ?

The Honourable Sir Frank Noyce : I have no information on that point, but I would assure the Honourable Member that, if the Chief Engineer gave such an undertaking, it will be duly honoured.

Sirdar Harbans Singh Brar : Will the Government be pleased to give the preference to the quarters of legislators instead of to the quarters of officers, because the officers' quarters cannot be ready before March and cannot be occupied before October of next year ?

The Honourable Sir Frank Noyce : The intention is that all parts of the scheme should proceed *pari passu* and that the legislators' quarters should be taken in hand at once although I cannot give an absolutely definite assurance on the point without further inquiry. I have no doubt that the intention is that the scheme should be taken up as a whole.

Sirdar Harbans Singh Brar : Do not the Government think that it is unfair that when the money was not even sanctioned by the Standing Finance Committee that tenders were invited and that tenders are again going to be invited from the public ?

The Honourable Sir Frank Noyce : No, I do not think so. We had to take advantage of the opportune moment. I do not think that there has been such a change since tenders were first invited as to make it necessary to call for new tenders.

Diwan Bahadur Harbilas Sarda : Do I understand that Government propose to lay before the House Committee plans and specifications of each of the quarters for Members of the Legislature that are to be built and will they consider the suggestions made by the House Committee before taking actually into hand the operations ?

The Honourable Sir Frank Noyce : I am informed by my Honourable friend opposite, who is a member of the Standing Finance Committee, that the Chief Engineer gave an undertaking that he would place the plans before the House Committee. That must obviously be done and the views of the House Committee will certainly be obtained before any further progress is made.

CONSTRUCTION OF QUARTERS IN NEW DELHI.

135. ***Mr. S. C. Mitra** (on behalf of Mr. Bhuput Singh) : (a) Will Government be pleased to state whether the construction of quarters in New Delhi is being proceeded with before consulting the men who are expected to live in those quarters ? If so, why ?

(b) Will Government be pleased to state whether they have decided to stop the Simla exodus ? If so, from what year ?

(c) Is it a fact that the construction of quarters is to be completed before the 31st March, 1934 ? If so, will they be pleased to state whether they propose to stop the move in 1934 *in toto* or in part ?

The Honourable Sir Frank Noyce : (a) The Honourable Member is referred to the answer to the last four parts of his question No. 133.

(b) Government have reached no decisions beyond that stated on page 23 of the Summary of the Results of Retrenchment operations in Civil Expenditure copies of which are in the Library.

(c) The reply to the first part is in the negative. As regards the second part, no decision has been reached.

ARMY HEADQUARTERS SPECIAL TRAIN BETWEEN SUMMER HILL AND SIMLA.

136. ***Mr. S. C. Mitra** (on behalf of Mr. Bhuput Singh) : (a) Is it a fact that the Government of India Army Department pay about Rs. 720 per month for a Special train from Summer Hill to Simla and *vice versa* for the free conveyance of clerks of the Army Headquarters ?

(b) Is it a fact that under the agreement between the Railway Department and the Army Headquarters the clerks of the Army Headquarters residing in Summer Hill quarters are entitled to be accommodated in the three third class bogies reserved for them in that Special train ?

(c) If so, will Government be pleased to state the number of clerks of the Army Headquarters residing in Summer Hill who were given free passes to travel by the said Specials during each of the last five years and also this year ?

(d) Will Government be pleased to state what will be the monthly saving to Government, if the clerks of Army Headquarters residing in Summer Hill are provided a third class monthly ticket at a cost of Rs. 5 a month for coming to and going from office by the daily passenger train leaving Summer Hill at 9-17 A.M., instead of running this Special train from Summer Hill at 9-22 A.M. ? Are Government aware that the Army Headquarters clerks can return to Summer Hill by the train leaving Simla at 4-20 P.M. ? If so, do Government propose to abolish this Special train for economy ? If not, why not ?

(e) Will Government be pleased to state whether the Khansamas, Mehtars, Bearers and other menial servants belonging to the said clerks of the Army Headquarters and other inferior servants of Army Headquarters are provided with free passes to travel free between Summer Hill and Simla ?

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

(c) Figures for 1929 and 1930 are not available. Those for 1931, 1932, and 1933 are 75, 79 and 80 respectively.

(d) If third class bogies were not reserved for the personnel in question, they would probably have to be given second class and not third class tickets, in which case there would be no economy. The suggestion of the Honourable Member will, however, be considered and I can assure him that the present arrangements will be discontinued if it is found that the objects in view can equally well be secured by cheaper methods.

(e) The answer is in the negative.

ARMY HEADQUARTERS SPECIAL TRAIN BETWEEN SUMMER HILL AND SIMLA.

137. ***Mr. S. C. Mitra** (on behalf of Mr. Bhuput Sing) : (a) Is it a fact that the Railway Staff are not allowed to check the passes of the occupants of the three reserved bogies on the Special train running between Summer Hill and Simla without the permission of the Sergeant-in-Charge of the Summer Hill Camp ?

(b) Is there any system by which passes are daily checked ? If so, what is the system adopted for such a check ?

(c) Are Government aware that persons not authorised by the Army Headquarters do travel in these bogies ? If not, do they propose to enquire ? If not, why not ?

(d) Are Government aware that the Railway Staff on duty do not daily check the passes in those reserved third class bogies, whereas they check daily both morning and evening the tickets of other Indian passengers holding monthly season tickets and travelling in other compartments attached to that Special ? If not, do they propose to enquire into the matter ? If not, why not ?

Mr. P. B. Rau : (a) No.

(b) A Ticket Collector travels by this train daily to check tickets, and surprise checks are made now and then at Simla station.

(c) The North Western Railway administration reports that enquiries have already been made and it has been ascertained that this is not the case.

(d) The Railway Administration reports that it has no reason to believe that the facts are as stated.

PROVISION OF A CLUB FOR INDIAN CLERKS LIVING IN SUMMER HILL QUARTERS.

138. ***Mr. S. C. Mitra** (on behalf of Mr. Bhuput Sing) : (a) Is it a fact that Government have provided a Club House for the European clerks of the Army Headquarters residing in Summer Hill ? If so, will Government be pleased to state whether they have made provision for a Club House for the Indian clerks living in Summer Hill quarters ? If not, do they propose to make suitable arrangements for a Club House for the Indian clerks residing in Summer Hill quarters ? If not, why not ?

Mr. G. B. F. Tottenham : The answer to the first part of the question is in the affirmative, except that the Club is open to all European and Anglo-Indian clerks and not only those at Army Headquarters. The answers to the 2nd and 3rd parts of the question are in the negative. The answer to the last part is because the number of Indian clerks residing in Summer Hill is not large enough to make it worth while to provide them with a Club House. I understand that where there are a large number of Indian clerks, *e.g.*, at Phagli, a Club House has been provided for them at a nominal rent of Rs. 12 a year.

Mr. S. C. Mitra : Is the Honourable Member in a position to state the number of Europeans and Anglo-Indians there as also the number of Indians ?

Mr. G. R. F. Tottenham : I can only give the number of Europeans and Anglo-Indians. It is about 60. I could not give off-hand the number of Indians.

Mr. S. C. Mitra : The Honourable Member said that the number of Indian clerks is small. Can he give us an approximate idea about the number of Indian clerks, otherwise how can he say that Indians are small in number ?

Mr. G. R. F. Tottenham : I was informed that their number was less, but I have not got the exact number.

ARMY HEADQUARTERS SPECIAL TRAIN BETWEEN SUMMER HILL AND SIMLA.

139. ***Mr. S. C. Mitra** (on behalf of Mr. Bhuput Sing) : (a) Are Government aware that the Army Headquarters clerks holding third class passes occupy inter class compartments attached to the Army Headquarters Special for accommodating inter class monthly ticket holders, debarring the legitimate inter class passengers from occupying such compartments ?

(b) Will Government be pleased to state whether the clerks of Army Headquarters for whom a special train is run are entitled to travel by any other trains excepting the Army Special ? If not, are Government aware that a large number of European clerks of Army Headquarters travel daily by 4-20 train debarring other legitimate passengers who travel by such trains on payment ? Do Government propose to take steps for stopping such clerks holding Army Headquarters passes from travelling without payment by all the other regular trains between Simla and Summer Hill ? If not, why not ?

Mr. P. B. Rau : (a) The Railway Administration reports that only passengers holding tickets are allowed to travel in the carriages attached for the public.

(b) Clerks of Army Headquarters, for whom a special train is run, are not entitled to travel by any other train, and those who travel by the 4.20 train are required to purchase tickets.

PROVISION OF FACILITIES FOR FREE CONVEYANCE TO THE CIVILIAN CLERKS LIVING IN SUMMER HILL QUARTERS.

140. ***Mr. S. C. Mitra** (on behalf of Mr. Bhuput Sing) : (a) Will Government be pleased to state the number of ministerial staff belonging to Army Headquarters, (i) who have been officially allotted quarters, (ii) who are living with other tenants in Summer Hill quarters, and (iii) who are living in private houses in Summer Hill and will Government be pleased to state the total number of passes issued by Army Headquarters during the current year up-to-date ?

(b) Is it a fact that only the ministerial staff of the Army Headquarters who have been allotted Government quarters are entitled to the free passes for travelling between Summer Hill and Simla by the Army Special ? Are Government aware that even children of the Army Headquarters ministerial staff going to school in Simla are allowed free passes by the Army Headquarters between Summer Hill and Simla ? If so, will Government be pleased to state why the children of the ministerial staff of the Civil side of

the Government of India living in Summer Hill are not allowed free conveyance to Simla schools and back ? Do Government propose to issue free passes to the school-going children of such employees ? If not, will Government be pleased to state the reasons why this invidious distinction is being made ?

(c) With reference to the reply to the supplementary question by Dr. Ziauddin Ahmad arising out of starred question No. 637 by Mr. Lalchand Navalrai on the 22nd September, 1932, will Government be pleased to state whether they have looked into the question of the provision of facilities for free conveyance to the ministerial staff of the Civil Departments on the same lines as their colleagues in the Army Headquarters ? If so, what is the result of such enquiries ?

Mr. G. R. F. Tottenham : (a) (i) 54.

(ii) 14.

(iii) 14. The total number of passes is 80. This includes passes for 12 children of certain soldier clerks who are entitled to free conveyance as explained in part (b). In addition, passes were inadvertently issued this year to five persons who were not entitled to travel by the Special train. These have been cancelled.

(b) The concession is given to all members of the ministerial staff at Army Headquarters who are residing in Government quarters at Summer Hill. It is not admissible to the children of all Army Headquarters clerks, but only to the children of military technical personnel residing in such quarters and being educated in Simla. The reason in their case is that under military rules, they are entitled to free education and free conveyance to school, if the distance is over $\frac{1}{2}$ mile. I am informed that there are no reasons for allowing free conveyance to the children of the staff in the Civil Departments and Government do not propose to issue free passes to the school-going children of such employees.

(c) Government have looked into the question and have come to the conclusion that there is no case for the provision of facilities for free conveyance to the clerks concerned.

HOUSE RENT CHARGED FROM THE MINISTERIAL STAFF OF THE CIVIL DEPARTMENTS.

141. ***Mr. S. C. Mitra** (on behalf of Mr. Bhuput Sing) : (a) With reference to the reply to the supplementary question by Dr. Ziauddin Ahmad arising out of starred question No. 431 on the 19th September, 1932, will Government be pleased to state the reasons why house rent at a rate more than 10 per cent. is charged from the ministerial staff of the Civil Departments ?

(b) Do Government propose to amend the rules for allotment of Simla Government quarters by which no one should be charged more than 10 per cent. and the excess of the house rent allowance refunded to the employees ? If not, why not ?

(c) Are Government aware that there are cases where the staff of the Civil Departments are asked to pay the difference between the assessed rent of a quarter of his class and the house rent allowance that he is entitled

to draw ? If not, do Government propose to enquire about such cases and remit them from the liability of the extra rent ?

The Honourable Sir Harry Haig : The matter is being examined and the information will be laid on the table in due course.

FREE RAILWAY PASSES ALLOWED TO ARMY HEADQUARTERS CLERKS LIVING IN PRIVATE HOUSES IN SUMMER HILL.

142. ***Mr. S. C. Mitra** (on behalf of Mr. Bhuput Sing) : (a) Is it a fact that even the clerks of Army Headquarters who live in private houses in Summer Hill of their own choice are given free passes to travel by the train known as the Army Headquarters Special ?

(b) Is it a fact that the families, servants and dogs of such clerks are also given passes by the Army Headquarters to travel between Summer Hill and Simla by the Army Headquarters Special ?

(c) Is it a fact that the Army Headquarters claim that as they pay for third class carriages out of their budget they can carry any number of passengers and dogs in such compartments ?

(d) Is it a fact that there is a move by the Army Headquarters that this special should be treated as a military train and other passengers should not be allowed to travel by this train ? Will the Railway Department be pleased to state what is the total earning they are deriving monthly during the summer from monthly passengers and other civil passengers travelling between Summer Hill and Simla during the last and the current year ?

(e) Is it a fact that the income is gradually increasing owing to the occupation of Summer Hill Quarters by Government of India ministerial staff of the Civil Departments and Offices ?

Mr. G. R. F. Tottenham : (a) No.

(b) No.

(c) No.

(d) The answer to the first half of the question is in the negative. The total earnings during May, June and July of last year, were Rs. 1,254 as compared with Rs. 908 for the corresponding months of the current year.

(e) There has been a definite decrease in the earnings during the months of May and June as compared with the same months last year. The month of July, however, shows an increase and this is attributed to the incessant rains during that month this year.

RUNNING OF A SPECIAL TRAIN FOR CIVILIAN CLERKS BETWEEN SUMMER HILL AND SIMLA.

143. ***Mr. S. C. Mitra** (on behalf of Mr. Bhuput Sing) : (a) Is it a fact that, owing to the Summer Hill quarters being classed as unorthodox and owing to the rule of compulsory occupation by the staff electing unorthodox style, a large number of men are being compelled to occupy Summer Hill quarters ?

(b) Will Government be pleased to state the total number of staff of the Civil Offices that are going to be allotted quarters in Summer Hill for the next summer ? If the number of such persons are larger than that of the Army Headquarters clerks living in Summer Hill, do Government propose to run a Summer Hill shuttle train suiting the times of the opening and closing of Civil Offices ? If not, why not ?

(c) Will Government be pleased to state the reasons why a train should be run for a smaller number of Army Headquarters clerks and not for a larger number of men of the Civil Offices and their children ?

The Honourable Sir Frank Noyce : (a) No, it is not correct to say that a large number of men are being compelled to occupy Summer Hill quarters. The position is that the clerks' quarters in Simla, which were previously intended for Europeans and Indians have now been classed as European and Indian style of living quarters. The clerks concerned have the option to elect for European or Indian style of living quarters, and those electing for European style are liable to be allotted Summer Hill quarters.

(b) The allotments for the next summer season have not yet been made and it is, therefore, not possible to supply the information.

(c) It is not a fact that of the clerks to whom quarters have been allotted in Summer Hill a smaller number comes from Army Headquarters than from the Civil Offices.

ARMY HEADQUARTERS SPECIAL TRAIN BETWEEN SUMMER HILL AND SIMLA.

144. ***Mr. S. C. Mitra** (on behalf of Mr. Bhuput Sing) : (a) Will Government be pleased to state whether it is a fact that " a military train " is defined to be a train run for carrying troops for mobilisation ? If so, will Government be pleased to state the reasons for the proposed treating of the Summer Hill Army Headquarters Special meant for conveyance of clerks as a military train debarring others from travelling by that train ?

(b) Will Government be pleased to state the reasons why the Army Headquarters Special should be run on payment from the Army Budget for the conveyance of Army Headquarters clerks consisting of a large proportion of civilians and lady clerks who do not come under the category of regular troops ?

Mr. G. R. F. Tottenham : (a) I am not aware of any definition in the terms mentioned by the Honourable Member, nor is there any proposal to debar the public from travelling by the train in question.

(b) The reason why the Special train was sanctioned and the personnel in question were given free passes by it was to ensure that they should reach office punctually in the mornings and be given a chance of returning to their quarters at a reasonably early hour in the afternoons, without being compelled to walk the comparatively long distance to and from Summer Hill, where they are required to live. Moreover some of them who still retain a military status are entitled, under regulation, to free conveyance.

MEDICAL AID TO NON-GAZETTED GOVERNMENT SERVANTS.

145. ***Mr. S. C. Mitra** (on behalf of Mr. Bhuput Sing) : (a) Is it a fact that non-gazetted Government servants are entitled to free medical attendance for themselves and at half rates for their families ? If so, are Government aware that Government servants very scarcely get medical help at those prescribed rates ?

(b) Are Government aware that in cases where the doctors do not expect any fees they generally postpone their calls to a later date ? If not, do Government propose to make an enquiry into the matter through the Service Associations ? If not, why not ?

(c) Is it a fact that non-gazetted Government servants are entitled to get the aid of the Civil Surgeon through the Assistant Surgeons at Rs. 5 a visit ? If so, will Government please give a statement as to the number of cases attended to by the Civil Surgeons, East and West, respectively, during the last three years through the Assistant Surgeons in which Rs. 5 have been charged by each of them ?

(d) Do Government propose to enquire from the Service Associations the cases where the Civil Surgeons have charged full fees for treating non-gazetted Government servants even if they have been sent for through the Assistant Surgeons ?

Mr. G. S. Bajpai : (a) All non-gazetted Government servants in Simla are entitled to free medical attendance. For medical attendance on families of employees of Civil offices there are special concessional rates of fees laid down in the Education, Health and Lands Department Resolution No. 780, dated the 12th December, 1922, a copy of which has been placed in the Library of the House. The answer to the second part is in the negative.

(b) Government have not received any such complaint. If the Honourable Member has any information in his possession and would care to communicate it to me, I shall gladly have it examined.

(c) The appointed medical attendant of a Government servant can, when he considers it necessary, call in for consultation the medical attendant of the next higher class. A Civil Surgeon is not entitled to any fee when thus called in for consultation on a Government servant.

(d) No, Sir ; Government have no reason to assume that if the Association has any grievance in the matter, it will not make suitable representations.

FEES CHARGED FOR OPERATIONS PERFORMED IN THE RIPON HOSPITAL, SIMLA, ON THE DEPENDANTS OF GOVERNMENT SERVANTS.

146. ***Mr. S. C. Mitra** (on behalf of Mr. Bhuput Sing) : (a) Is it a fact that Government servants are charged fees for operations performed in the Ripon Hospital on the dependants of Government servants, gazetted and non-gazetted ? If so, will Government be pleased to state whether they have got any prescribed rates for such operations ?

(b) Is it a fact that Government servants are made to pay a heavy operation fee and that over and above that fee they are made to pay separately the fees for the sterilization of instruments, for anaesthetics, etc. ?

(c) Will Government be pleased to state whether they have any prescribed rules for such charges from Government servants serving in the Government of India Headquarters ? If so, will they be pleased to lay a copy of such rules on the table of the House ? If there are no prescribed rules, do Government propose to frame them for the guidance of the Civil Surgeons and also for the Government servants ?

(d) Are Government aware that in certain cases the operation fees and other fees charged from Government servants exceed their monthly salary ? If not, do Government propose to enquire through the Service Associations ? If not, why not ?

Mr. G. S. Bajpai : (a) and (c). The dependents of Government servants are not entitled to free surgical attendance at the Ripon Hospital, Simla. A copy of the rules of the Hospital showing the scale of fees chargeable for operations, sterilisation of instruments, etc., has been placed in the Library of the House.

(d) The scale of fees is graduated according to the income of the patient and cannot be regarded as excessive. Government have no reason to believe that medical officers charge more than the prescribed scale of fees.

FREE MEDICAL ATTENDANCE BY THE CIVIL SURGEONS, SIMLA, TO INDIAN GOVERNMENT SERVANTS.

147. ***Mr. S. C. Mitra** (on behalf of Mr. Bhuput Singh) : (a) Is it a fact that Indian gazetted Government servants or Indian Government servants drawing more than Rs. 600 per mensem are entitled to free medical attendance by the Civil Surgeons of Simla ? If so, are Government aware that they never attend an Indian officer who does not pay them full fees of Rs. 16 ?

(b) Will Government be pleased to state how many times the Civil Surgeons of Simla have attended on Indian officers without charging full fees during the last two years ?

(c) Will Government be pleased to state whether the Civil Surgeons are entitled to send bills for their fees to officers entitled to free attendance by them ? If not, are Government aware that they do send such bills for payment ? If so, what action do Government take in such cases ?

(d) Will Government be pleased to state the number of years Colonel Whitmore has been in charge of the Ripon Hospital ?

(e) Are Government aware that the Colonel never attends any Indian officer unless he pays full fees for attending on him ? If not, do Government propose to enquire into the matter ?

Mr. G. S. Bajpai : (a), (b) and (c). All gazetted officers and all Government servants in Simla drawing Rs. 500 a month and more are entitled to the services of one of the Civil Surgeons. Government have no reason to believe that unauthorised fees have been charged for attendance on Indian officers.

(d) Since March, 1930.

(e) Government have received no such complaint and do not propose to make any inquiries.

Mr. N. M. Joshi : Am I to understand from the reply that officers, drawing Rs. 500 and more, get free attendance by the Civil Surgeon while poorer people have to pay the fees of the Civil Surgeon ? Is that the position ?

Mr. G. S. Bajpai : No ; that is not the position ; officers are classified according to their income with regard to the class of the officer who has to attend on them free of charge. Officers drawing Rs. 500 a month or more are entitled to the services of the Civil Surgeon ; officers drawing between Rs. 150 and Rs. 500, are entitled to the services of the Assistant Surgeon ; people drawing less than Rs. 150 are entitled to the services of the Sub-Assistant Surgeon.

Mr. N. M. Joshi : May I ask whether Government have inquired whether the giving of medical attention by a superior class of medical officer according to the means of the officer is the right method or giving the attendance of a superior medical officer according to the seriousness of the disease is a better method ? Have they ever inquired into this ?

Mr. G. S. Bajpai : Government have provided for both. There is such a thing as the number of individuals to be dealt with, and, therefore, it is not possible to make all employees of Government entitled to the services of the highest medical officer available on the spot. But I stated in reply to an earlier question that if a doctor, to whose services the Government employee is entitled, is in need of consulting somebody possessing higher qualifications, he can do so free of charge.

CIVIL SURGEON IN CHARGE OF RIPON HOSPITAL IN SIMLA.

148. ***Mr. S. C. Mitra** (on behalf of Mr. Bhuput Sing) : Do Government propose to make a rule that no Civil Surgeon should be placed in charge of the Ripon Hospital in Simla for more than two calendar years ? If not, why not ?

Mr. G. S. Bajpai : Government do not see any necessity for altering the existing practice.

RACIAL DISCRIMINATION IN THE FIXATION OF HOSPITAL CHARGES IN THE HINDU RAO HOSPITAL, DELHI.

149. ***Mr. S. C. Mitra** (on behalf of Mr. Bhuput Sing) : (a) Is it a fact that the Hospital charges fixed for the Hindu Rao Hospital, Delhi, by rules made by the Government of India are different for the officers of Asiatic domicile and non-Asiatic domicile living in European style ? If so, will Government be pleased to state the reasons for this racial discrimination ?

(b) Will Government be pleased to lay a copy of such rules now in force on the table of the House ?

(c) Do Government propose to amend the rules, doing away with the racial discrimination in matters of hospital charges in the Hindu Rao Hospital both for the officers and their families ? If not, why not ?

(d) Will Government be pleased to state the hospitals under the charge of the Government of India where such different charges have been fixed on grounds of domicile ?

Mr. G. S. Bajpai : (a) to (d). A copy of the rules of the Hindu Rao Hospital as approved by the Government of India in September, 1931, has been placed in the Library. When these rules were framed, officers of non-Asiatic domicile belonging to Superior Civil Services were entitled, as a result of the Lee Commission's recommendation, to certain concessions, which were not admissible to officers of Asiatic domicile, in the matter of treatment in a hospital, *e.g.*, free nursing. It has, however, recently been decided that the same concessions should be extended to all officers of the Superior Civil Services, in all hospitals, irrespective of considerations of domicile. The rules will be revised accordingly.

RULES OF HOSPITALS UNDER THE ADMINISTRATION OF THE GOVERNMENT OF INDIA.

150. ***Mr. S. C. Mitra** (on behalf of Mr. Bhuput Sing) : Will Government be pleased to lay a copy of the rules in force now in the different hospitals under the administration of the Government of India and also of such hospitals where the Government of India pay any contribution either by loan of their medical officers or by a grant ?

Mr. G. S. Bajpai : The information asked for by the Honourable Member is not readily available and its collection would involve an expenditure of time and labour which Government have no reason to believe would be commensurate with the results. If the Honourable Member will be good enough to specify any hospital, or hospitals in any particular locality, in respect of which he desires the information, I shall endeavour to obtain it.

NON-ADMISSION OF INDIANS IN THE WALKER AND PORTMORE HOSPITALS IN SIMLA.

151. ***Mr. S. C. Mitra** (on behalf of Mr. Bhuput Sing) : (a) Is it a fact that Indian officers and subordinates are not admitted into the Walker Hospital and the Portmore Hospital in Simla ? If so, will Government be pleased to state the reasons for not admitting Indian officers and subordinates living in European style and unorthodox types of Government quarters ?

(b) Do Government propose to amend the rules in such a way as to admit Indians living in European style into these Hospitals ? If not, why not ?

Mr. G. S. Bajpai : (a) and (b). A copy of the rules of the Walker Hospital and the Portmore Maternity Home has been placed in the Library. There is no bar to the admission of Indians to either institution provided that they are willing to abide by the rules.

ALLEGED INHUMAN TREATMENT METED OUT TO TAMIL LABOURERS IN SENGORRA DISTRICT IN SIAM.

152. ***Mr. Gaya Prasad Singh :** (a) Are Government aware of the "inhuman treatment meted out to Tamil labourers in Singora District" in Siam ; that "A considerable number of Tamil Labourers are being sweated by Chinese Torokies with impunity", in the words of Dr. Lanka Sundaram, Director of the Indian Institute of International Affairs ?

(b) Is it a fact that if the Sengorra Indians are sent back to Malaya, the Indian Immigration Fund in that country is legally obliged to send them back to India ?

(c) What is the approximate number of Indians in Siam and what steps have been taken in the matter ?

Major W. K. Fraser-Tytler : (a) I have seen the Statement by Dr. Lanka Sundaram referred to and am aware that complaints have been made about the treatment of Tamil labourers in the Sengorra District.

(b) A certain amount of migration of Indians from Malaya into Siam appears to be going on, though, considering that the number of Indian labourers in the area mentioned is understood to be only about 200, the volume of such migration must be small. Government have no information as to whether it is voluntary or induced by employers of labour in Siam. Indians assisted to migrate from India to Malaya are entitled to repatriation at the expense of the Indian Immigration Fund under certain conditions. Those who cross over from Malaya to Siam and then return to Malaya would also appear to be entitled to repatriation to India provided that those conditions are fulfilled.

(c) Government presume that the Honourable Member refers to the number of Indian labourers who have migrated from Malaya to Siam. The approximate number of such labourers now in the Sengorra area is understood to be about 200. Enquiries into the conditions under which they work and live have recently been made by His Majesty's Vice Consul at Sengorra and it is intended that as soon as the Government of India's new Agent has taken over his duties in Malaya and can conveniently visit Siam he should, with the permission of the Siamese authorities, do so in order to look into the question of immigration and to investigate the condition of the unskilled Indian labourers there.

Mr. Gaya Prasad Singh : With regard to the answer to part (a) of the question, may I know what steps have been taken by the Government to redress the grievances of the Indian labourers in that territory ?

Major W. K. Fraser-Tytler : Government are in communication with His Majesty's Minister at Bangkok and, acting on his advice, we are awaiting the report of the British Agent for Malaya. As soon as we receive that report, we shall take steps to bring to the notice of the Government of Siam state of affairs as shown by that report and the attitude that we think they should adopt towards it.

Mr. Gaya Prasad Singh : How long has this correspondence been going on ?

Major W. K. Fraser-Tytler : Since about April, I think.

Mr. B. Das : Is it not high time that the Government of India should appoint their own agents in these Asiatic countries than go through the circuitous channel of corresponding through the British Agents and British Consuls in those countries ?

Major W. K. Fraser-Tytler : The Agent in Siam of His Majesty's Government is the Minister and the Consul.

Mr. B. Das : May I address my question to the Leader of the House ? Is it not time that the Government of India should think of appointing

Indian Agents in these Asiatic countries, rather than correspond through the circuitous channel of British Ministers and Consuls who are not directly responsible to this Government ?

The Honourable Sir Joseph Bhore : My Honourable friend is asking me for an expression of opinion.

Mr. B. Das : Not at all : I am asking for the views of the Government of India at present, whether they intend to do so : when they have got Agents in South Africa and in Ceylon, why not in Siam ?

The Honourable Sir Joseph Bhore : I have no doubt that in time the number of our Agents abroad will increase.

Mr. B. Das : What is the present position, that is what I want to know ?

The Honourable Sir Joseph Bhore : In regard to what ?

Mr. B. Das : The present position regarding the appointment of Agents in Siam, in Kenya and other African and Asiatic countries ?

The Honourable Sir Joseph Bhore : I regret to say that I have no knowledge about Siam.

Mr. B. Das : The Honourable gentleman leaves it to the safe Department—the Foreign and Political Department—over which this House has no control.

IMMIGRANTS LEFT STRANDED AT AKRA, KIDDERPORE.

153. ***Mr. Gaya Prasad Singh :** (a) Is it a fact that about 400 returned immigrants are left stranded at Akra, Kidderpore (Calcutta), absolutely helpless and homeless and almost starving ?

(b) From what colonies have they returned and under what circumstances ? What steps Government have taken in the matter ?

Mr. G. S. Bajpai : (a) So far as Government are aware there are about 169 emigrants still at Akhara living in the house of Rai Bahadur Seth Sukhlall Karnani. Some of them are reported to be in straitened circumstances.

(b) The Honourable Member is referred to the answer given by me on the 16th November, 1932, to Rai Bahadur Sukhraj Roy's question No. 1256 and to the supplementary questions arising out of it. A statement describing subsequent developments is laid on the table.

Statement describing subsequent developments regarding grant of relief to the returned emigrants at Matlabrus.

As regards the further steps taken in the matter, I may mention, with your permission, Sir, for the information of the House that on the 20th December, 1932, the Government of India had suggested to the Government of Bengal and to the Committee set up by that Government to look after these emigrants that a permanent solution of the problem created by their presence in Calcutta should be sought by inducing such of them as were genuinely anxious to profit by Government aid (a) to shift from Calcutta to villages in Bengal where offers of work or land might be forthcoming; or (b) to take advantage of schemes of colonisation in other provinces, or (c), in the last resort, to find work or land for them in or near their village homes in the provinces of their origin. Investigation disclosed the fact that offers of work or land in Bengal were not forthcoming. Inquiries made from the Governments of Bihar and Orissa and

Madras with regard to the possibility of finding work or land for these returned colonists in or near their original villages proved unfruitful. The Government of the United Provinces alone offered to co-operate in settling at least some of the returned emigrants in Mirzapur district. The situation was then discussed with the Government of Bengal and, with their full concurrence, it was decided to help such of the returned emigrants as were genuinely willing to take advantage of the prospects of land settlement in Mirzapur to migrate there. As regards those who were unwilling to take advantage of this opening, it was decided to inform them that the gratuitous relief would be discontinued after a certain date and gratuitous relief was accordingly discontinued with effect from the 19th March, 1933. It cost Government Rs. 6,153. The majority of those who had been in receipt of relief in the Camp at Akhra refused to go to Mirzapur. Of the 120 who were willing, 62 have been sent for settlement on the estate of the Raja of Bijaygarh. The Government of India have undertaken to defray the cost of their transport from Calcutta to the estate, to maintain them there for a reasonable time until they can support themselves which, it is hoped, they will be able to do after they have raised one crop and also to advance funds to enable them to build houses and purchase agricultural implements and cattle. This is estimated to cost Rs. 4,400 of which a portion would be recoverable as *taqavi*. For the few, who, although they were willing to go to Mirzapur, and could not be settled there, the Protector of Emigrants in Calcutta has been placed in funds to make compassionate grants in order to enable them to maintain themselves until they can find some work.

PROHIBITION OF THE ENTRY INTO INDIA OF PUBLICATIONS BY RASH BEHARI BOSE.

154. ***Mr. Gaya Prasad Singh :** (a) Is it a fact that the monthly publication entitled the *New Asia* edited and published by Rash Behari Bose, or any other publications by him, wherever and in whatever language they may be printed, have been prohibited under the Sea Customs Act? If so, why?

(b) Where is *New Asia* printed and what are the names of the other publications by the same author, which have been prohibited?

The Honourable Sir Harry Haig : (a) Yes. Rash Behari Bose is a proclaimed absconding offender, wanted on charges of conspiracy and murder, and Government do not consider it to be in the public interest to allow publications of a man of these antecedents to be circulated in India.

(b) The *New Asia* is printed in Japan. I do not propose to give publicity to the names of other publications.

Mr. S. C. Mitra : Are we to take it that Government proscribed his book without even reading through it, because it was written by a man who is an undesirable person?

The Honourable Sir Harry Haig : No. Government have seen the publication.

Mr. S. C. Mitra : Are they seditious or objectionable, or are they proscribed because of their author?

The Honourable Sir Harry Haig : It is undoubtedly objectionable. His activities even now are of an extremely objectionable character.

Mr. B. Das : Is the Honourable the Home Member aware that Japan is a country where anything seditious or communistic is strongly suppressed by the Government of Japan, and how did the Government of Japan allow Rash Behari Bose to publish seditious things in the *New Asia*?

The Honourable Sir Harry Haig : The activities of this man are directed not against the Japanese Government, but against the Indian.

MURDER OF ONE SARDAR SHER SINGH IN CALIFORNIA, UNITED STATES OF AMERICA.

155. ***Mr. Gaya Prasad Singh :** Is it a fact that Sardar Sher Singh, a prominent Indian, was shot dead by an unknown person at Elcento, California, United States of America, in July, 1933 and, if so, was any enquiry made and with what result ?

Major W. K. Fraser-Tytler : The Government of India have received information from Washington that a thorough investigation held by the United States authorities shows that Sher Singh committed suicide after killing a Mexican girl.

CONDITION OF THE HEALTH OF MUKUL RANJAN SEN AND BIREN ROY, POLITICAL PRISONERS IN THE ANDAMANS.

156. ***Mr. S. C. Mitra :** (a) Is it a fact that political prisoners Mukul Ranjan Sen and Biren Roy were sent to the Andamans ? If so, on what dates ?

(b) Is it also a fact that they have been brought back from the Andamans ? If so, why and when ?

(c) Had Mukul Sen been suffering from tuberculosis for over a year and Biren Roy from other ailments before their transfer to the Andamans ?

(d) Who examined their health in the Alipore Central Jail at the time of their transfer ?

(e) Who are the Members of the Medical Board in the Alipore Central Jail to examine the health of the political prisoners on their way to the Andamans ?

(f) Are Government prepared to reconstitute the Medical Board to ensure better examination of the health of the prisoners ?

(g) What is the present condition of the health of these two prisoners ?

The Honourable Sir Harry Haig : (a) The prisoners were sent to the Andamans on the 15th August, 1932.

(b) Mukul Ranjan Sen and Birendra Nath Roy were retransferred to Bengal on the 22nd March, 1933, and the 12th December, 1932, respectively on medical grounds.

(c) As far as is known Mukul Ranjan Sen was not suffering from tuberculosis, nor Biren Roy from any diagnosable disease, at the time of their deportation.

(d) to (f). The prisoners were examined by a Committee constituted in accordance with rule 824 of the Bengal Jail Code and were certified to be fit for transfer to the Andamans. Government do not consider that there is any ground for altering the rule.

(g) The latest report regarding the health of prisoner Mukul Ranjan Sen is that he shows no signs of active tuberculosis. His

temperature is normal and his weight for some months has been steady at 98 lbs. Biren Roy has no complaint at present and his weight has increased.

Mr. S. C. Mitra : What were the reasons which led the Government to send these prisoners back from the Andamans if they were not suffering from tuberculosis ? What were the diseases these persons were suffering from when they were in the Andamans and for which they were retransferred to Bengal ?

The Honourable Sir Harry Haig : I think I should have to ask the Honourable Member to give me notice of that question.

Mr. S. C. Mitra : Are Government now satisfied that, as these prisoners were sent back only after a few months, that the medical examination by the Medical Board was not quite thorough or satisfactory ?

The Honourable Sir Harry Haig : No, Sir ; these men were re-examined after their return, and I have given the House the results of their medical examination.

CONDITION OF THE HEALTH OF CERTAIN POLITICAL PRISONERS IN THE CELLULAR JAILS, ANDAMANS.

157. ***Mr. S. C. Mitra :** (a) Is it a fact that the condition of several political prisoners in the Cellular Jail, Andamans, named below :

1. Sjt. Satish Pakrashi,
2. Dr. Narayan Chandra Roy,
3. Dr. Bhupal Bose,
4. Sjt. Batukeshwar Dutta,
5. Sjt. Niranjan Sen Gupta,
6. Sjt. Sushil Das Gupta,
7. Sjt. Sudhangshu Dass Gupta,
8. Sjt. Nisha Kanta Roy Choudhury,

was serious during the last hunger-strike and they vomitted blood ?

(b) If not, what was their condition during the hunger-strike and how are they at present ?

(c) Is it also a fact that all the prisoners on hunger-strike were subjected to forced feeding ?

(d) If not, was prisoner Bidhu Sen subjected to forced feeding ?

(e) What are the reasons for his condition being so serious ?

(f) Was he not keeping good health since his transfer to the Andamans ?

The Honourable Sir Harry Haig : (a) No. The condition of none of these prisoners was ever serious, and the suggestion that any one of them vomitted blood is untrue.

(b) Nos. 2, 3, 5, 6, 7 and 8 suffered from no illness. No. 1 was in hospital for suspected malaria and No. 4 for mild influenza.

(c) and (d). All the prisoners were fed artificially. A large number of them took the food without any resistance.

(e) I understand that Bidhu Sen suffered from influenza and subsequently developed post influenzal congestion of the lungs which gave cause to some anxiety. Later, after the hunger-strike had terminated, he developed pneumonia.

(f) The Government of India have no further information about the health of this prisoner except that he has now completely recovered.

REPLY OF TELEGRAMS ENQUIRING ABOUT THE HEALTH OF POLITICAL PRISONERS IN THE CELLULAR JAIL, ANDAMANS.

158. ***Mr. S. C. Mitra** : (a) How many telegrams had been received by the Chief Commissioner, Andamans, and the Superintendent of the Cellular Jail, from the relatives enquiring about the condition of the prisoners' health ?

(b) How many of these telegrams were replied to ?

(c) Is it a fact that Mr. Mohini Mohan Das Gupta of Kalia (Jessore) and Mr. Thakur Das Roy of Calcutta sent reply-paid telegrams to the Superintendent of the Jail enquiring about the former's son Sushil Das Gupta and the latter's brother Dr. Narayan Roy respectively ?

(d) Why, in spite of the pre-payment of the telegraphic charges, was no reply given ?

(e) Do Government propose to issue instructions to send prompt replies to all such enquiries in future ?

The Honourable Sir Harry Haig : (a) to (e). I have no information in regard to the number of telegrams sent, the names of their senders or of the number to which replies were sent. Government had no desire to give publicity to the names of the prisoners on hunger-strike and therefore decided to inform only the relatives of those whose condition gave cause for anxiety. This decision was announced in the communiqué issued on June 17, 1933. The relatives who received no information were in a position to know that there was no cause for anxiety. If no replies were sent in regard to the condition of Sushil Das Gupta and Doctor Narayan Roy it was because these two prisoners were never ill.

Mr. Lalchand Navalrai : May I know from the Honourable Member if any relatives of these prisoners had gone to the Andamans to visit them after they were taken to the Andamans ?

The Honourable Sir Harry Haig : I think the answer to that is given to the next question.

Mr. S. C. Mitra : May I know from the Honourable Member what is the difficulty on the part of Government to reply to a pre-paid telegram saying that a particular prisoner is well and thus remove the anxiety from the mind of his relatives ?

The Honourable Sir Harry Haig : I explained the position to the Honourable Member and to other Honourable Members of this House when they were good enough to visit me in June. The position was that we were anxious not to advertise the strike and possibly confirm the hunger-strikers in their attitude by publishing their names in the papers, and naturally if anybody could send a telegram to the Superintendent of the Jail asking : " Is so and so on hunger-strike ? " and get an answer, that is equivalent to publishing the names of the prisoners on hunger-strike.

Mr. S. C. Mitra : If the inquiry is from a relative asking " how is so and so ? " and if he sends a pre-paid telegram, what is the difficulty on the part of Government merely to say that such and such prisoner is well ?

The Honourable Sir Harry Haig : The same result was achieved by the procedure which we adopted of undertaking to inform relatives of prisoners whenever there was any cause for anxiety.

INTERVIEW WITH POLITICAL PRISONERS IN THE ANDAMANS BY THEIR RELATIVES.

159. ***Mr. S. C. Mitra :** (a) How many applications or telegrams from relatives of the political prisoners have so far been received by the Jail authorities in the Andamans for permission to interview prisoners there ?

(b) Has any one of those relatives been given permission as yet ?

(c) If not, why not ?

(d) Is it a fact that Mr. Ramesh Sen of Sankrail (Howrah) has sent a reply-paid telegram to the Superintendent, Cellular Jail, soliciting permission for an interview with his sick brother Bidhu Sen ?

(e) If so, why has no reply been given ?

(f) Is it a fact that the permissions sought by Mrs. Uttama Sundari Roy and Mr. B. K. Das Gupta to interview former's son Kali Pada Roy and latter's brother Sushil Das Gupta, respectively, at Port Blair have been refused by the Superintendent of the Cellular Jail ?

(g) If so, will Government please state reasons therefor ?

(h) Do Government propose to issue instructions to the Jail authorities in the Andamans to give all possible facilities to the relatives to interview prisoners there ?

The Honourable Sir Harry Haig : (a) Seven applications for interviews were received up to the 9th August.

(b) Permission was given to the relatives of two prisoners both of whom were ill.

(c) Permission was refused in five cases because the prisoners were not ill and by going on hunger-strike had forfeited the privilege of an interview.

(d) and (e). Bidhu Sen was allowed to see his brother on July 19.

(f) and (g). The convicts were on hunger-strike and therefore forfeited their privilege of an interview.

(k) No special instructions are required. The grant of interviews is governed by the rules framed under the Prisons Act, 1894.

Mr. Lalchand Navalrai : May I know, Sir, if the relatives mentioned here and who visited these prisoners in the Andamans were already in the Andamans or they went from India merely to visit these prisoners ? If they went from India, at whose expense did they go there ?

The Honourable Sir Harry Haig : I imagine, Sir, they went from India. I do not think that the relatives of any of the terrorist prisoners are normally inhabitants of the Andamans.

Mr. Lalchand Navalrai : May I know the reply, Sir, to my second question, namely, who paid for the expenses of these relatives ?

The Honourable Sir Harry Haig : They must have paid their own expenses ; that is the normal rule.

HUNGER-STRIKE BY CERTAIN POLITICAL PRISONERS IN THE ANDAMANS.

160. ***Mr. S. C. Mitra** : (a) What are the reasons that led the political prisoners in the Cellular Jail to resort to hunger-strike ?

(b) Were their demands in accordance with the Jail Code provisions ?

(c) Has the attention of Government been drawn to the statement made by Swami Jnanananda on the 9th June last that appeared in this connection in the leading nationalist papers ?

(d) What are the terms of settlement of the hunger-strike ?

(e) Have the prisoners any more grievance at present ?

(f) If so, what are they and why cannot those be redressed ?

(g) Has Lieut.-Col. Baker, Inspector General of Prisons, Punjab, returned to India from the Andamans ?

(h) How long did he stay in the Andamans ?

(i) What special service was rendered by him during the hunger-strike ?

The Honourable Sir Harry Haig : (a) to (f). I would refer the Honourable Member to the reply given by me to Mr. Gaya Prasad Singh's starred question No. 31 on the 23rd August.

(g) Yes.

(h) From June 14 to June 22.

(i) He was sent to consult with the Chief Commissioner regarding the medical arrangements, and the result was in the opinion of the Government of India very satisfactory.

RULES FOR RECRUITMENT OF INDIANS TO THE INDIAN ARMY VETERINARY CORPS.

161. ***Mr. Jagan Nath Aggarwal** : (a) With reference to the declaration by Government during the last session of the Legislative Assembly that rules were being framed for the future recruitment of Indians to the

Indian Army Veterinary Corps on the same lines as Englishmen were recruited, provided the Indians were M.R.C.V.S., are Government prepared to expedite the publication of those rules so as to give a chance to Indian M.R.C.V.S. now in England to be recruited to the Indian Army Veterinary Corps ?

(b) Will the selection of recruits be made in England, and by what authority and when would it be made ?

Mr. G. R. F. Tottenham : (a) and (b). The attention of the Honourable Member is invited to the Press Communiqué issued on the 16th May last, a copy of which will be found in the Library. There are many important points connected with pay, leave and pensions, etc., which have not yet been settled ; and it is unlikely that the new rules will come into force before the first batch of Cadets receive their commissions from the Indian Military Academy at the end of next year.

Every effort will, however, be made to publish the rules in advance so as to give ample notice of the changes.

Mr. Jagan Nath Aggarwal : What about part (b) of this question, Sir ?

Mr. G. R. F. Tottenham : Those are among the details which have not yet been settled.

GROUND ENGINEERS EMPLOYED IN DIFFERENT FLYING CLUBS IN INDIA.

162. ***Mr. Jagan Nath Aggarwal :** (a) Are Government in a position to state how many ground engineers are employed in the different flying clubs and the Tata air services in India ? How many are Englishmen and how many are Indians, and what is their respective pay ?

(b) How many England-trained Indian ground engineers are unemployed, and when did they return from England ?

(c) Have Government considered the question of taking steps towards the employment of these Indians in the different flying clubs, and the Tata air services, after necessary training in the Trans-Indian Continental Air Service and Imperial Airways ?

The Honourable Sir Frank Noyce : (a) There are 14 Ground Engineers employed by Flying Clubs in India and Tata's Air Mail Service, seven of whom are Europeans, one a Mauritian and six Indians. In addition, one Indian is employed by the Madras Air Taxi Service. The salary paid to these Ground Engineers is not known.

(b) So far as the Government of India are aware, none of the Indian Ground Engineers who have returned from England are unemployed at present. Government have no definite information as to when these persons returned from England.

(c) I would invite the attention of the Honourable Member to the reply I gave on the 30th November, 1932, to part (a) of his question No. 1523.

Mr. Lalchand Navalrai : Is there any difference in the pay of Europeans and Indians ?

The Honourable Sir Frank Noyce : As I said, I am unable to give particulars of the pay they are drawing. That is a matter between the Ground Engineers and the Flying Clubs.

Mr. Jagan Nath Aggarwal : Will it not be desirable to keep a register of such persons who are qualified in England and in this country and also showing whether they are employed or unemployed ?

The Honourable Sir Frank Noyce : I shall be very glad to consider that suggestion.

PROPOSED REMOVAL OF AN ANCIENT SHRINE AT AZIMGANJ BY THE EAST
INDIAN RAILWAY AUTHORITIES.

163. ***Mr. S. C. Mitra** (on behalf of Mr. Bhuput Sing) : Will Government be pleased to state whether it is a fact that the authorities of the East Indian Railway intend to remove a long and ancient shrine in the shape of a *Shivlingam* that falls within the jurisdiction of the East Indian Railway at Azimganj (Bandel-Barhwarra Loop line) ? If so, are Government prepared to stop such action ? Are Government aware that its removal will be harmful and injurious to the sentiment of the Hindus and will revolt their feelings ?

Mr. P. R. Rau : The reply to the first part of the question is in the negative and the other parts do not arise.

DISCHARGE OF TEMPORARY STAFF OF CENTRAL PUBLICATION BRANCH.

164. ***Mr. S. C. Mitra :** (a) Will the Honourable Member in charge of the Department of Industries and Labour be pleased to state whether it is a fact that Government proposed to discharge the temporary staff of the Central Publication Branch on the eve of transfer of the office to Delhi from Calcutta ?

(b) If the answer be in the affirmative, was the sanction for the temporary establishment in existence at the time ?

(c) Will the Honourable Member be pleased to state :

(i) How many temporary men were actually discharged ?

(ii) What were the respective lengths of their services ?

(iii) How much were these temporary men drawing in Calcutta ?

(iv) Whether these men have been re-appointed at Delhi ?

(d) If the answer to part (c) (iv) be in the affirmative, will the Honourable Member be pleased to state whether these men are drawing the same pay as they used to draw in Calcutta ?

(e) If not, what are they drawing now at Delhi ?

(f) Were they allowed the travelling allowances admissible according to the Fundamental Rules ?

(g) If not, what are the reasons for the non-grant of travelling allowances ?

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

(c) (i)—11 clerks and one labourer.

(ii)—Nine clerks—between three and four years, two clerks under two years, one labourer—five years.

(iii)—Seven clerks—Rs. 40 each, four clerks—Rs. 45 each, one labourer—Rs. 16.

(iv)—Yes.

(d) and (e). Yes, with the exception of four clerks who were in receipt of Rs. 45 per mensem each, and are now drawing Rs. 35 per mensem.

(f) No.

(g) The attention of the Honourable Member is invited to the reply given by me to Kunwar Hajee Ismail Ali Khan's starred question No. 689 on the 7th March, 1933.

NON-GRANT OF ADVANCE INCREMENTS TO THE STAFF OF THE CENTRAL PUBLICATION BRANCH ON THEIR TRANSFER TO DELHI.

165. ***Mr. S. C. Mitra :** (a) Are Government aware that the staff of the Central Publication Branch sent a memorial to Government for advance increment on account of transfer ?

(b) Is it a fact that the memorial was turned down ?

(c) If so, was it on account of financial stringency ?

(d) Is it a fact that the staff of the office of the Director-General of Posts and Telegraphs were granted advance increment when the said office was transferred from Calcutta to Delhi ?

(e) If so, what were exactly the circumstances that led to the non-grant of advance increment to the staff of the Central Publication Branch ?

(f) Will Government be pleased to lay on the table a statement showing the scales of pay of the clerical staff of the Office of the Director-General of Posts and Telegraphs at the time of transfer ?

(g) Will Government be pleased to state the scales of pay of the staff of the Central Publication Branch ?

(h) Is it a fact that there has been a saving of funds out of the Budget allotment for carrying out the move of the Central Publication Branch ?

(i) If so, will Government be pleased to say how much was saved ?

(j) Referring to unstarred question No. 688, dated 7th March, 1933, are Government inclined to reconsider the memorial of the staff of the Central Publication Branch in respect of advance increment in consideration of the saving ?

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

(c) and (e). The reason for rejecting the memorial is stated in the reply given by me on the 7th March, 1933, to part (f) of the starred question No. 688 by Kunwar Hajee Ismail Ali Khan. I have nothing to add to that reply.

(d) No. They were allowed some personal pay to be absorbed in future increments.

(f) A statement is laid on the table.

(g) I am placing a statement on the table in connection with another question by the Honourable Member which I am answering to-day.

(h) Yes.

(i) It is anticipated that savings will amount to Rs. 43,600 approximately.

(j) No.

Scales of pay of the clerical staff of the office of the Director-General of Posts and Telegraphs at the time of its transfer from Calcutta to New Delhi in 1927.

Classes of posts.				Scale of pay.
				Rs.
Superintendents	..	..	..	500—25—700.
Assistant Superintendent and Chief Clerk, Simla Camp Office	..	..	..	350—20—450.
Head Assistants including Budget Assistants	..	..	..	250—20—350.
Personal clerk to the Director General	..	..	..	250—20—350 plus Rs. 50 special pay.
Head clerks	..	..	..	150—10—200.
'A' class clerks	..	..	..	80—80—100—5—150—10—250.
Cashier and Stamp Clerk, Calcutta office	..	..	..	80—80—100—5—150—10—250 plus Rs. 50 special pay.
Cashier, Simla Camp Office	..	..	..	80—80—100—5—150—10—250 plus Rs. 40 special pay.
Special pay for Stenographers	..	..	..	80—80—100—5—150—10—250 plus Rs. 25 special pay subject to the condition that pay plus special pay should not exceed Rs. 160 per mensem.
'B' class clerks	..	..	..	50—50—3—80—4—140.

DIFFICULTIES OF THE STAFF OF THE CENTRAL PUBLICATION BRANCH DUE TO ITS TRANSFER TO DELHI.

166. *Mr. S. C. Mitra : (a) Are Government aware that the staff of the Central Publication Branch has been hard hit owing to (i) extreme climate of Delhi, (ii) loss of domicile consequent on transfer, (iii) remoteness from their hearth and home, and (iv) financial hardship ?

(b) Is it a fact that the Standing Finance Committee sanctioned the expenditure for the move for the following reasons emphasised by the Department :

- (i) the paucity of sufficient accommodation felt in Calcutta, and
- (ii) bad arrangement of stock in Calcutta and the resultant faults in the Store Accounts ?

(c) If so, will the Honourable Member for the Department of Industries and Labour be pleased to state whether the location of the office at Delhi has done away with all the difficulties enumerated above ? If not,

will Government kindly say in what light success of the move can be correctly assessed ?

(d) Will the Honourable Member be pleased to state whether stock-taking was undertaken in April, 1933, by the Central Publication Branch ?

(e) If the answer to the above be in the affirmative, will Government be pleased to say whether the ledger and stock balances of publications have been reconciled ?

The Honourable Sir Frank Noyce : (a) Most officials prefer to serve near their own homes, but Government do not consider that special hardship is involved when this proves impracticable.

(b) I have no reason for thinking that the Standing Finance Committee's conclusion was based on the examination of difficulties relating to accommodation and stock-taking in Calcutta to the exclusion of the other considerations put before them.

(c) I have satisfied myself by personal inspection that the transfer of the Branch to Delhi is serving its purpose. The second part does not arise.

(d) The stock of publications was counted before despatch from Calcutta and again on receipt in Delhi. This was in effect a taking of stock, and a separate stock-taking, as such, in April, 1933, was therefore unnecessary.

(e) The Central Publication Branch is at present engaged in the work of reconciliation between the ledger and stock figures as they stood on the 31st March, 1933.

SALARIES DRAWN BY THE NON-GAZETTED STAFF OF THE CENTRAL PUBLICATION BRANCH.

167. *Mr. S. C. Mitra : (a) Will Government be pleased to lay on the table a statement showing the respective salaries drawn by the non-gazetted staff of the Central Publication Branch ?

(b) Will Government kindly lay on the table a statement showing the actual amounts deducted from their respective salaries on account of house rent ?

(c) Is it a fact that the Government sanctioned an advance loan of two months' pay subject to a maximum of Rs. 200 ?

(d) If so, will Government kindly lay on the table a statement of monthly deductions made in respect of each individual of the staff to recoup the advance loan ?

(e) Is it a fact that the Notified Area Committee, Delhi, charges Rs. 2-8-0 per mensem on account of water supply in the quarters ?

(f) Will the Honourable Member be pleased to lay on the table a statement of respective net balances of salaries of the staff that were actually left in hand in the month of June last after meeting the obligations enumerated below :

(i) Electricity charge,

(ii) Water supply,

(iii) Deduction on account of advance loan, and

(iv) 5 per cent. emergency cut ?

The Honourable Sir Frank Noyce : (a) I place a statement on the table showing the scales applicable to the superior staff.

(b), (d) and (f). Rent is recovered according to the usual rules, and in no case exceeds 10 per cent. of salary, and recoveries of advances are made at the rate of 10 per cent. of salary monthly. I am not able to supply particulars relating to individual cases.

(c) An advance of two months' pay was given, but no maximum limit was fixed.

(e) Yes.

Statement showing the scales of pay of the superior non-gazetted staff of the Central Publication Branch.

Posts.				Scales of pay.	
				Rs.	
Assistant Manager	300—20—400.
Accountant	250—10—350.
Head Assistant	200—10—250.
Assistants (including Cashier)	80—80—100—5—150—10— 200.
Clerks (including Addressograph Operator)	45—45—50—3—65—4—85—4 —105—5—140.
Typists	45—45—5/2—100.
Sarkar and Junior Addressograph Operator	25—1—35.

ACUTE DISTRESS OF THE STAFF OF THE CENTRAL PUBLICATION BRANCH ON ACCOUNT OF THE BURSTING OF MONSOON.

168. ***Mr. S. C. Mitra :** (a) Has the attention of the Honourable Member in charge of the Department of Industries and Labour been drawn to the report in the newspapers *Hindustan Times* and *National Call* of 29th June, 1933, regarding the acute distress of the staff of the Central Publication Branch on account of the bursting of monsoon ?

(b) Is the Honourable Member aware that a telegram was sent to Mr. A. G. Clow, I.C.S., Secretary, Industries and Labour Department, by the staff appealing for immediate relief ?

(c) If so, what steps did the Department take to remove their sufferings ?

The Honourable Sir Frank Noyce : Government have read the articles referred to in *The Hindustan Times* and *The National Call*, but both the newspaper accounts and the complaints made by the staff were greatly exaggerated. The officers of the Public Works Department took very prompt action to carry out the necessary repairs.

CONDEMNATION OF CERTAIN QUARTERS IN TIMARPUR, DELHI.

169. ***Mr. S. C. Mitra :** (a) Is it a fact that " E " Class quarters of Timarpur were condemned by the Public Works Department as being unfit for residential purposes ?

(b) If so, will the Honourable Member be pleased to state who is responsible for the allotment of condemned quarters ?

(c) Is it a fact that these quarters were constructed only for use for a short period ?

(d) If so, has not the specified period elapsed ?

(e) Is thorough overhauling of the quarters being considered by Government ?

(f) Is it a fact that these quarters were originally used by the industrial staff of the Delhi Press ?

(g) If so, are the industrial staff and the clerical staff of the same status ?

The Honourable Sir Frank Noyce : (a) No.

(b) Does not arise.

(c) and (d). It was, I think, believed when the quarters were constructed that they would not be permanently required, but no period was specified.

(e) No ; but necessary repairs are being done.

(f) The majority were occupied by members of the industrial staff but some were allotted to clerks.

(g) In respect of house accommodation all press employees drawing the same pay have the same rights.

MITIGATION OF THE HARDSHIPS OF THE STAFF OF THE CENTRAL PUBLICATION BRANCH.

170. ***Mr. S. C. Mitra :** (a) Is it a fact that the office of the Central Publication Branch has been located in the old Press Buildings, Civil Lines, Delhi ?

(b) If so, is the said building in a dilapidated condition ?

(c) Is it a fact that during the monsoon in Delhi, considerable damage has been done to the stock of publications ?

(d) Is it a fact that the walls of the building may collapse very soon ?

(e) Is it a fact that the building was erected only for temporary purpose for a fixed period ?

(f) Is it a fact that the roofing is made of corrugated tin sheets ?

(g) Is it a fact that the Controller of Printing and Stationery refused sanction for Khush for the office of the Central Publication Branch during the summer ?

(h) Is it a fact that the Honourable Member was appealed to telegraphically by the staff to order sanction for Khush ?

(i) If so, did Government take any steps to mitigate the hardships of the staff ? If not, why not ?

The Honourable Sir Frank Noyce : (a) Yes.

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

(e) It was believed when the building was erected that it would not be permanently required, but no period was specified.

(f) The roof is of corrugated iron.

(g) and (h). Yes.

(i) No ; it is not the practice of Government to take any action on direct applications of this kind. I may add that the telegram, which did not bear the name of any member of the staff, was most intemperately worded.

ILLNESS OF SAROJ RANJAN ACHARYA, A DETENU IN THE DEOLI DETENTION CAMP.

171. *Mr. S. C. Mitra : (a) Will the Honourable Member in charge of the Home Department be pleased to state whether Saroj Ranjan Acharya, B.A., detenu, is now lodged in the Deoli Detention Jail ?

(b) Are Government aware that he has been suffering from nervous prostration ? If so, what steps have been taken for his medical treatment ?

(c) Is it a fact that Kaviraji medicines are now being used by the detenu at the expense of the detenu's family ?

(d) When was he arrested ?

(e) Is it a fact that he has turned almost deaf in the course of his detention ? If so, what steps did Government take to cure his deafness ?

(f) Is it a fact that he underwent surgical operation at the Medical College Hospital, Calcutta ? If so, for what ailments ?

(g) Is it a fact that he underwent surgical treatment at the Alipore Central Jail Hospital for the second time ? If so, for what ailments ?

(h) What is the present condition of his health ?

(i) Is his weight well maintained ?

(j) Is it a fact that he was previously detained in the Buxa Detention Camp ? If so, when was he transferred to Deoli Detention Jail ?

(k) Was his widowed mother allowed any interview prior to the detenu's transfer outside Bengal ? If not, why not ?

(l) Was his mother informed of his transfer to Deoli Detention Jail ? If not, why not ?

(m) Is it a fact that a petition was sent to the Government of Bengal praying for his home-internment on the ground of ill-health ? If so, what steps have Government taken on the petition ?

(n) Do Government propose to consider the home-internment of the detenu now ?

The Honourable Sir Harry Haig : (a) and (b). Saroj Ranjan Acharya is in the Deoli Detention Jail and has been suffering from nervous trouble. He has been treated by the Additional Civil Surgeon, Ajmer, and is reported to have improved in health.

(c) Some Kaviraj medicine was sent to him about three months ago by a member of his family.

(d) April 22nd, 1930.

(e), (f) and (g). The detenu was deaf before his detention. In a petition submitted 2½ months after his arrest, he stated that he had been suffering from deafness and nasal catarrh for five or six months. At his own request he was examined in the Medical College Hospital, Calcutta, and underwent regular treatment there till August, 1931. He was operated on for infected tonsils in April, 1931. He was transferred to Buxa Detention Camp in September, 1931, but on the recommendation of the Medical Officer was subsequently sent back to the Alipur Central Jail and operated on for fistula. A specialist at the Medical College Hospital again examined him and reported that he was suffering from chronic middle ear deafness.

(h) and (i). I would refer the Honourable Member to the reply given by me to Mr. Gaya Prasad Singh's starred question No. 26 on the 23rd August last.

(j) Yes. He was transferred to Deoli on the 23rd September, 1932.

(k) His mother and brother were granted permission to interview him on the 19th August, 1932. His mother actually saw him on the 2nd September, 1932, as she failed to avail herself of the permission previously given.

(l) No. This is not the practice.

(m) and (n). Yes. The petition is under the consideration of the Government of Bengal.

HUNGER-STRIKE BY DETENUS IN THE DEOLI DETENTION CAMP.

172. *Mr. S. C. Mitra: (a) Will Government please state on how many occasions the detenus in the Deoli Detention Camp went on hunger-strike? What was the last occasion? How long did it last? How many detenus took part in it? What were their grievances?

(b) Is it a fact that two detenus were on hunger-strike for 16 days and two others for 11 days in the latter half of June, 1933? How did the strike end?

The Honourable Sir Harry Haig: There have been two hunger-strikes in the Deoli Jail. In regard to the first, I have nothing to add to the information given in my reply to the Honourable Member's short notice question on December 1, 1932. The second strike occurred in June of this year. Two detenus were on strike for 16 days and two for 10 days. Their grievances, as stated by them, related to diet, accommodation, medical arrangements and water supply, and included complaints against the staff. These grievances were found to be groundless.

ALLEGATIONS AGAINST THE BRITISH INDIA STEAM NAVIGATION COMPANY.

173. *Mr. Gaya Prasad Singh: (a) Are Government aware that the Honorary Secretary of the Muslim Teachers' Association, Rangoon, has sent a representation, dated the 21st May, 1933, to the Agent, British India Steam Navigation Company, Calcutta, in course of which it is stated that:

- (i) when the Indian teachers of Rangoon were travelling by S. S. "Egra" to Calcutta, the cover over the deck was taken away when the ship came into the Calcutta river on 30th March, 1933, and passengers were "heated under the shining sun for about eight hours. Some women and children took shelter in the second class deck, but they were driven back by the Chief Officer by the shower of blows" : and
- (ii) when they were returning to Rangoon after the vacation, on the 12th May, 1933, by S. S. "Karapara", the passengers were forcibly made to vacate the front deck by the false report of a sudden storm, and then "the crew began to play cricket", and when some passengers came back to their places they were driven down "by the Chief Officer kicking them very mercilessly", and the passengers in the lower hold were "under great difficulties for want of air" ?

(b) Do Government propose to hold a thorough enquiry into the serious allegations made above, and communicate the result to the House ? Are they aware that such complaints of wild treatment and mismanagement on the British India Steam Navigation Company line plying between Calcutta and Rangoon, are common ; and what steps do Government propose to take to remedy this state of affairs ?

The Honourable Sir Joseph Bhore : (a) The Government of India have not received a copy of the representation referred to, but it is understood that a representation on the subject was made by the Honorary Secretary of the Muslim Teachers' Association, Rangoon, to Messrs. Mackinnon Mackenzie and Company, Managing Agents of the British India Steam Navigation Company, Calcutta.

(b) An enquiry on the subject was made from Messrs. Mackinnon Mackenzie and Company and the Company reported that on neither of the two occasions were any of the passengers subjected to violence or abuse by the ships' officers.

As regards the specific allegations made by the Honorary Secretary of the Muslim Teachers' Association, Rangoon, it is understood that what actually happened was that on the voyage of the S.S. "Egra" from Rangoon to Calcutta, awnings were taken down as usual at Fulta Point, two hours (and not eight hours) before arrival at Garden Reach, in order to facilitate the discharge of passengers, mails, cargo and baggage without delay on arrival. On the outward voyage of the S.S. "Karapara" from Calcutta the weather was threatening and the awnings were therefore taken down on leaving the river in anticipation of inclement weather, but as fair weather prevailed later and as there was only a comparatively small number of passengers on board (*viz.*, about 400 deck passengers as against the maximum permissible number of about 1,000), one side of the foredeck was used for a short time by members of the ship's staff for their recreation. The Company state that this did not cause any real inconvenience to the passengers. With a view, however, to avoid the possibility of any such complaints from deck passengers in future the Company have issued instructions that passenger decks should not be used for the recreation of ships' officers on the voyage in question.

Government are not aware that such complaints on the British India Steam Navigation Company's steamers plying between Calcutta and Rangoon are common and in view of the position I have fully explained above they do not propose to take any further action in the matter.

Mr. Gaya Prasad Singh : May I know if any person connected with the Muslim Teachers' Association was examined in connection with the enquiry which is said to have been made ?

The Honourable Sir Joseph Bhowe : I have made it clear that the enquiry was addressed to Messrs. Mackinnon Mackenzie and Co., and that we did not ourselves hold an enquiry into the matter.

Mr. Gaya Prasad Singh : My question was this. Did Messrs. Mackinnon Mackenzie and Co. invite the Muslim Teachers' Association to give their version of the case before submitting the result of their enquiry to the Government of India ?

The Honourable Sir Joseph Bhowe : I cannot say. I have no information on that point.

Mr. Lalchand Navalrai : Will the Honourable Member tell me if the Government expected that those persons of that Company who were alleged to have kicked and given blows to the passengers would admit their guilt ?

The Honourable Sir Joseph Bhowe : I think that, if anybody is assaulted, he has his remedy in a Criminal Court.

Mr. B. Das : Since the Deck Passengers Committee's report was published, what machinery did the Honourable gentleman's Department establish to control the encroachment of the Steamship Companies on the liberties of deck passengers ?

12 NOON.

The Honourable Sir Joseph Bhowe : So far as an answer is possible, I must have notice of that question.

Mr. B. Das : May I remind the Honourable Member, judging from the reply which he now gave, that there has been encroachment of the liberties, rights and privileges of deck passengers by the crews and the officers of the Steamship Companies ?

The Honourable Sir Joseph Bhowe : I think I made it clear that the Company have issued instructions to see that such encroachment, assuming it was an encroachment, does not occur again.

STATEMENTS LAID ON THE TABLE.

The Honourable Sir George Schuster (Finance Member) : Sir, I lay on the table the information promised in reply to starred questions Nos. 641 to 645 asked by Sardar Sant Singh on the 6th March, 1933.

RECRUITMENT TO THE SUBORDINATE ACCOUNTS SERVICE.

*641. (a) Since 1st January, 1930, eight candidates have been recruited directly on the Civil side and one on the Posts and Telegraphs side. Of these, one was a Sikh, seven Muslims and one a domiciled Christian. The total strength of the Sub-

ordinate Accounts Service on the 31st December, 1932, and its distribution by communities were as follows :—

No. of Posts.		Hindus.	Muslims.	Sikhs.	Euro- pean and Anglo- Indians.	Indian Chris- tians.	Other com- munities.
Civil side	427	373	23	7	5	16	3
Posts and Telegraphs side	90	84	3	..	1	1	1
Total ..	517	457	26	7	6	17	4

(b) The replies to both the questions are in the affirmative.

(c) The percentages of passes in the examinations of the last six years are given below :

Year.	Percentage.
	%
1927	20.5
1928	30
1929	42
1930	22
1931	14
1932	6

None of the apprentices who have appeared in the Examination since 1930 has passed. Some of the successful candidates during the last three years have had lower educational qualifications than the apprentices, while some have had equal qualifications.

(d) Government are satisfied that the papers in the Examination are properly and impartially valued and are not prepared to appoint an examiner from outside to revise the marking.

(e) Extra chances have been allowed where they were considered justifiable. The case of each apprentice is decided on its merits.

EMPLOYMENT OF SIKHS IN THE OFFICE OF THE DEPUTY ACCOUNTANT GENERAL, POSTS AND TELEGRAPHS, DELHI.

*642. The following statement gives the required information :

Year.	A.	B.	C.	No. of Sikhs employed.	No. confirmed.	No. of Sikhs confirmed.
					A. B. C.	
1923	3	..	12	Nil.	16 2 ..	Nil.
1924	21	5	12	1 as typist.	21 3 2	Nil.
1925	24	..	2	Nil.		
1926	7	..	8	Nil.	..	..
1927	5	17	24	Nil.	1 typist	1 typist.
1928 .. ..	..	15	7	1(C)	20 10 43	Nil.
1929	5	13	6	1(A)	(1 typist also) .. 2 ..	Nil.
1930 .. ..	..	19	3	1(B)	19 14 6	1
1931 .. ..	..	7	1	..	(1 typist also) .. 1 ..	..
1932 .. ..	..	35	1	2(B)	.. 1 ..	..

EMPLOYMENT OF SIKHS IN THE OFFICE OF THE DEPUTY ACCOUNTANT GENERAL, POSTS AND TELEGRAPHS, DELHI.

*643. (a) The total number of Sikhs on the roll is as follows :

Class.	No.
A	3 (Includes one man transferred from a Calcutta Office).
B	8
C	1

(b) In the 1924 examination 33 candidates were successful of whom one was a Sikh taking fifth place. In the 1928 examination 22 candidates passed of whom one was a Sikh placed 8th.

(c) All recruits that passed in the 1924 Examination and continued in the office have been confirmed, except one (a Sikh) who failed to produce satisfactory evidence of his age and was not confirmed. Those who passed in 1928 have not been confirmed in view of the contemplated reduction of the Upper Division cadre.

SUPERVISOR OF RECORDS OF THE OFFICE OF THE DEPUTY ACCOUNTANT GENERAL, POSTS AND TELEGRAPHS, DELHI.

*644. (a) Yes. The number of temporary clerks recruited since June 1928 is 122 of whom about 21 are Kayasths, mostly retrenched clerks of the Pay and Accounts Offices and Central Accounts Office, Public Works Department. The allegation in regard to the Supervisor is baseless, and the last question does not, therefore, arise.

(b) The present Supervisor belongs to Panipat, Karnal District. No definite orders of the nature referred to were passed, and the other parts of the question do not therefore arise.

CONFIRMATION OF ONE MR. BASHIR AHMAD AKHGAR IN THE OFFICE OF THE DEPUTY ACCOUNTANT GENERAL, POSTS AND TELEGRAPHS, DELHI.

*645. The replies to both the questions are in the affirmative. Mr. Bashir Ahmed Akhgar was confirmed in a permanent vacancy owing to the misapprehension that the orders did not apply to the then existing posts in the Lower Division cadre in which no retrenchments were to be made. It would be impracticable to cancel the confirmation at this stage.

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

(i) the information promised in reply to starred questions Nos. 916, 917 and 918 asked by Khan Bahadur Makhdum Syed Rajan Bakhsh Shah on the 24th March, 1933 ; and

(ii) the information promised in reply to unstarred question No. 198 asked by Mr. Gaya Prasad Singh on the 10th April, 1933.

ALLEGED GRIEVANCES AGAINST THE MUNICIPAL COMMITTEE, AJMER.

*916. (a) Yes.

(b) Government are not in a position to say whether the assumption, on which this question is based, is correct.

(c) A number of questions relating to Ajmer Municipal affairs have from time to time been asked in the Legislative Assembly both before and since Colonel Howson ceased to be Chairman.

(d) Several such leaflets the authors of which were mostly irresponsible persons have been circulated.

(e) There has not been an abnormal number of representations relating to Municipal affairs since Colonel Howson ceased to be Chairman.

(f) Action has been taken whenever necessary.

(g) No action on the part of Government appears to be called for. The Committee have recently elected a new Chairman.

NON-PAYMENT OF THE SALARIES OF SOME SWEEPERS OF THE MUNICIPAL COMMITTEE, AJMER.

*917. (a) Three sweepers of the Ajmer Municipality complained to the Executive Officer of non-receipt of their wages for the month of February, 1932. Enquiries were immediately made and it was found that thumb impressions had been obtained on the salary bill in token of the amounts having been received by the payees. The matter was referred to the Thumb Impression Bureau, for examination of the thumb impressions appearing on the salary bill with those of the complainants and for report to the Special Sub-Committee formed to enquire into the matter.

(b) Yes.

(c) Before the report from the Thumb Impression Bureau was received, the sweepers lodged a complaint, against the Sanitary Inspector, in court. The matter being *sub judice*, the Special Sub-Committee had no alternative but to resolve that the case should be kept pending till the Court had given a decision. The case is still pending in the Magistrate's Court.

APPOINTMENT OF AN EXECUTIVE OFFICER IN THE MUNICIPAL COMMITTEE, AJMER.

*918. (a) Yes—*vide* rule XLII of the rules framed under sub-section (1) of section 34 of the Ajmer Municipalities Regulation, V of 1886. This regulation has been repealed by Regulation VI of 1925, but the rules under the old regulations are still in force as none have been framed under the new Regulation.

(b) An Executive Officer was appointed for the Municipality from the 8th August, 1931, on a salary of Rs. 450—25—600 *plus* Rs. 75 per mensem as car allowance.

(c) Yes. The question of delegating wider powers to the Executive Officer is under consideration.

(d) No. This is hardly a correct description but it is certainly desirable that he should have more extensive powers.

(e) An additional allowance of Rs. 60 only per mensem by way of house rent has just been sanctioned.

(f) The Executive Officer is doing useful work.

AMOUNT SPENT ON THE QUEEN MARY ZENANA GHAT, PUSHKAR.

198. (a) The work relates to the Pushkar Shamlat Committee and is being carried out through the agency of a Contractor under the supervision of the District Board Engineer, Ajmer, as a contributational work.

(i) information not available,

(ii) the 12½ per cent. supervision charges levied by the District Board include all expenses incurred for officers and establishment. The total supervision charges amount to Rs. 3,465.

(iii) Rs. 2,000.

(b) No.

(c) Rs. 94.

(d) Rs. 34,000. Yes.

(e) No. The pressure on foundation was however reduced under expert advice.

(f) The Brahamans of Basti Khurd of Pushkar have applied for the formation of a similar Shamlat Committee and the matter is under consideration.

(g) Under the terms of the Sanad permanent alienation of land is not permissible. In some cases the transfer of *Biswadari* rights may have occurred with the sanction of the Collector under the Ajmer Alienation of Land Regulation, 1914.

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

- (i) the information promised in reply to supplementary questions to starred question No. 2 asked by Mr. Gaya Prasad Singh on the 1st February, 1933 ;
- (ii) the information promised in reply to starred question No. 636 asked by Seth Haji Abdoola Haroon on the 3rd March, 1933 ;
- (iii) the information promised in reply to starred question No. 637 asked by Seth Haji Abdoola Haroon on the 3rd March, 1933 ;
- (iv) the information promised in reply to a supplementary question to starred question No. 874 asked by Lieutenant-Colonel Sir Henry Gidney on the 22nd March, 1933 ;
- (v) the information promised in reply to part (b) of starred question No. 917 asked by Mr. S. C. Mitra on the 7th November, 1932 ;
- (vi) the information promised in reply to part (c) of starred question No. 1532 asked by Pandit Satyendra Nath Sen on the 5th December, 1932 ; and
- (vii) the information promised in reply to unstarred question No. 139 asked by Bhagat Chandi Mal Gola on the 27th March, 1933.

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

*2. The general practice on Company-managed Railways, in connection with calling for tenders for bridge-work, structural steelwork and other similar works, is to call for tenders only in India in the case of small or unimportant works. In the case of large or important works simultaneous tenders in India and England are invited. In the former case the tenders are opened in India and dealt with by the Agents, without

any reference to their Home Boards, but in the latter case, although the tenders received in India are ordinarily opened here on the due dates, particulars of the tenders received are cabled to the Home Boards for consideration along with the tenders received in England, and it is the Home Boards who arrive at a decision in such cases. In the case of the Nerbudda Bridge, which is a work of exceptionally large magnitude, the Home Board of the Bombay, Baroda and Central India Railway did not follow the usual procedure, but instructed the Agent to send them un-opened the sealed tenders received in India.

MUSLIM DRAFTSMEN RETRENCHED FROM THE OFFICE OF THE CHIEF ENGINEER, SURVEY AND CONSTRUCTION, NORTH WESTERN RAILWAY.

*636. (a) The reply to the first part of the question is in the affirmative ; as regards the second part, the Agent reports that Mr. Prabh Das was appointed in a temporary post in the office of the Executive Engineer, Hyderabad, in view of the fact that he possessed qualifications which were not possessed by either Mr. Abdul Rashid or Mahomed Shafi. After his discharge from this temporary post, Mr. Prabh Das was again employed in short temporary vacancies because he was considered more suitable, but there is no intention to permit Mr. Prabh Das to secure any advantage by this temporary arrangement in regard to employment against a permanent vacancy.

(b) The reply is in the affirmative.

SINDHI HINDUS DISCHARGED FROM THE OFFICE OF THE CHIEF ENGINEER, SURVEY AND CONSTRUCTION, NORTH WESTERN RAILWAY.

*637. (a) 11.

(b) Discharges were made due to reduction of construction work on account of financial stringency.

(c) Men employed for purely temporary purposes or special jobs were discharged on cessation of work for which employed and their names have not been brought on to the waiting list for re-employment.

(d) Four have secured permanent employment and 3 have been appointed against temporary vacancies.

(e) The Agent has assured the Railway Board that the re-appointments have been made according to rules and the latter part of the question does not arise.

PERIODICAL INSPECTION OF STATIONS ON THE EAST INDIAN RAILWAY BY THE INSPECTORS OF ACCOUNTS.

*874. The Railway Servants Hours of Employment Rules, 1931, which were framed to give effect to the Hours of Work (Washington) Convention, and the Weekly Rest (Geneva) Convention, do not apply to the Inspectors of Railway Accounts.

APPOINTMENT OF LILLLOOAH *ex*-APPRENTICES AS WARD-KEEPERS, ETC., ON THE EAST INDIAN RAILWAY.

*917. (b) The Agent reports that both the European and Anglo-Indian who were appointed respectively as Ward-Keeper and Assistant Ward-Keeper had passed the Technical Examinations and that there were no Indian *ex*-apprentices who were as well qualified to take up the duties required in these appointments.

APPOINTMENT OF *ex*-APPRENTICES OF THE LILLOAH WORKSHOP.
 *1532. (c).

Name.	Date of completion of Apprenticeship.	Date of appointment.	Per cent. of marks in final examination in Technical School.	Starting salary.	Remarks.
			Per cent.	Rs.	
F. Macdonald ..	24-2-29	25-2-29	37	170	Temporary.
D. Culpeper ..	18-2-29	19-2-29	66	170	Do.
D. Whaley ..	4-2-29	5-2-29	31	160	
E. Sylvester ..	12-2-29	18-2-29	37	160	Discharged on 5-11-31.
E. Duke ..	31-1-29	1-2-29	27	160	Discharged on 20-8-31.
A. Beg ..	18-2-29	19-2-29	65	60	
R. R. Bose ..	12-2-28	15-2-29	61	60	
N. C. Chatterjee ..	11-2-30	1-8-30	57	90	
W. Smith ..	28-2-31	1-3-31	31	90	
E. Sim ..	2-3-31	3-3-31	52	90	
H. Platts ..	6-1-31	7-1-31	36	90	Transferred to Stores.
T. Gibbons ..	15-1-31	13-6-31	Sick	90	Appointed temporarily as a Draftsman. Discharged on 12-12-31 on expiry of sanction.
S. Ojha ..	31-12-30	1-1-31	57	150	Transferred from Jamalpur.
N. C. Nundy ..	15-2-31	1-3-31	57	90	

CONFIRMATION OF ASSISTANT CONTROLLERS ON THE NORTH WESTERN RAILWAY.

139. (a) It is presumed that the Honourable Member refers to the confirmation of men named in the question as Assistant Controllers. If so, it is a fact that they were confirmed after two to four years' service but it may be pointed out that these

confirmations took place more than eight years ago and are not in any way connected with the 51 Assistant Controllers who were confirmed in January, 1931.

(b) There are only two such men, one of whom was included among the 51 originally confirmed in January, 1931, and one whose case was overlooked at the time of the original confirmation.

(c) This question is not understood.

(d), (e) and (g). The Honourable Member's attention is invited to the reply given in the Assembly by Mr. A. A. L. Parsons on the 13th November, 1931, to Mr. S. C. Jog's Question No. 1291.

(f) The Fundamental Rule has been correctly quoted by the Honourable Member.

(h) The 14 men referred to had worked in the Control Branch for varying periods from two years and four months up to four years and eight months and drew officiating pay in the grade of Rs. 300—10—350 during these periods but on reversion to their substantive posts they were given the pay to which they were entitled under the rules. Those who have been confirmed as Assistant Controllers have been given the pay admissible in the scale, Rs. 300—10—350.

(i) The men who have been selected to fill the posts of Assistant Controllers are considered deserving to draw the pay attached to the post and there was no adequate justification to give those who have been reverted more than their substantive pays.

(j) The case of each individual, who has not been confirmed has already been very carefully considered and Government do not consider that there is justification for the action proposed.

THE CODE OF CRIMINAL PROCEDURE (AMENDMENT) BILL.

Mr. President (The Honourable Sir Shanmukham Chetty): The House will resume further consideration of the motion moved by **Sardar Sant Singh** :

“ That the Bill further to amend the Code of Criminal Procedure, 1898, be referred to a Select Committee.”

Mr. A. R. Cox (Madras : Nominated Official) : **Mr. President**, though I have several friends amongst the Honourable Members of this House, to most of the Members, I presume, I must be an absolute stranger, and I should like by way of preface or introduction to the few remarks that I am privileged to make today to inform the Honourable Members who do not know me who I am, what I am, and what qualifications I believe I have that justify me in being so bold as to intervene in this debate at this stage. No doubt Honourable Members will assume from the position from which I rise—and they will assume rightly—that I am a Nominated Official Member of this Honourable House. I may also tell them that I belong to that class of much maligned officers, much maligned by a certain section of the public, called District Magistrates. I have been exercising magisterial powers for nearly 31 years in this country, and I have been privileged to be a District Magistrate for nearly a period of 15 years, with, of course, interruptions on leave and other duty. I, therefore, think that I have a not inconsiderable experience which qualifies me to make a few remarks on this motion.

I have no doubt that it is within the memory of Honourable Members present here that this motion was discussed at Delhi as long ago as six months, and they may or may not remember what was said on the subject on that occasion. I myself did not have the privilege of being present then, but I have had the advantage of perusing in cold print the proceedings that took place on the 9th February of this year in

Delhi. Now, the Honourable Member who fathered the Bill, or rather I should prefer to call it, "mothered", spoke at considerable length. About three quarters of the way through his speech he was pulled up by the Chair for going into too many details. The Chair was, as you, Sir, may remember, occupied by your Honourable self in your capacity as Deputy President. Now you are our esteemed President. You, Sir, then stated in the course of your ruling that you recognised that in the case of a Bill of this description it was difficult to define what exactly was the principle involved, and you expressed your desire that the speakers should refrain from making more than general remarks as far as possible. I will endeavour, Sir, to follow that ruling, although it is not exactly an easy task considering the nature of the Bill. It consists of various amendments, I may say practically seven heads of amendments, to the Criminal Procedure Code, which is practically the Bible of the Magistracy and the Police in this country. And necessarily a Bill, composed of so many amendments, must be based on different principles. The second Honourable Member to speak was the Honourable Mr. P. C. Dutt, to whose seat I have the privilege of succeeding, in view of the fact that he has become an Honourable Member of another House. His speech was brief and to the point, and he opposed the motion; and it is not surprising that I, who wish to follow in his footsteps, should be found repeating some of the arguments which he used. The third speaker was the Honourable Mr. K. Ahmed who touched on only two of the clauses and opposed the motion. The fourth speaker was Mr. Seaman, a Nominated Member from the Central Provinces, who also opposed the motion in a speech which, to my mind, was full of very good points; and I wish, Sir, that, instead of my feeble piping, his words could still re-echo in this Chamber. I am afraid what he said has, by reason of the delay, been a great deal forgotten by the Honourable Members of this House. The next speaker was Mr. Aggarwal, who spoke at considerable length in support of the motion, and he became the father of the Bill whose mother, as I have already suggested, is the Honourable Sardar Sant Singh. After him, another Nominated Official, Mr. G. S. Dutt, from Bengal, spoke at great length; and I observe that he cannot be said to have obeyed the ruling of the Chair perhaps owing to the fact that, while he was speaking, an Honourable Member, who was not the Deputy President, was occupying the Chair.

Mr. B. Das (Orissa Division : Mon-Muhammadan) : Is it fair to criticise the Deputy President's or the President's ruling ?

Mr. A. R. Cox : I am only judging from what I have seen in print. After a few remarks from my Honourable friend, Major Nawab Ahmad Nawaz Khan, who likewise opposed the motion, another Honourable Member, Mr. Mitra, put forward another claim to paternity of the Bill.

Mr. Lalchand Navalrai (Sind : Non-Muhammadan Rural) : We are anxious to hear your original remarks.

Mr. President (The Honourable Sir Shanmukham Chetty) : Order, order. Honourable Members must observe that an Honourable Member who makes a maiden speech must be given a patient hearing and not be interrupted. (Applause.)

Mr. A. R. Cox : I come now to briefly review the provisions of the clauses of the Bill. They fall, as I said, under seven headings.

[Mr. A. R. Cox.]

Clauses 2, 3, 4 and 5 can be clubbed together, as they deal with the proposal to abolish all magistrates who have been especially empowered under section 30 of the Criminal Procedure Code. I may say that at one time, when I was the Collector and District Magistrate of the Bangalore Civil and Military Station, I was exercising these powers conferred upon me by the Chief Commissioner of Coorg. I think I tried then three cases under that section. Coming as I do from Madras, I have not much acquaintance with the extent to which what we may call section 30 magistrates exercise judicial functions in this part of India. We have very few such magistrates in Madras. In fact, this section does not refer to Madras as a whole, but only to non-regulation parts thereof. I understand, however, that in certain parts of India, where this section is in force, about nine times the number of cases are tried by section 30 magistrates than are tried by Sessions Judges and Assistant Sessions Judges with the aid of assessors or jury. It seems to me that if section 30 magistrates are to be abolished in the provinces where they are now employed, there will be a large number of Additional Sessions Judges who will have to be appointed, the cost of whose appointment will be a considerable factor to be reckoned with. The necessity for abolishing them arises from one of the principles which underlie this Bill, namely, distrust of the magistracy. It was previously mentioned six months ago in the Delhi Session that this distrust of the magistracy was a new thing. Very often the police have been distrusted, but the idea of distrusting the magistracy was rather a new one. I may say that it seems to abound throughout this Bill. Clauses 6 and 8 seem to me to be somewhat trivial, rather too trivial to justify the intervention of this Honourable House. What is the exact difference between "vicinity" and "locality" it is perhaps difficult to say. The Honourable the Mover has admitted in his speech, delivered six months ago, that he is not particularly enamoured of the word "vicinity", and he desired that the Select Committee, to whom it is proposed to send this Bill, should decide what word they think to be correct. I ask, Sir, is it reasonable to ask the Select Committee practically to draft an amendment like this? I think the Honourable the Mover believes that the word "vicinity" is rather narrower than "locality". I doubt that myself. I think if you say that a certain village is in the vicinity of Simla, it is probably not so near as if you use the word "locality". I am entering into details and disobeying the ruling which I mentioned before. It is so trivial that we may apply to it the legal maxim "*de minimis non curat lex*". The same remarks apply to clause 8, which deals with the exemption from personal appearance of certain accused persons. I do not think that a sufficient number of reasons have been adduced to show that there is any necessity to amend that section of the Criminal Procedure Code. Clause 7 deals with remand, and it is based on the principle of distrusting the magistracy as well as the police. Now, I have read through this section and I cannot understand in what better way the intention of the Legislature could be carried out than in the phraseology which is at present used. As regards the upholding of the dignity of the magistracy by insisting that a magistrate should go to his Court in order to remand an accused person who is supposed to be forwarded to him by the police, I should like to state that magistrates do not always sit in their Courts at their headquarters. At least a

number of magistrates in Madras have to go on tour. I have myself the experience of a number of extraordinary incidents in connection with the trial of cases. I remember one case which, with your permission, Sir, I will mention to the House. I was camping at a little travellers' bungalow where, just before dinner time, a *jutka* turned up, having come 24 miles away from my headquarters. It contained—as I found when the occupants got out—a police sergeant and a European young gentleman. I could not understand what they were calling for at that time of night. So I asked them what the matter was. The sergeant said: "I have brought this young Ceylon planter. He is charged with a breach of the law under the Sea Customs Act." So, I asked my boy to bring two whiskies and sodas and add some more water to the soup and said we will have dinner in a few minutes time. I was then the prospective magistrate. I was actually working as a sub-divisional magistrate. So, the prospective magistrate, the prospective prosecutor and the prospective accused were sitting down together and having dinner together. I persuaded the young gentleman to waive his rights to be tried as a European British subject and to go back another 24 miles in the same *jutka* and appear before the Indian sub-magistrate next morning. I mention this only as an illustration of the curious positions in which sometimes magistrates find themselves. I do not think there is any necessity to amend clause 7. If the police do their duty, and if the magistrates do their duty under this section, then it is exactly what I gather my Honourable friend, the Mover, wishes to take place.

Clause 9 deals with a section in the Criminal Procedure Code which allows discretion to a magistrate when he has ordered that imprisonment should take place in the event of non-payment of a fine and, if that imprisonment is undergone, to order or not an accused to pay the fine, or to have the fine realised from the accused in the usual way. It is noticeable that the section distinctly says that steps should not be taken to realise the fine unless the magistrate for particular reasons thinks that it should.

Mr. S. G. Jog (Berar Representative) : Special reasons.

Mr. A. R. Cox : I think that on most occasions magistrates are inclined not to take any steps. In fact, in my experience I very rarely noticed that a magistrate orders a fine to be collected from a person who has undergone the alternative imprisonment. Where a man is fined a certain amount, and especially in cases where compensation has been ordered by a Court to be paid to the complainant, or to the injured person who has suffered by the offence committed by the accused prisoner, I think it is only right that, if a person can afford to pay the fine and deliberately chooses not to pay it on the spot, and goes to jail to work out what is probably a very short term imprisonment, I think it is only right that steps should be allowed under the Act, to compel him to pay that fine even though he has undergone that imprisonment. I think this is another clause which rests on the principle of distrust of the Indian magistracy. It is to be remembered in this respect that the magistracy is becoming now much more manned by Indian gentlemen than it used to be. I think it would be a great pity if at this stage anything were done by this House to show or to indicate or suggest that we have not confidence in the Indian magistrates.

[Mr. A. R. Cox.]

Clause 10 deals with the power of the Local Government to order that appeals in security cases should be heard by District Magistrates instead of by the Sessions Judges. I personally am not aware of any case, since this amendment was made, of that order being made by the Local Government under which I serve. This, again, is a case in which the superior magistracy—the District magistrates in this case—are suspected as not being competent to perform their duty impartially. If a District Magistrate finds that a case comes up to him on appeal with which he has had previous dealings in an executive capacity, I do not think, Sir, that there is any magistrate holding his position who will not report that fact and say, “I do not feel capable of dealing with this case”. I, therefore, think that this power should be retained.

As regards clause 11, it is proposed in that clause to abolish the ban on certain appeals in certain cases. Again, that presumes that mistakes are too frequently made by the subordinate magistracy. Sir, junior and senior magistrates, and even High Courts, are liable to commit mistakes. All humans are fallible. It will cause an enormous waste of time if superior Appellate Courts are to be compelled to entertain petty cases in which presumably, in most cases, in ninety-nine out of a hundred cases, the accused has no real grounds of appeal whatever. My opinion is that if this motion were carried and the Bill were referred to the Select Committee, they would send it back practically retaining the words of the existing Criminal Procedure Code. It has been said that this Bill is an omnibus Bill; indeed it has many heads. It tried to be born in Delhi six months ago, and after, what I see one Honourable Member said or suspected to be, an insufficient period of gestation. It was not then born. It was pushed back into the womb of Time, and is now trying to be re-born again. Is it necessary to send that infant, mothered by my Honourable friend and fathered by several others, is it reasonable to send that to a committee of doctors and experts to attend its birth? I think, Sir, that considering its parentage, I do not mean the human parentage, I mean considering the principles which are the parents of the Bill, distrust of the magistracy on the one side and distrust of the police on the other, I make bold to say that, if there was a suggested marriage between principles of that kind in Germany at the present moment, and if such a marriage could not be prevented, I am pretty sure that at a very short interval some Hitlerite official would come along and say that the parents should be sterilised so as to prevent any possibility of such an issue. I hope, Sir, I have not trodden on anybody's toes very severely. I claim the indulgence of the House if I have unwittingly and unknowingly trespassed on or broken any rules or conventions of this Honourable House. I would like Honourable Members to read what was said before, and I think I have said enough to show that it does not require a steam roller to pulverise this little butterfly, which, I think, ought not to see the light of the day. With these words, I oppose the motion before the House.

Hony. Captain Rao Bahadur Chaudhri Lal Chand (Nominated Non-Official): Sir, all the Members, who have spoken so far, have begun by laying stress on the claims they have to speak on this motion. The Honourable the Mover, Sardar Sant Singh, has based his claim on his 25 years' experience as a lawyer on the Criminal side, in a heavily

criminal district like Lyallpur, and the Honourable Mr. Cox has similarly described his experience as a Collector and Magistrate. I base my claim on stronger grounds than any that have been mentioned so far. In the first place, I lay claim to 21 years' experience as a criminal lawyer, but my second ground is stronger than any that have been placed before this House. I belong to a community which is chiefly concerned with crimes. If a census were taken of those section 30 cases in the Punjab where *violence* is involved, my community will certainly surpass all other communities put together. So, it is not only my experience at the bar, but some sort of personal interest is involved in what I say before the House.

As has already been remarked by several Honourable Members, there is no *one* principle involved in this Bill. Indeed if we have a look at the different sections, there is no similarity of principle and the disparity is apparent on the face of it. Clauses 2 to 5 relate to the abolition of section 30 magistrates existing in the Punjab and Burma. Clause 6 relates to searches, clause 7 relates to remands, and clause 8 relates to the power of the magistrate to dispense with the personal attendance of the accused. Then there are two clauses, in one of which appeals are sought to be lodged with the Sessions Judge and, not with the District Magistrate and, in the last clause, clause 11, it is sought that appeals should be provided for in all petty cases. So, it is clear that there is no principle involved in this Bill and each clause has to be discussed on its individual merits.

As regards deletion of section 30, if the amendment were based on mere sentimental grounds and, if Sardar Sant Singh were to come before this House on the ground of simply removing a disparity between the Punjab and other provinces, meaning thereby, that this section was casting a slur or a sense of inferiority on the Punjab, then I would certainly have agreed with him. But, there is no inferiority and this is so, as the Punjab is different, I mean the criminal side of the Punjab is different from every other province, and a perusal of any one year's criminal report will show that violent and serious crimes are rampant in the Punjab, and unless speedy justice is done in those cases, it will be difficult to carry on the administration. It was with this object only, without any sense of inferiority, that provision was made that there should be a class of experienced first class magistrates between the ordinary first class magistrates, and the Sessions Judges. Sir, during the last ten years, the number of section 30 cases has been going up and every day we find several magistrates in the criminal districts busy in trying these serious cases. I perfectly agree with Sardar Sant Singh when he says that some of these magistrates are weak and should not be entrusted with these powers. But he will admit that they are exceptions rather than the rule. Besides, there are two very strong safeguards against any misuse of power by such weak magistrates. In the first place, the Punjab Government, before giving these enhanced powers to any magistrate, always consult the High Court, and there has not been any case where they have gone against the wishes of the High Court. The High Court bases its recommendations on the judgments of those first class magistrates that come before them in appeals or revisions; and so it cannot be said that it is at the sweet will of the executive that these powers are given to magistrates. Secondly, whenever the High Court is not satisfied with

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the work of any section 30 magistrate, it recommends to Government that the powers should be withdrawn, and the Punjab Government have never hesitated to do so.

Sardar Sant Singh (West Punjab : Sikh) : May I ask the Honourable Member to quote an instance during the last ten years when these powers were withdrawn from any magistrate in the Punjab ?

Hony. Captain Rao Bahadur Chaudhri Lal Chand : Yes, to give one example, to satisfy my friend, I may mention that Mr. Stephens, the Sub-Divisional Magistrate of Sonapat, held an enquiry in a murder case, in which I appeared for the accused and in which grave irregularities had been done during this inquiry which was conducted by that magistrate. The case came up before the District Magistrate ; and he recommended that such a magistrate should not be given criminal powers at all and the Punjab Government not only withdrew section 30 powers, but withdrew all criminal powers, and that gentleman was posted as Treasury Officer at Dalhousie. I could quote many other examples also during recent years, but I do not wish to bring in individuals. So my submission is that it is the High Court that in practice controls these section 30 magistrates, and not the executive side of the Government, and the latter is very particular and does not allow efficiency to suffer.

Then, Sir, my friend has alluded to the sanctity attached to a Sessions Court. I mean no disrespect to any Court when I say that I have seen Additional Sessions Judges, I.C.S., officers with three or four years' experience, trying serious cases where they had not learnt the elementary principles of law. In one case, I remember, a Sessions Judge was shown a ruling of the Lahore High Court with which he did not agree. He did not follow it and said : " Well, I do not agree with the High Court. The first thing that I will do, when I become a Judge of the High Court, will be to overrule this ruling." So, it is the particular individual that counts, and there is no charm in the designation of a section 30 magistrate or a Sessions Judge. The harm, that will be done to accused persons charged with these serious crimes if they were, in all cases, to go to Sessions Judges, can better be illustrated by giving a particular case. Only last Friday I had to conduct a case at Rohtak in which eight persons were involved under section 395 (dacoity). It was a very serious offence and, if the case had gone to the Sessions Court, they would have remained in lock-up for three or four months in order to get their turn. But the Additional District Magistrate took up the case as a section 30 magistrate. In a couple of hours, he examined the four witnesses who were alleged to be on the spot and he found that there was no case and all were discharged. If these people had been forced to go to the Sessions Court, it would, of course, have meant some gain to me or to my colleagues, but it would have ruined all the accused financially, it would have ruined their crops. Now they are at liberty to carry on their business, and it has cost them only 15 days' lock-up and two hours' trial. It is not the only case ; there are numbers of cases that are being speedily disposed of by section 30 magistrates, which would not be the case, if every such case were to go to the Sessions Judge. Can my Honourable friend imagine how many Sessions Judges would be required in the Lahore district alone, where at the present moment no less than six section 30 magistrates are busy dealing with these cases ?

Even in a district like Gurgaon, which is not criminal at all, I find that last year there were no less than four section 30 magistrates busy trying these cases at one time. There is another thing and probably that might with reason have been brought to light by my Honourable friend, the Mover. I cannot believe that it has escaped his notice during his extensive practice. Ever since the amendment in the bail provisions of the Criminal Procedure Code in 1923, there has been a tendency on the part of the prosecution to show that every small case is a section 30 case. That is the evil that is going on and, against that, my friend should have proposed a remedy. Most of these so-called section 30 cases are not section 30 cases at all. Every 379 case, ever since this amendment, becomes a dacoity case; every 457 case becomes a 459 case or a 458 case. The police and the prosecution do this in order to keep the prisoners in the lock-up during the trial, because, if they did not do that, the prisoners would be out, owing to the further discretion that has been given to the magistrates by section 497 of the Criminal Procedure Code. This process is really an abuse of power and, if my friend had raised his voice against this, I would have agreed with him and would have supported him. Indeed I have seen cases which have been put before magistrates under section 307, Indian Penal Code (attempt to murder) where the doctor's evidence only showed that it was a skin deep superficial scratch, and on that, people have been challoaned under section 307 and have been kept in the lock up. That was a complaint which my friend ought to have brought before this House. Such cases are a waste of the time of section 30 magistrates when conviction ends in section 323 only. These cases do come before these magistrates and, against that, my friend ought to have raised his voice. I cannot admit that these section 30 magistrates are not doing justice to the people. My friend has not quoted in his arguments any case where a section 30 magistrate had been under the influence of the police, and had favoured the prosecution. He could quote cases from statistics whereby he could show percentage of results of appeals having been accepted from such cases, where such cases were tried by Sessions Judges, and the percentages of results of appeals in cases where they were tried by section 30 magistrates. Nothing of the sort has been shown by him in his able speech. I congratulate him on the fact that he has argued his case very well. If he cannot convince Honourable Members of this House, it is because he has got a very weak case to argue.

Now, I come to the second clause which relates to searches. It has been very well discussed by Mr. Fox and Mr. Seaman and they have given the difference between "locality" and "vicinity"; and they have shown that, by substituting "vicinity" for "locality", things do not improve at all. Besides, I would point out that there are any number of villages which are very small, where not a single person could be trusted to come forward and speak against his co-villager; and if a *lambardar* or *zaildar* or a respectable person from a neighbouring village is brought in, no harm is done. It is only to ensure that the man will not be won over when the case goes into Court that these witnesses are brought from outside. I hope my friend, Sardar Sant Singh, does not wish that facilities should be provided for accused persons to win over prosecution witnesses.

Then, I come to the remand clause, No. 7. The Honourable Mover's complaint is that remand in some cases is granted in places where the

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Court does not sit, or, in other words, instead of the accused being brought to the Court, the Court goes to the accused. He quoted an instance of a case from Lahore Fort. That may be a very serious and extraordinary case ; but every one of us who has to deal with criminal cases knows very well that nearly in all cases the accused are brought before the Courts. Of course the police always choose, I must confess, a convenient Court for this purpose where they can get a remand easily ; but even so, the change proposed does not improve matters : it is the individual magistrate who counts and the amendment of this clause will not affect any magistrate at all.

Clause 8 is simply dispensing with the personal attendance of accused. I think I cannot do better than refer to the High Court decision that was quoted by my Honourable friend wherein they cancelled the warrant and issued a summons, and in that way the difficulty was overcome. This same procedure could be adopted by any magistrate, as was adopted by the High Court ; and I have seen in practice magistrates taking this course when they find that the accused person's presence should be dispensed with. So no hardship has so far been done in ordinary cases.

Then, Sir, there is clause 9 in which the recommendation is that fines should not be realised if imprisonment has been undergone. I agree with my friend in this ; but as there is no one principle involved in this case, my agreement with one section does not avail, because either the Bill should be rejected or should be accepted in full.

As for clause 10, it is a very vital section, and as it relates chiefly to the Punjab, I have to submit that the procedure adopted and the power of appeal extended to District Magistrates is a very healthy provision in my Province. As a matter of fact, not only as a criminal lawyer, but as one who is living in the midst of those who are committing these violent crimes—I am not referring to crimes to which my friend's community is accustomed, like cheating, forgery, embezzlement and fraud, etc., which are called civilised crimes (Laughter)—I am referring to those offences only wherein the element of violence is predominant—I have known cases in my practice and I could quote many instances, where the preventive sections have not been properly used or rather have not been used by the police or magistracy. That is a general complaint in the Punjab and I have said this more than once before to those who are concerned with this matter, that the preventive sections are not being fully utilised, and that most of the crimes in the Punjab are due to the fact that Courts go on technicalities, particularly in section 107 and section 110 cases. Sir, the only thing that the Punjab Government has done is that they have empowered all District Magistrates to hear appeals in cases which ordinarily ought to have gone to Sessions Judges. I think they have done the right thing. It is very necessary that a District Magistrate should be in touch with the nature of crimes in his district. If this power were also taken away from him, when the heavy work that has been imposed on him on account of his other duties has already taken away section 30 cases from him, and if he is not to interest himself in criminal administration except in hearing appeals from second class magistrates, then, I think, that will cut him off from the criminal administration of the district. Besides, during my practice I have never

come across a case of an appeal before a District Magistrate in preventive section cases, wherein it could be said that gross injustice has been done.

Well, Sir, the last clause aims at providing appeals in all petty cases. I have no quarrel with that. If Government could find appellate Courts and if important work will not suffer, then, there is no harm. The difficulty, however, that was contemplated by my friend is no difficulty at all. He quoted cases wherein a respectable man had been given a light sentence by a first class magistrate which was not appealable and for which he had to go through the Sessions Judge to the High Court ; and although the Sessions Judge was in sympathy with him, yet, there was no remedy except that the case had to be sent up to the High Court. Section 438, I think, provides that Sessions Judges, while recommending such cases to the High Court, could suspend the execution of that sentence. The men in such cases are all released on bail, and, therefore, no particular hardship beyond the fact that their cases have to go to the High Court is done to them. Sir, as I said before, it is a case of individuals who will work the provisions of the present Criminal Procedure Code, and neither these amendments nor any other amendments could change the minds of certain persons. There are, I admit, certain persons who have shown weakness for prosecution, as we call it, but such cases are an exception rather than the rule. I remember a case of this kind. I brought it to the notice of the District Magistrate privately, and told him that it was given out that the District Magistrate wanted this to be done, and, therefore, the magistracy was feeling themselves very weak. The District Magistrate, to my knowledge, called a meeting of the magistrates and told them plainly that they were not to do injustice to anybody on any ground and that they were to sit in Courts as judicial officers. There may be exceptions, as my friend has quoted, but they are not the rule. But those exceptions could be found amongst Sessions Judges also, and not only among section 30 magistrates. Sir, generally speaking, the Criminal Procedure Code was amended so recently as 1923. All the sections were then very carefully sifted by this House, and I think no case has been made out for a revision of this section, and, therefore, I oppose it.

Mr. B. V. Jadhav (Bombay Central Division : Non-Muhammadan Rural) : Sir, I rise to support the motion to send the Bill to a Select Committee. My Honourable and gallant friend, who has just sat down, has opposed the motion, but if one were to read between the lines of his speech, he will find that my friend was the staunchest supporter of the Bill. He has eulogised the magistracy before whom he had many occasions to appear, and the eulogy was of such a high order that one would see that the conditions that prevail in the Punjab call for a remedy, and that the method suggested by my friend, Sardar Sant Singh, is the right one. Fault has been found, Sir, with this Bill that it contains many principles. That I do admit. Had my friend, Sardar Sant Singh, been in the House for a long time when he tabled the Bill, I think he would have split up the Bill into three or four different Bills, and this attempt would not have been characterised by the remark that there is not one single principle in the Bill. But, all the same, Sir, the Bill is intended to amend several sections of a big Procedure Code, and as these sections apply to the Procedure Code in cases brought before certain magistrates, I do think that no great harm has been done. My Honourable and gallant friend has admitted that at

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least one section is a very good one. When the whole Bill is sent to the Select Committee and the Select Committee do not approve of the changes in other sections, but they approve of the change in that one section which has met with the approval of my gallant friend, then there would be no objection for the Select Committee to reject all the other sections and to keep the only one section which, according to him, is a very sound one.

Hony. Captain Rao Bahadur Chaudhri Lal Chand : But that is a very important section. It is not worth the trouble and time that will be wasted.

Mr. B. V. Jadhav : It may be important or unimportant. It all depends upon the point of view one takes. What is unimportant to my gallant friend may be important to others. Sir, at one time he waxed so eloquent that I was persuaded to think that it would be very advantageous for my Presidency, the Bombay Presidency, to have section 30 magistrates introduced there. I was almost on the point of drafting a Bill, but then I realised that this House would not accept that Bill, because it is for the Local Government to ask for those powers, and so I left the matter at that, and at last when I realised that Sardar Sant Singh wants to deprive his province of the benefits that are now derived by the system of this magistracy and then I found that there was something wrong in that system, or the Presidency was criminal, and, therefore, it required to be singled out and punished so very summarily.

Sir, I need not take the time of the House any longer, but I would
 1 P.M. compliment my new friend, Mr. Cox, on the fine maiden
 speech that he delivered. I must admit that I greatly
 admire his hospitality in calling the prosecutor and the accused to his
 table. But, then, how many are the magistrates who would act in that
 generous way towards the accused ?

Mr. S. C. Mitra (Chittagong and Rajshahi Divisions : Non-Muham-
 madan Rural) : Particularly if they are Indians.

Mr. B. V. Jadhav : And my Honourable friend, Mr. Mitra, adds, particularly if they are Indians. The accused and the ordinary police do not even find a decent shelter when the latter take the accused persons to a magistrate, especially when he lives in a travellers' bungalow. The magistrate is very comfortable no doubt ; he gets his whisky and soda ; but the prosecutor and the accused have to go many a time without a meal, and, as for shelter, the shade of a tree is supposed to be good enough for them. All these hardships ought to be avoided as far as possible and, therefore, some improvement in the procedure is actually necessary. The attempt of my Honourable friend, Sardar Sant Singh, is in the right direction. We have to look to his intentions and not to the execution. There are, I admit, many faults in the drafting and that is the reason why the motion is put forward for reference to a Select Committee. All those defects and deficiencies in the language will be corrected by the members of the Select Committee, and I hope that, when the Bill is returned to this House, it will be found to be completely acceptable to it. I support the motion.

Mr. A. Das (Benares and Gorakhpur Divisions : Non-Muhammadan Rural) : I rise to support this motion which has been brought forward. I

think, at the proper time, by my Honourable friend, Sardar Saut Singh. It is no justification while opposing this motion to say, as my Honourable friend has said from the opposite Bench, that the Criminal Procedure Code was only recently amended about three years ago and that, therefore, it was perfect. There are certain defects which have been brought out by the Honourable the Mover of this motion, and though I have no experience of the Punjab, I from the United Provinces can say that the grievances enumerated in this Bill, particularly under clauses 7 and 9, do need speedy redress, and as far as clause 9 is concerned, even my Honourable friends on the opposite Benches have admitted its justice. All those points which have been elucidated in the course of the discussion today will, I have no doubt, be considered by the Select Committee, but so far as the principle of this Bill is concerned, not a word has been said so far as to why it should not be adopted.

Hony. Captain Rao Bahadur Ohaudhri Lal Chand : There is no one principle.

Mr. A. Das : There are several principles involved if my Honourable friend will look into the Bill. It is not right to say that this Bill does away with speedy justice. My Honourable friend, on the other side, has said, "We want speedy justice". So do we. But speedy justice does not mean injustice. There are cases in which injustice has occurred to which my Honourable friend, Sardar Sant Singh, has drawn the attention of the House, and I think it is the duty of this Legislature to pass this motion and to so legislate that those cases of injustice will never occur. There is another aspect from which one can well say that this Bill involves a principle, namely, want of confidence in the executive. None of us here are perfect. I do not think it can be said that the judiciary or the executive is perfect. So, there is no question involved so far as the impartiality of the executive is concerned, but numerous cases have happened and are happening in the country where the injustice involved by the improper application of the Criminal Procedure Code has caused very serious consequences. What is the justification,—when a man has been imprisoned and has been awarded a fine and has served, because he is not able to pay the fine,—for another term of imprisonment—why should he be caught over and over again, as has been done by the executive, for the realisation of that fine? Even after he has served a term of imprisonment in lieu of fine which he could not pay, the police will not allow him to rest in peace. So long as he has a *lota*, or a *thali*, the police will go after him in spite of the fact that he has served out another term of imprisonment in lieu of fine. Therefore I strongly support this motion so far as clauses 7 and 9 are concerned and I think the complaints do need a speedy remedy. So far as the other provisions of the Bill are concerned, I do not think we have any section 30 magistrates, but all those objections, which have been raised to it, can be carefully considered by the Select Committee which consists of a large number of gentlemen here representing both the Government side and the popular side. I have no doubt that when the Bill has been considered by the Select Committee and emerges from it, it will be acceptable to all parts of the House. But I submit that there is no justification for stifling this motion for referring the Bill to a Select Committee.

Rai Bahadur Lala Brij Kishore (Lucknow Division : Non-Muham-madan Rural) : Sir, having been long connected with the administration

[Rai Bahadur Lala Brij Kishore.]

of the Code, which is proposed to be amended, I wish to express a few words on the subject. About section 103, the Honourable the Mover objects to the word "locality" and he wants to replace it by the word "vicinity", and he further says that if in the Select Committee a better word can be found he has no objection to change the word. Sir, it matters little when the police officer is bound to search in the presence of two or more respectable persons whether they may be of the locality or of the vicinity.

About section 167, the Mover complains that, when an accused is sent up before the magistrate for remand, the magistrate does not often record his statement and does not even see him. I entirely agree with the Honourable the Mover that, before an order of remand to the police custody is made, the magistrate ought to have the accused before him in person, and, if he so desires, with his pleader, to show or prove whether he deserves to remain in police custody or not, for the law does not presume a man to be guilty until he is proved guilty and so he ought not to suffer troubles before he is proved guilty. But to require the magistrate to give remand in Court only seems to me impracticable, for this means that the magistrate should not give remand in holidays even in cases of urgent necessity.

Sir, the amendment of section 205 is a formal one. Really it restricts the discretion of the magistrate to grant exemption from personal attendance or appearance only in cases where summonses have been issued in the first instance. Such instances often occur in which great difficulty arises by this restriction. So the magistrate should have his discretion in dispensing with the personal attendance of a particular accused in particular cases and, consequently, this section requires to be amended. As regards the amendment of section 386 of the Criminal Procedure Code, this is a question of imprisonment in default of payment of fine. Really the Mover of the Bill has suggested this with a noble object. The accused undergoes imprisonment in default of payment of fine, but even then the power of realising the fine is given to the magistrate and the fine is realised by the attachment of his moveable property and thus it is a double hardship to the accused. We should all realise this, but there will be one difficulty in the amendment that no compensation can be given to the aggrieved party. In many cases it so happens that the magistrate, while awarding the sentence of fine, also makes an order that out of the fine realised some portion is to be given to the other side by way of compensation. So the section can be amended, but for those cases only where no compensation is paid out of the fine. Sir, this section should be used as a means of putting pressure on the accused to pay the fine specially when he can pay, but does not deliberately pay the fine. The magistrate has to issue the warrant of attachment of the moveable property as soon as he passes orders of imprisonment in default of payment of fine. At least this is the practice on our side. Much of the purpose of the Mover can be served if the matter is really left to the entire discretion of the trying magistrate. With these words, I conclude what I have to say.

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

The Assembly re-assembled after Lunch at Half Past Two of the Clock, Mr. President (The Honourable Sir Shanmukham Chetty) in the Chair.

Mr. Muhammad Azhar Ali (Lucknow and Fyzabad Divisions : Muhammadan Rural) : Sir, I rise to support Sardar Sant Singh's motion for the reference of this Bill to a Select Committee, my foremost reason being that this Bill has been brought into this House by a very experienced criminal lawyer of the Punjab and it has already been supported by other civil and criminal lawyers. This Bill, on the other hand, was not sent out to obtain opinions from the public or from the High Courts, and the Bar Associations. Thus I will be right if I say that the opinion of the non-official section of this House about this Bill, under these circumstances, ought to carry a great weight. Government on their side have also come out with certain objections and those objections are mostly by those official Members of the House who can claim to have some experience of the administration of the criminal law. Yet, their wish to administer the law as it is and to retain power in their hands is rather strange. Sir, the powers given by this Code which my Honourable friend, Sardar Sant Singh, wants to amend are undoubtedly such as are always considered by the official section as being very necessary for them. Their experience may be anything, yet to the Indian public those amendments are extremely necessary ; not only because they are harsh laws, but also, as at the present moment when we are entering into a new Constitution, the atmosphere ought to be very clear, and the status of Indians ought to be raised. I suppose also that these amendments, proposed by Sardar Sant Singh, are in accordance with jurisprudence, the spirit of the times, and the Treasury Benches ought to reconsider their position. When I go on with each section, they will, I hope, reconsider their position and will not oppose this Bill, because the official section has opposed it and, therefore, their experience alone should carry great weight with them. Sir, there is a criminal class with which my Honourable friend, Captain Lal Chand, seems somehow to be affiliated. Sir, I do not belong to this class nor do I think any official Member of this House belongs to such a class. Therefore, his obsession too should not come in the way of these amendments. Those ideas of old day justice ought to be removed from the minds of the present day Indian administration and Indian justice. India's claim for about hundred years for the separation of judicial and executive functions has been on the anvil, but it is a great pity and we are very sorry that it has not yet been taken in hand. If that great thing had been performed, I am sure these amendments would not have been necessary today. When I take the amendments of Sardar Sant Singh *seriatim*, I find that there is an amendment to clause (2) of section 30 and clause (3) of section 34 of the Criminal Procedure Code. Nobody would deny that the administration, as it is carried on in India by the help of the assessors or the jurors in the Sessions Court, is to a great extent satisfactory than those carried on by a single magistrate sitting as a single and sole authority. Section 30 does not provide anywhere that the magistrate would call the assessors or the jurors for his help. Therefore, this special privilege should either be extended to the District Magistrates or they should not have that authority under section 30 to carry on trials or deal with the cases unless with the help of the assessors ; otherwise on the face of it, the whole position appears to be absurd. Sections 30 and 31 are applicable not only to the

[Mr. Muhammad Azhar Ali.]

Punjab, but also to a very loyal province, namely, my own province of Oudh. It may be said, as Captain Lal Chand said, that there are criminal tribes on his side, but I assure you, Sir, that Oudh is not a criminal province and there are very few criminal cases which require the administration of sections 30 and 34. I know that in my province the number of Assistant Sessions Judges has also been increased and the work can now be entrusted to them for speedy action. Section 30 says :

"In territories respectively administered by the Lieutenant Governors of the Punjab and Burma and the Chief Commissioners of Oudh, the Central Provinces, Coorg and Assam, in Sind, and in those parts of the other provinces in which there are Deputy Commissioners or Assistant Commissioners, may, notwithstanding any thing contained in section 29 invest the District Magistrate or any magistrate of the first class, with power to try as a magistrate all offences not punishable with death."

When I read this section, my blood really boils. I do not see any reason why these provinces only have been dubbed as the most criminal provinces. The people of Madras, Bombay and other provinces may be highly cultured and highly civilized, but I stand here to protect my own rights and I would say that my province is as civilized as the other provinces are.) When we have become a Governor's province, I do not see any reason why such serious laws should be administered in our province now. When I read the object of section 30, I find that it is to confer special powers on District Magistrates, only to shorten the proceedings of the trial by avoiding the commitment to the Sessions Court which sits only at considerable intervals. In my own province I find that though on certain occasions the Sessions Judges do go and try cases on their tours, there are also Assistant Sessions Judges and the Subordinate Judges who have been given powers of Assistant Sessions Judges, to try criminal cases. So the objection that cases are tried at considerable intervals cannot hold water. I think it is now very easy for these Assistant Sessions Judges to try these cases instead of sending them to District Magistrates or Special Magistrates.

Sir, the next amendment is to section 103. My friend, Sardar Sant Singh, in his Statement of Objects and Reasons and also in his speech before this House last time, explained that the great importance of this section lies in the words "respectability of the inhabitants of the locality" and not in the word "locality". Different High Courts have interpreted the word "locality" in different ways and the criterion of respectability is neglected. Therefore, I do not think I have much to say about it beyond saying that it is a very salutary amendment which Sardar Sant Singh has proposed and the House should carefully consider the suggestion.

Coming to section 167 (1), the amendment, Sir, is :

"after the words 'such magistrate' the words 'where he ordinarily holds his Court' shall be added."

This also is a matter which depends upon the great experience of a great lawyer. Great hardships were recounted on the floor of the House by my Honourable friend, Mr. Jadhav, which the accused suffers and that is the experience of every lawyer. It may not be the experience of the officials, because just as they are sitting in this House resting in their seats, they also do the same in Courts and they themselves have every facility when they go out on tour to try these cases. They can go to a village or a sub-division and they will be amply provided in their needs and comforts by the tahsildar. It is not even the lot of the poor lawyer whenever he goes

out to plead the case of an accused, although the police also, when they go out into the interior of a district, have got those facilities. Therefore, I submit that the amendment proposed by my Honourable friend is a very salutary one and if we do not keep the words, "where he ordinarily holds his Court", then a magistrate can hold his Court at any place he chooses to the inconvenience of others. There is another amendment to this section at the end of clause 3, which says that the following words shall be inserted: "after hearing the accused or his counsel if the accused so desires". I ask the Official Benches, where is the harm in giving the accused a chance of explaining. Where is the harm if a magistrate hears the accused or his counsel on his behalf if there are good reasons. I suppose this is an inherent right of the accused and if there is any important thing to be decided against the accused, then he ought to be given a chance to be heard fairly and squarely. Therefore, this amendment too is a very salutary one. Next we come to section 205 which reads "whenever a magistrate issues a summons, he may, if he sees reasons so to do, dispense with the personal attendance of the accused, and permit him to appear by his pleader". My Honourable friend's motion is "the word 'whenever' and the words 'issues a summons' should be omitted". To every one it will appear to be a reasonable amendment. After the amendment, Sir, the section will read:

"A magistrate may, if he sees reasons so to do, dispense with the personal attendance of the accused, and permit him to appear by his pleader."

The object of clause 1, as amended, will be served by clause 2 if this motion is accepted. The Mover has also given one of the best reasons in his Statement of Objects and Reasons. He says:

"the Courts had to circumvent these provisions by adopting the procedure of first cancelling the warrants and then ordering the issue of the summons, in order to make the section to cover the case".

My only object in supporting the amendment is why give the magistrate a handle to circumvent certain things when you can give him a direct right to issue the summons or warrant. As the amendment is also a reasonable one, I hope the House will not withhold its support. Next we come to section 386 which empowers the issue of warrants for the levy of fines. What my Honourable friend's amendment proposes is that this double penalty should be removed. When I read Mitra's commentary on the Criminal Procedure Code, I find that in 1923, this very section was amended:

"Firstly, the main object of the amendment was, under the old law a fine could be recovered only by distress and sale of moveable property. Under the present law it can be recovered by sale of immoveable property also as is provided in clause (b); secondly, under the old law a fine could be recovered by distress and sale, even though the offender had undergone a full term of imprisonment in default of payment of fine. The present section ordinarily prohibits the recovery of fine in such cases and allows it only on special reasons."

What the Sardar's amendment wants is that we should delete the words "unless for special reasons to be recorded in writing it considers it necessary to do so". This is a very small amendment and, in view of the lines that I have just read that the present section ordinarily prohibits the recovery of fine in such cases and allows it only on special reasons, I do not see why special reasons should be mentioned when the Court can already prohibit the recovery of fine. Therefore, my submission is that all the amendments proposed by my Honourable friend, Sardar Sant Singh, should be adopted.

The Honourable Sir Bepin Behary Ghose (Law Member) : (Applause.) Sir, I rise to oppose the motion. I regret that the first time I open my lips here I should have to oppose the motion of my Honourable and learned friend for whom I entertain great esteem. Sir, I am devoid of the gift of oratory ; I am not a ready or a practised speaker and although my friends having remembered all my years cheered me when I got up to address the House, it will not be my lot to command the applause of listening senates when they hear me out. I will, therefore, Sir, ask the indulgence of the House for my halting speech and for my want of command over language.

I find from the records, Sir, that you have ruled that we must speak shortly on the principles of the Bill. As many Honourable speakers before me have pointed out, it is very difficult to find the principle of the Bill in the several clauses which have been brought forward by the Mover in his Bill. But one learned and Honourable speaker has helped me to find out one principle at least with regard to clause 2. He said, why should these provinces,—and he particularly spoke of the Punjab,—be marked with a badge of inferiority under the provisions of section 30 of the Code ? And he also pleaded for uniformity. Now, Sir, I must protest against the opinion that any section of any law in the country could brand the Punjab with the mark of inferiority,—inferiority indeed ! Throughout the whole of India and probably beyond that, the Punjab has always been considered as the land of brave men,—and may I add,—of fair women. (Laughter.) I have had the privilege of the friendship of many gentlemen hailing from the Punjab in Calcutta, cultured men who have occupied the highest offices under Government, in medicine, in engineering, in the accounts department, and also commercial men of very high repute. I have known them and enjoyed their friendship ; and could any man say that those gentlemen and their ladies could not hold their own against any people of any country ? Therefore, Sir, I submit that the badge of inferiority is only an imagination in the minds of the Honourable gentlemen and also of the Mover, because he also used the word “ inferiority ” in his speech. That is a mistake. I have said, Sir, that the people of the Punjab have always been remarkable for their bravery, but bravery, if not softened by the humanitarian influences of education and culture, has its defects. Those who are cultured and educated are brave as well as humane. But in certain parts of the Punjab,—and I say this parenthetically because in the few months that I have been here it has been my duty to deal in the first instance with petitions for mercy,—to my regret I have noted that one strong word leads to an exchange of abusive expressions, and then one of them comes out with a *dang*, which probably means a *lathi*, or a *chhab* which means a spear or a dagger and that is thrust into the anatomy of his opponent. Now, Sir, the Punjab, as Captain Lal Chand has said, is one of the pre-eminent provinces for this sort of bravery. A brave man does not care for his own life and he has very little care for the life or limb of a man whom he dislikes. One of the learned and Honourable Members yesterday spoke of the invasion of Bengal and of Calcutta by taxi drivers from the Punjab. Well, Sir, they are brave and, of course, many of them are Sikhs. They are very brave, but we poor timid Bengalis are afraid of their bravery (Laughter) and I for myself always tell my driver to avoid passing along or in front of a Sikh taxi or bus driver, because they would not hesitate for a moment for crashing into some other person or car or even a lamp post (Laughter) if they are

supposed to be delayed. Sir, I would, therefore, point out to this House that there cannot be uniformity of treatment in that part of the Punjab where they stick a knife or spear into their opponents on the slightest provocation. And there is another province, the sister province of the Punjab, which was part of it, but has now been separated, the North-West Frontier Province. I have found within the few months of my experience as Member of Government here, that the North-West Frontier Province, the Punjab and Burma supply more crimes of violence than all other provinces put together. I may tell my Honourable friends that for about a fortnight I have not got anything from Burma. But from the North-West Frontier Province and the Punjab cases always flow in. Even this morning I had to deal with two cases from the Punjab where, on the very slightest provocation and for the slightest reasons, men have been murdered. Now, Sir, if there is no murder but loss of limb and grievous hurt and all that, why should not cases be decided by the magistrates when the issues are very simple? Because in most cases I find there is no elaborate evidence. There is hardly any attempt to conceal facts and except a plea of alibi there is hardly any defence. These cases, I submit, may very well be disposed of by magistrates having special powers. Now, Sir, I am familiar with one place, more familiar I think than with other places, *i.e.*, the Sonthal Parganas. I will tell you an instance, which was vouched for by a very reliable person, of a trial in the Sonthal Parganas. A friend of mine was in a civil case before a Deputy Commissioner in the Sonthal Parganas who had,—I do not know the state of affairs now,—the powers of a Subordinate Judge. That gentleman was sitting in Court when a Santal was brought up before him on a charge of grievous hurt. When the charge was explained to him, he was asked what he had to say. In his broken Bengali he said: "Yes, I have done it, but that man there (*pointing to a petition writer*) asked me to say that I have not done it. But I would not speak a falsehood." The Deputy Commissioner awarded him some sentence, I forget what, may be three or four months. Would it have been a kindness to send him to distant Bhagalpur, which used to be the Sessions Court for the Sonthal

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Parganas in those days, where he would probably be in the lock up for months and months before his case could be taken up, and probably the same sentence or a higher sentence awarded? My Honourable friend probably thinks that the Sessions Judges award lower sentences than magistrates with these special powers. My experience does not always accord with the view of my learned friend: if I drop the word "Honourable" now and then, I hope Members of the House will pardon me, because here we are all, all Honourable men.

I may cite another instance from the experience I have of many years, longer than I care to remember, longer than I think of any gentleman in this House. People are brought up for petty offences who have previous convictions. In one part of Bengal—of course in the Chittagong hill tracts and the Sonthal Parganas which was part of Bengal, Magistrates and Deputy Commissioners were given this special power: but in other parts they have not. Now, a Magistrate sent up a case of a poor *dhobi* who was in the bad habit of stealing his customers' clothes. He had three or four previous convictions and the Magistrate thought that he should be given more than two years and sent up the case to the Sessions Court. What did the Sessions Judge do? The *dhobi* was in *hajaj*,—I do not know whether the word *hajaj* is understood here: *hajaj* means when an under-

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trial prisoner is kept in the lock up—we use it in Bengal and probably also in the United Provinces : as I was saying, he was in *hajut* for several months, because the Sessions Judge could not take up his case, and when the case was taken up, the accused was sentenced to transportation for life. These men are really a nuisance, but not a danger to society ; but the Sessions Judge sentenced him as above. I dare say, no Magistrate would have thought for a moment of awarding such a sentence. I submit, therefore, that the question of uniformity does not arise. This is a country of many cultures : there is the highly intellectual man ; there is the poor Santhal and Bhil and all those people who have not been sophisticated by the improving influences of civilisation to speak an untruth in a plausible way so as to tax the highest abilities of learned advocates in cross-examination. These people blurt out the truth : even if they tell something false at the very commencement at the teaching of prowlers about the Court—as I have given the instance of the Santhal—they always in the end speak the truth ; and would it be kind—I think it would be cruel kindness—to send these people to the Sessions Court, to which a Magistrate can send an accused person only after going through all the evidence, and writing a commitment order ? The Sessions Judges may not take up the case for months. As one of our friends, Captain Lal Chand, said, nine times the number of cases are disposed of by Magistrates under section 30 in his province than those disposed of by the Sessions Judge ; and you will have to increase the number of Sessions Judges by nine times if his idea is correct. The Honourable the Mover will probably say that it is better to undergo the expense than to have perfunctory justice. I submit that within a short time the Punjab will be autonomous and then my friends may pay as much taxes as they like in order to have nine times the number of Sessions Judges for dispensing justice with regard to people who are notoriously addicted to crimes of violence. My friend, Mr. Azhar Ali, has spoken about Oudh ; but probably he is under some mistake, because I find that in the United Provinces of Agra and Oudh section 30 of the Code is only applied to the Kumaon division—Garhwal, Almora and Naini Tal. I do not know whether my Honourable friend ever went to practise in Garhwal or Almora or even Naini Tal, and, therefore, I am afraid he cannot speak with first hand knowledge of how cases are tried by these magistrates. Garhwal, of course, is a place rather difficult of access : there are no Sessions Judges and it seems Sessions Judges are not required there ; there may be a few minor cases of violence and up to now I have not found any within the time I have been here : there are probably simple cases of simple hill tribes which may be decided without much elaboration, and, therefore, I submit that the House will consider whether it would be expedient or proper to take away the powers of the Local Government to invest magistrates with this special power under section 30. It is an enabling section ; no Local Government is bound to confer this power ; and if any particular magistrate does wrong and does not try cases properly, it lies with the gentleman whose knowledge is first-hand with regard to the misbehaviour of a particular magistrate to bring it to the notice of the authorities ; and I dare say, as each province has its Legislative Council and Ministers, the accusation of the gentleman who brings facts forward will be listened to. As a matter of fact, I find in the papers with me that instructions have been issued to the various Local Governments by the

Government of India that only magistrates of experience, who have had at least been three years in the exercise of first class powers and who have been well spoken of, should be invested with this power.

The Honourable and Learned Mover has spoken of one fact, and it pains me to think if it is so. He stated that the High Court of the Punjab has made a rule that a magistrate should dispose of a certain number of cases within a certain time. I must say, Sir, that I cannot approve of any such rule, because one case may take five minutes, while another case may take five days. In the happy land from which we come, the High Court is not concerned with the magistrate's business. The executive Government probably looks to that. The High Court only looks to the work of the Civil Judges and Sessions Judges, and I know that in most cases the Sessions Judges do not find time to take up cases expeditiously, and for months and months cases lie undisposed of. Therefore, I submit that in certain cases and in certain areas where the number of crimes of violence is far in excess of other provinces, it is a salutary provision that the magistrates may be invested with this power. And, as I have said,—I do not want to repeat it at length—if any magistrate tries cases wrongly, that is a question, as has been said by other Honourable Members, which relates to the *personnel*. There are bad magistrates as well as bad Sessions Judges. Probably the Honourable the Mover has heard of cases or seen cases where the Sessions Judges are accused of moving their pen on paper to show as if they are taking down the cross-examination properly, but, as a matter of fact, they are doing nothing....

An Honourable Member : Some of the magistrates also do the same thing.

The Honourable Sir Bepin Behary Ghose : Magistrates, of course, are said to be worse than Sessions Judges. The point is that committing cases to the Sessions Court may not always meet the remedy desired by my friend. In one case I may say, without irrelevancy, a Sessions Judge was accused of sleeping all the time when counsel was addressing the Court. There was a complaint before the High Court, and when the High Court asked for an explanation, the Sessions Judge said in answer : "As a matter of fact, I did not sleep ; the voice of the counsel was so harsh and raucous that it was impossible to sleep when he was addressing, but as counsel was repeating himself over and over again, I shut my eyes."

Now, Sir, as I have stated, in the province of Oudh, there is nothing like this power exercised by the Local Government. In Bihar and Orissa, the Local Government desire it for Hazaribagh, Palamau, Singhbhum and the Sonthal Parganas. I have told the House about the Sonthal Parganas, and all those districts are inhabited by the same class of simple and lovable people. In Madras they want this power in the Agency Tracts only and nowhere else. Therefore, Sir, I think I have made my point clear as best I may that there cannot be any uniformity with regard to this provision. It is really an enabling provision which the Governments under their discretion may or may not exercise. One Honourable Member said that where the magistrate is disposing of cases under section 30, within a few steps there is the Sessions Judge—why should not the accused be taken from this Court to that ? Now, Sir, if cases were tried—as in the case of primitive people,—if the Sessions Judge sat under a tree dispensing justice without the formalities of this Code, the annotations of which by some editors have run into two big volumes, that might have been practicable. But, under the Criminal Procedure Code,

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before a Sessions Judge tries a case, the magistrate has to hear the whole evidence on behalf of the prosecution, then write out a commitment order and then send it to the Sessions Court. The Sessions Judge fixes the date of the hearing of the case having regard to the state of his file. All this takes months and months. It may be, Sir, very good to say as my learned friend, Mr. Navalrai, said, why should not the accused be taken from this Court to that. But it must have been said only to create an effect, and my friend knows much better than I do—my experience of Criminal Courts is very limited—that there must be a commitment order, and so forth. I do not think that it is at all necessary to say anything more on this clause.

Then, Sir, with regard to clauses 3, 4 and 5, they are consequential to clause 2. If the House thinks that it would not cause very great mischief, if the permissive powers under section 30 are retained on behalf of the Local Governments, then it is not necessary to speak about these clauses.

Next I come to clause 6. With regard to this clause, much has been said very forcibly by several Honourable Members. Not being well versed in the niceties of the meanings of words in the English language, I find very great difficulty in understanding the difference between the words "locality" and "vicinity". One Honourable Member on this side stated that locality is more circumscribed, and with great respect I should also think so, of course subject to correction by those friends of mine whose vernacular is English. If I say that Qutab Minar is in the vicinity of Delhi, I do not think that I should be very far wrong, and I suppose in a geography book if it is stated that Barrackpore is in the vicinity of Calcutta, although it is about 15 miles away, would that be wrong? Therefore, I submit, the word "locality" was advisedly used by the framers of the original Act. Now, Sir, it is certainly right and proper that people from the locality should be brought for making the searches. My Honourable friend has cited an instance from a Criminal Law Journal where some Judge held that locality means a place which may be far distant from the place where the searches was made. I confess I fight shy of these law journals. Although I am afraid of offending gentlemen who are concerned with law journals, either as reporters, or as proprietors or as editors, I must say that the great vice of these law journals is to pack up as many cases in their publications as possible. There is a race run amongst themselves about the number of cases to be reported. I have not read this particular case; I suppose it is better that I should not. Probably in that case the Judges had to decide as a question of fact whether the place from where the witnesses were brought, having regard to the special circumstances, came within the meaning of "locality". I do not know if that case was cited before a magistrate as an authority. I personally know that on questions of fact cases from law journals are cited—I can cite an instance. A case was reported in one of the law journals where it was said that on a moonlit night a man could be recognised from a certain distance. That case was cited before a judge as an authority for the proposition that on a moonlit night a man can be recognised at a distance of 50 yards or so. I, therefore, submit that if a law journal is cited to the effect that it is a question of law that the "locality" is at a distance, that page should be torn out from the book.

There is another thing which I may say, but I am afraid I am taking more time of the House than I thought. I was going to say, if the object of the Honourable the Mover is to get witnesses from the immediate neighbourhood, there may often be very great difficulties. As Captain Lal Chand has said, in various parts of the country there are hamlets which are apart from the main village in which people of a certain class reside ; it may be half a mile or a mile distant.

Suppose there is a dacoity and the police think that one of the houses should be searched. All these men of the hamlets are tied to one another by bonds of interest or relationship or friendship ; or it may be that they were participators in the dacoity. Is it possible for the police to get any of them from the near neighbourhood to be search witnesses who would speak the truth ? I know it may be said that police sometimes plant things. But what are the lawyers for ? What are these eminent gentlemen whom I see here for, if they cannot turn the police officers inside out in the witness box and compel them to admit that the thing was not found there ? Of course, criminal lawyers, who always appear for the defence, have their own views. They think that every accused person they get out of the clutches of the law adds a feather to their cap, and briefs flow from all criminals from all parts of the country to them. But there is the question of justice. The peaceful inhabitants also require protection. If my Honourable friend, Sardar Sant Singh's house is burgled or if robbers come and rob him, as it happened the other day, in the heart of the city of Delhi, would he be satisfied if in making a search of the house of the criminal suspected to have stolen the goods, the police take a near neighbour, who has himself probably hidden some of the articles, to make a search, and the witness says in Court that the articles were not found there ? Would my friend be satisfied because of the law that the search witnesses must be from the immediate neighbourhood ? I, therefore, submit with great respect that this also should be rejected by the House.

Then comes the other thing : " No evidence other than the list drawn up in accordance with the provisions. . . . " That, I submit, is also inadvisable, because there must be evidence of identity of goods. The owner must have to say : " These are the things which belonged to me ". As I have said with regard to the previous provision, the cause of justice must be protected and if you shut out evidence which is relevant and which may lead to the discovery of the criminal, I think, for the peaceful public, it would be a calamity.

Then comes clause 7. The inexpediency of this provision has been pointed out by Members whose experience has been that of magistrates. It may be asked, what is the harm if the culprit is taken to the magistrate's house at a time when he was not sitting in Court. The law provides that the accused must be produced before the magistrate. In another capacity I know that application for bail had come to me when I was in my bath, as it was a holiday. I had to do this sort of work more than once and others like me had to do this. I do not think there is any harm in that. But if the magistrate shirks his work or acts illegally, is it the fault of the law, or the fault of the man ? I do not think, therefore, that there is any charm in saying that the man must go to the Court, sit there in all his glory, probably at a time when the Court has dissolved and there is nobody there. However, Sir, I submit that there is no harm if the accused is taken to the magistrate's house. The Sardar Sahib has stated that sometimes the magistrate does not care for the accused being brought before him. That

[Sir Bepin Behary Ghose.]

would be a serious breach of the law, because the section provides that the accused should be brought before him. Now, if there is a dishonest magistrate, the law should not be changed, but the dishonest magistrate should be chucked out. Then, as to the net proposal, any magistrate worth his salt would not refuse to hear the accused or his counsel. So far as my experience goes, I think they hear him, but seldom listen to his prayer. That is another thing. But what would be the effect of this addition if the magistrate says "Oh, stop, that is sufficient"? Therefore, I submit, it is useless to add clause after clause to an old Procedure Code which has been in existence for years and years. If magistrates do such wrong things, as stated, they should be set right.

With regard to clause 8, my learned friend himself pointed out, it is useless. I submit, if a magistrate issues a warrant in a case which is not a warrant case, he has the inherent right of recalling the warrant and issuing a summons as soon as it is pointed out to him that he has issued a warrant where it ought not to have been issued. Why should he not recall it and issue summons? In warrant cases discretion has not been allowed to the magistrate. Probably the legislators of those days thought that they should not trust the magistrates. I hope my friend, the Sardar Sahib, will excuse me for saying this, if he is accused of an offence for which a warrant should be issued....

Mr. Amar Nath Dutt (Burdwan Division : Non-Muhammadian Rural) : He was once.

The Honourable Sir Bepin Behary Ghose : I think there will be no magistrate in his province who would not desire to dispense with his personal appearance because of his position. He is a leading practitioner in the Courts and they would do so, but the Legislature thought that this privilege should not be allowed to people who have been accused of an offence for which a warrant has to be issued. I submit, therefore, the very power which is inherent in every Court to correct mistakes would always be exercised by the magistrates, if they issue a warrant under misapprehension, but if they issue a warrant rightly, I should think that the personal attendance should not be dispensed with. There are often cases in which the accused is very rich and has been accused of a grave offence. Now, if the magistrate, after issuing a warrant, because of the wealth of the accused dispenses with his personal attendance, I for one, as a peaceful inhabitant of the country, would object.

I now come to clause 9. Here I must say that my Honourable friends, who have spoken in support of the motion, have actually gone wrong. Under section 70 of the Penal Code, the Court is empowered to sentence an accused person in a fit case to imprisonment in addition to a fine. Out of the fine it is sometimes necessary to allow compensation to the complainant. One very bad case was cited in this House by Mr. Seaman. There a girl was molested and the accused was sentenced to imprisonment in addition to fine and compensation was awarded to the complainant. That man elected to serve the term of imprisonment although he had money. Would it be wrong in such a case to get money out of that person? A special reason has to be cited by the magistrate in such a case. If my friend, the landlord's representative here, has a troublesome tenant who would not pay up the rents, what does he do? He sends an elephant to break up the house of the tenant.

Mr. D. K. Lahiri Chaudhury (Bengal : Landholders) : I contradict that statement.

The Honourable Sir Bepin Behary Ghose : My friend may not do it. His *gumasta* or agent may do it, and suppose he is sentenced to imprisonment as well as payment of the fine. The magistrate knows that the fine will be paid by the master. If the man does not pay and works out his term of imprisonment and the tenant's house has been damaged, then what happens ? My friend, the Kumar, probably lives in a primitive place. I may suppose his people exercise this power more frequently than does my friend, Mr. Lahiri Chaudhury.

Kumar G. R. Roy (Surma Valley *cum* Shillong : Non-Muhammaadan) : Not at all. Those days are over.

The Honourable Sir Bepin Behary Ghose : My friends will excuse me, I state as hypothetical cases. I submit this is a salutary provision. My Honourable friend, the Mover, speaks of the poor man being oppressed, but the accused is not always poor and the complainant may be poorer than his prospective clients. The complainant is entitled to some consideration in some cases and if the accused chooses to serve his term of imprisonment instead of paying the fine, although rich enough to do so, on account of spite, the magistrate should always have the power to realise the fine to award compensation which would go to the benefit of the complainant. When another Honourable friend said that the person's *lota* or his *thali* is being attached time after time, there must be some special reasons which the magistrate gave. There must be some special reasons, otherwise the magistrate has got no power. I submit, therefore, that the House should not accept even this amendment. I will not take much more time of the House. As I said, I am not a practised speaker and, therefore, I want the indulgence of the House. I am sorry if I have offended any Honourable Member by taking the time of the House. (*Honourable Members* : "Not at all.")

With regard to the 10th clause, I have nothing further to add except this that if any magistrate has instituted the proceedings under section 107 or 110, would he hear the appeal himself ? I cannot possibly think that there would be such a man as that. As one of the speakers on the previous occasion pointed out, in every town now there are Sub-Divisional Magistrates and they initiate proceedings and the appeal goes to the District Magistrate. If the Sessions Judge were to be drowned with appeals for these trivial things, his Court will be hampered in the disposal of his more important cases.

Then, Sir, there is a small provision in section 111. It is to give a right of appeal in every trivial case. Now, I would ask the Honourable the Mover if there is any use in prolonging the agony. It may be that a rich man may go up to the Privy Council as it recently happened when a person was awarded a short sentence of simple imprisonment. He went up to the Privy Council to appeal. Of course, his counsel got a considerable fee for his pleasure trip, as my friends on the other side said on another occasion.

Mr. S. C. Sen (Bengal National Chamber of Commerce : Indian Commerce) : In this case too there was a pleasure trip.

The Honourable Sir Bepin Behary Ghose : That is what I say. There was a pleasure trip and my friend, Mr. Sen, knows the instance. Therefore, I submit that it is useless to give the right of appeal in every small case. Where there is a wrong thing done by the magistrate, there is a power of revision. I remember a case in which a magistrate fined a person Rs. 10 for cutting off the tail of the cow, because it had entered the shed of his cows and eaten their fodder. So he took a *dah* and cut off the tail of the offending cow. The owner of the cow prosecuted him and the magistrate sentenced him to a fine of Rs. 10. He went up to the District Judge who referred the case to the High Court. There is ample opportunity for setting matters right. I submit, therefore, it is no use giving the right of appeal in trivial cases. If I have taken more time of the House than I should I apologize. (Applause.)

Sardar Sant Singh : Sir, I must confess that I have listened with great interest the maiden speech of the Honourable the Law Member which was very interesting as well as humorous.

[At this stage Mr. President (The Honourable Sir Shanmukham Chetty) vacated the Chair which was occupied by Mr. Deputy President (Mr. Abdul Matin Chaudhury).]

The way in which he started disclaiming any title to rhetoric or eloquence gave greater zest to the speech as it proceeded from clause to clause. I must also congratulate my friend, Mr. Cox, on his interesting maiden speech. At the same time, I regret that the speeches of those gentlemen who adorn the Treasury Benches have not convinced me that they are on the right. My effort to introduce reform in the current criminal procedure of the land, according to my own lights, no doubt, was not actuated by any motive which has been assigned to me by the nominated officials and non-official Members. I would presently discuss purely from the jurist's point of view and show that my amendments are in consonance with the principles of British jurisprudence taught to me in the Law College and which principles have been a guiding light to me in my career at the Bar. One Honourable Member claimed experience extending over 31 years as District Magistrate and other higher positions. But I may as well humbly submit that I too have been practising at the Bar from the 1st July, 1908, up till now. I do not want to lay any claim to anything, but I do want to submit for the consideration of this House that my practice has neither been mean nor of a routine kind. I have kept my eyes and ears open. I have studied the magistrates and I have studied the members of the Bar and have been closely watching the working of the Criminal Procedure Code. When I was elected to this House, I was persuaded to place before the Honourable Members certain defects in the criminal procedure of the land.

Sir, dealing with the merits of my Bill, I submit that certain objections have been raised to its provisions. The first of these objections is that there is no common principle running throughout the various clauses of the Bill. I may point out at the outset that this Bill claims to amend a procedure Bill and there can be no principle in the procedure Bill. Such a Bill can only be confined to the process of litigation and what course litigation is to run. It does not deal with substantive rights or wrongs, it only deals with the process that leads to the enforcement of those rights or the dispensation of justice as the jurisprudence calls it. How

can you expect a uniform principle to run through the various clauses of the Bill? If there is any principle that runs throughout the Bill, it is that the process of litigation, the process by which rights are enforced or crimes punished and justice administered, should be the same and based on the same principles which find a place in the British jurisprudence after the experience and wisdom of ages. The different provisions dealing with different methods must contain a principle, each clause is a principle in itself and that is the principle of the whole Bill. Therefore, I have no apology to offer that the Bill does not contain a uniform principle throughout all the clauses.

The second objection is that it betrays distrust of the police and of the judiciary. Really I have not been able to follow Honourable Members who come forward with such an argument, because, to me, it is an elementary principle of British jurisprudence and the preliminary chapters of a text on jurisprudence will tell you the distinction between Courts of law and Courts of justice. No civilised Government at this time of the day claims that Courts of law are Courts of justice. The fact is that the law takes the place of individual discretion and places in the forefront of jurisprudence the accumulated wisdom of the Legislature in preference to the wisdom of the individual person who happens to preside over the Court at a particular time. I will strengthen my argument by reading out from the book of jurisprudence of Sir John Salmond under the heading "Justice according to Law", where the whole subject has been thoroughly discussed :

"For this reason we require in great part to exclude judicial discretion by a body of inflexible law. For this reason it is that in no civilised community do the judges and magistrates, to whom is entrusted the duty of maintaining justice, exercise with a free hand the *vis boni arbitrium*. The more complex our civilisation becomes, the more needful is its regulation by law, and the less practicable the alternative method of judicial procedure."

If the Honourable Members would take the trouble of reading this Chapter, they will find that the one principle which has been emphasized by the learned jurist is that individual discretion is a dangerous thing and it must be regulated by legislative rules and laws. When we come to enact a certain provision in order to restrict individual discretion and replace it by the discretion that has been laid down in the form of rigid law, we do not distrust the magistrate, we do not distrust the judiciary, but rather we assist such public officers. We bring to their notice the accumulated wisdom of the legislatures and ask them to prefer it to their individual common sense and wisdom. Apart from whatever opinion I may hold about the administration of justice by weak or timid judges, I may submit that whenever a certain measure is introduced in the legislature, with a view to checking the individual discretion, it does not betray any distrust in the magistracy. I think I have made this point clear. Therefore, the objection that my Bill betrays a distrust of the magistrates is absolutely unfounded. Every restriction that you place in the exercise of a right and in the methods in which that discretion is to be exercised would not be a distrust of the magistrate. Let there be no misunderstanding on this point and let nobody be frightened that I am casting a slur upon the body of public men who are charged with the administration of justice. If I am doing anything, I am trying to help the administration in making their place permanent in this land by administering real justice and by creating confidence in the administration of justice than I am trying to destroy that confidence. Therefore, this portion of the objection I do not take seriously.

[Sardar Sant Singh.]

I will now deal with the merits of the Bill as I have tried to place before the House. The first point which my Bill aims at reforming is to make the law uniform for the whole of India by repealing section 30, Criminal Procedure Code, and incidental amendments of sections that follow later on. It has been pointed out by those Honourable Members who sit on this side of the House that it is an anomaly in these days to have magistrates with enhanced powers where they can punish a man to a long term imprisonment with probably not a qualification enough to administer that justice. We say the highest Court should be charged with dealing with those crimes where the crimes are grave or the justice demands that more calm and cool consideration should be given to the examination of the case as it is brought before them. The Honourable the Law Member has started by paying a tribute to the Punjab, that they were a brave people. He was giving by the right hand which, soon after, he took away by the left. Probably the left never knew what the right was giving. At one time he eulogised the bravery of the Punjabis and at the same time condemned them as violent criminals.

The Honourable Sir Bepin Behary Ghose : If not tempered by the humanitarian influence of education.

Sardar Sant Singh : I bow to the experience and wisdom of the Honourable Member and, I say, whether it is tempered by humanitarian conditions or not, the fact remains that the Punjabis do stand in need of being done justice in the same way as the Bengali does. If my Honourable

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friend wants for Bengal that justice should be administered by the highest tribunals, why he should grudge the same right to the Punjab is incomprehensible to me. I will certainly bow to my Honourable friend if he comes forward with the provision for deleting all those clauses where trial by jury is claimed by non-Indian subjects living in this land. Why do they attach so much importance to jury trial and trial by judges of a particular status? It is a right which every individual has inherent in himself that justice shall be done to him in accordance with law. When I say that section 30 magistrates have multiplied like mushrooms in the Punjab, I mean that I have a genuine grievance. If any Honourable Member of Government, who has not come in contact with the system of justice as actually administered, is prepared to and visit *incognito* the Court of a section 30 magistrate, he will be able to judge for himself what justice is administered there. He will come out of the Court room with only one opinion that it is more of a fish market or a vegetable market than a Court of justice. I remember, that Mr. Ramsay Macdonald visited the Court of a section 30 magistrate at Delhi and he sent a *chit* probably to some higher authority that he had visited a fish market and not a Court of justice. I challenge any gentleman who may come with me to these Courts to say that justice is administered there. If I am permitted to draw the picture of a so-called Court of justice, I will paint it like this. You see a magistrate sitting in the middle of a table : on his right sits his reader and on his left his stenographer with a typewriter in front of him. The witness stands in the front making what is, in most cases, a tutored version. The Public Prosecutor, with a posse of Police Officers behind him, goes on dictating what he thinks. The witness is deposing and the defence counsel continues disputing the correctness of the facts as dictated. The magistrate meanwhile

is busy signing a bundle of papers brought to him by a *chaprasi*. The Reader is busy making a bargain with a poor litigant. Yet everybody believes that justice is being administered. It is very easy to sit here in arm chairs and say that justice is administered. We are asked, Sir, always to respect the judgments of the judicial tribunals. I quite concede that no administration can run for a single moment unless it respects the judgments of its Courts. That is one of the fundamental and essential conditions of civilised administration. But, at the same time, is it not the duty of the administrator to see that more powers are not given to an undeserving judiciary? My Honourable friend, the Law Member, says that a circular has been issued to all Local Governments by the Government of India that powers should be given after three years' experience at the Bench as first class magistrates. But if you appoint committees of inquiry to look into the judgments of so-called first class magistrates,—committees manned by British jurists who are not imbued with any political bias to examine these judgments, I am sure, such a committee is sure to recommend that most of the present day magistrates should be deprived of their powers than be given enhanced powers. In the Punjab, I have seen during the last two years that new I. C. S. gentlemen, with only a couple of year's training, have been appointed as Sessions Judges. How can they be expected to administer justice in accordance with law? It is the lawyers alone who know how difficult it is to understand and weigh the facts of a particular case. My friend has got experience, and I appeal to that experience when I say, can you possibly expect a new gentleman, however eminent he may be in intellectual training, coming fresh from college and fresh from a foreign country to rightly judge the conditions in this country? Can my Honourable friend deny that posts of Sessions Judges and Additional Sessions Judges have been given to fresh youngsters coming out from college? They do not know what the difference between relevant and irrelevant fact is. I remember I was once cross-examining a witness and the judge said that it was an unnecessary question. I told the judge that I had read the whole of the Evidence Act and I know of relevant and irrelevant questions, but I had never come across the phrase "unnecessary question". Either he should overrule me on the ground that it is an irrelevant question or allow me to go on as I am the best judge of my client's interests to decide whether it is a necessary question or not. Once a Sessions Judge asked me why I was lengthy in my cross-examination. I told him that I was lengthy, because I could gain a point in favour of my client only when I could successfully outwit the Court, the prosecutor and the witness. If any one of them comes to know what point I am leading to, he will warn the witness to be careful on that point. If the Court sits as a partisan for the prosecution, if the prosecutor does not hesitate to tell the witness in the witness box that he should reply in a particular manner, which in legal language will mean that he encourages him in perjury, the defence counsel cannot but be lengthy in his cross-examination, and circumventing the whole situation before he can be able to gain a point which may help his client. So my submission is that section 30 powers are powers which can only be exercised by eminent judges. They should be fully conversant with legal principles so that they may be able to do justice. How many judges, among those who sit on the benches, are imbued with this idea that justice is to be administered according to law and not according to something which they consider to be justice and which they call substantial or moral justice?

[Sardar Sant Singh.]

Our judges today say that they do substantial justice between man and man. I say, you have no power to sit as preachers and priests and reformers. You are given a certain code of law and you must administer that law according to the directions given in the law itself. But they never care; the District Magistrates encourage them in their wrong notions of their duty. The police openly asserts that in a particular case the man is guilty though they have brought forward false evidence to prove his guilt. The only illuminating judgment that I had the good fortune to read was a judgment of the Allahabad High Court, recently delivered by Mr. Justice Young. That judgment really lays down the true principles as to how justice should be administered. He says, in the course of a judgment and I quote it from memory, that the time has come when the Courts should convict people more of perjury than of crimes which some have committed. These illuminating and noble ideas are at times found in the judicial reports. I wish that it should be a common thing and not an exceptional thing in India. Therefore, I say that section 30 magistrates must cease.

The second ground on which objection is taken is that it will involve the State in heavy expenditure.

Mr. S. C. Mitra (Chittagong and Rajshahi Divisions : Non-Muhammadan Rural) : Do you want this for the Punjab only or for the hill tracts also ? Do you demand it for all ?

Sardar Sant Singh : I demand it for all; I make no exception. I think the poorest man is entitled to justice according to law and not according to the fancies and whims of a particular magistrate. A particular magistrate may do substantial justice, but no civilised Government today can afford to permit administration of justice according to any standard but of law. Everybody is entitled to be governed by a uniform system of law.

Now I come to the second objection that the repeal of section 30, Code of Criminal Procedure, will involve the administration in great expense. My first reply to this argument is that if the same expense can be incurred in Bengal, why should it not be incurred in the Punjab ? But I do not rest my argument alone on this. . . .

The Honourable Sir, Bepin Behary Ghose : Bengal is an insolvent province : probably my Honourable friend does not know it.

Sardar Sant Singh : The second point will clear the idea and that is that the most fundamental and essential function of the State consists in two activities—to defend the country against foreign invasion, and to maintain pure the administration of justice in the country itself. Those are the fundamentals that every jurist has given. A Government can call itself a civilised Government if it administers justice amongst its various peoples. If the State is not prepared to incur expenditure for maintaining justice and for maintaining law and order in the country, that State need not exist. Therefore, I will submit that the expenditure or cost should have no consideration where the question of administration of justice comes in, where the proposition is that people should have full confidence in the administration of justice of these Courts. You can curtail your activities in other respects ; but you cannot afford to curtail your activities in the administration of justice. Therefore, this is no

plea. The Honourable Captain Lal Chand says that nine times the number of cases are disposed of by section 30 magistrate than are disposed of by Sessions Judges—it may be nine times or nine hundred times, I do not care. I claim that every one individual has inherent right that justice should be administered to him in accordance with law. The one well known principle of jurisprudence is that every man should be regarded as innocent until he is proved to be guilty and the other principle is that let 99 guilty men escape, but one innocent should not be punished. The British jurists did not lay down such strict and fundamental principles and conceptions for the mere pleasure of laying down something which excites admiration but they meant them to be followed in administering justice. I wonder how the argument can be advanced that it will involve the State in extra expenditure. Therefore, this position that, by repealing this particular section, a particular province will have to spend more on the administration of justice, does not hold any water.

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

The third point in this connection is that the accused shall have to wait for the disposal of a particular case, because Sessions Judges are pre-occupied. It might be so. After all, to be tried in a manner which convinces the accused that justice has been done to him, which convinces the public that justice has been done to the accused, is more valuable than a few days or hours in the judicial lock-up. Therefore, on this point, the case for the repeal of this section has been clearly made out.

Coming to the other amendments, the first one is about section 103. As I explained in my speech at the time when I moved that this Bill be referred to a Select Committee, I pointed out that I am not wedded to the word "vicinity" at all: the word "neighbourhood" might be used.....

Hony. Captain Rao Bahadur Chaudhri Lal Chand : Or brother-hood !

Sardar Sant Singh : At the same time I made myself very clear. I want that there should be no fabrication of evidence. I never said that I want that the criminal should go free if he has committed a crime. I never advanced that proposition. I never said that, where a person is guilty, he should not be punished. What I said was that he should be punished in accordance with law and on evidence which is not perjured or fabricated. I do not think anybody can take exception to this. I quoted the commentators of section 103 where it was said that the real object of this section is that evidence or incriminating articles should not be planted and that there should be genuine discovery. That is my position. What objection can there be on principle to this point ? Today what happens ? A sub-inspector of police.....

Mr. President (The Honourable Sir Shanmukham Chetty) : The Honourable Member cannot attempt to traverse the whole ground again in detail in replying. No doubt the Honourable the Mover of a motion has got the right of reply, but he must exercise it judiciously.

Sardar Sant Singh : I have to meet the arguments advanced by the other side.....

Mr. President (The Honourable Sir Shanmukham Chetty) : The Honourable Member realises that the House is already handicapped in discussing this motion. There is no particular principle discoverable in the Bill, and, therefore, the Chair said it was very difficult to control the discussion. Especially in his reply the Honourable Member will be well advised just to touch upon the main grounds and not to go into so many details and attempt to cite detailed illustrations in support of them.

Sardar Sant Singh : All right, Sir. I will keep this before my mind. Similarly I may quote in this instance a recent judgment of Mr. Justice Agha Hyder Khan where he disbelieved the evidence of discovery, simply because it was supported by lambardars and zaildars. My main principle is that some way should be discovered by which real truthful evidence will be brought to bear in order to prove the guilt of the accused.

Coming next to section 167, it has been objected that no particular value attaches to the remand being given in Court and not in the house itself. My submission is that what is done today in remand cases is a game of hide and seek. Accused's counsel wants to know why the accused is being detained and what evidence there is so far in the possession of the police ; but the police think that they should find out a way in which the accused's counsel should never know where the accused is going to be produced. This game of hide and seek must be ended. Let us do justice, and justice according to the law. This legal provision should be observed in spirit as well as in letter. That is my point. There is no other point in this.

Coming to the next section 205, it has been agreed that the law, as it stands, is defective ; but it is said that judges find no difficulty in administering it. I only say that the letter of the law may be brought in conformity with the spirit. Here I find myself between two fires ; first of all I was charged with betraying distrust of the magistracy ; and now when I want to raise the dignity of the Court and raise the confidence in the magistrates and plead for more powers to the magistrates, I am charged that this is a trivial matter. However, there is no reason, why should not the law be what the practice is ? It should be the same.

Next comes the amendment of section 386. Here, again, the Honourable the Law Member has charged me with overlooking two kinds of cases. In some cases justice requires that compensation should be given to the aggrieved party, in some cases justice demands that the accused should be punished with fine. I quite concede this. There are cases when grant of compensation to the aggrieved person is in the interest of justice and there are cases when justice demands infliction of fine. I do not deny that ; they are sometimes most necessary. What I say is, we must consider how the same end may be achieved, what is the process by which the compensation should be made effective and the fine should be realised. If you know that a particular person can pay the fine straight-away, issue a warrant, use the forces of the State to realise the fine—I don't say no to it. Let that provision be there, but if you once decide to send him to jail in default of payment of fine and if he has undergone

the punishment in default of the fine, then do not punish him doubly, because double punishment for a single offence is not just. It is a well established proposition that a man who has undergone a sentence for an offence is no longer an offender, he has expiated the crime by undergoing the sentence ; but, in this case the crime follows him like a shadow ; it does not leave him. That is my grievance : therefore, I say, there should be no double punishment.

Next comes the question of forum of appeals in the security case, whether they should be made to the District Magistrates or not. I have already given my reasons in my speech and I do not want to enlarge upon them. This, again, is a distinctive treatment given to the Punjab, and it does not exist in several other provinces. If appeals are heard in Bengal by Sessions Judges, why should it not be so in the Punjab ? After all, there is one Central Government for the whole country, and there should be uniformity in law. It will tend to create greater confidence in the administration of law.

Lastly come a few sections whether right of appeal should be given. I have fully explained this in my Statement of Objects and Reasons. I do not want there should be any anomaly in the administration of justice. A Sessions Judge can remit a fine without limit, but in cases where the fine is less than Rs. 50 and he is of opinion that the conviction is not justified, he must recommend remission of fine to the High Court. This certainly wastes the time of the Courts. Therefore, I appeal to Honourable Members of this House that this Bill is a step forward in the reformation of our legal procedure and they should vote with me in referring it to the Select Committee I have proposed.

Sir, before I close, I wish to say only one word, that in this motion the name of Mr. D. G. Mitchell appears as one of the members of the Select Committee. He is no longer a Member of this House, and, therefore, Sir, with your permission, I want to propose that the name of the Honourable Sir Lancelot Graham be substituted for it.

Mr. President (The Honourable Sir Shanmukham Chetty) : The Chair would first ask the consent of the House whether it agrees to substitute the name of Sir Lancelot Graham in place of Mr. D. G. Mitchell.

The question is :

“ That the name of Sir Lancelot Graham be substituted for that of Mr. D. G. Mitchell.”

The motion was adopted.

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

“ That the Bill further to amend the Code of Criminal Procedure, 1898, be referred to a Select Committee consisting of the Honourable Sir Harry Haig, Sir Hari Singh Gour, Mr. S. C. Mitra, Rao Bahadur B. L. Patil, Mr. Lalchand Navarai, Mr. Abdul Matin Chaudhury, Mian Muhammad Shah Nawaz, Mr. B. R. Puri, Sir Abdur Rahim, Mr. Gaya Prasad Singh, Sir Lancelot Graham, Rao Bahadur S. R. Pandit and the Mover, and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five.”

The Assembly divided :

AYES—27.

Abdoola Haroon, Seth Haji.
 Abdul Matin Chaudhury, Mr.
 Aggarwal, Mr. Jagan Nath.
 Azhar Ali, Mr. Muhammad.
 Das, Mr. A.
 Das, Mr. B.
 Dutt, Mr. Amar Nath.
 Jadhav, Mr. B. V.
 Jha, Pandit Ram Krishna.
 Lahiri Chaudhury, Mr. D. K.
 Lalchand Navalrai, Mr.
 Misra, Mr. B. N.
 Mitra, Mr. S. C.
 Neogy, Mr. K. C.

Parma Nand, Bhai.
 Patil, Rao Bahadur B. L.
 Reddi, Mr. T. N. Ramakrishna.
 Roy, Kumar G. R.
 Sant Singh, Sardar.
 Sarda, Diwan Bahadur Harbilas.
 Sen, Mr. S. C.
 Sen, Pandit Satyendra Nath.
 Shafee Daoodi, Maulvi Muhammad.
 Singh, Mr. Gaya Prasad.
 Sitaramaraju, Mr. B.
 Thampan, Mr. K. P.
 Uppi Saheb Bahadur, Mr.

NOES—49.

Acott, Mr. A. S. V.
 Allah Baksh Khan Tiwana, Khan
 Bahadur Malik.
 Bagla, Lala Rameshwar Prasad.
 Bhore, The Honourable Sir Joseph.
 Bower, Mr. E. H. M.
 Chatarji, Mr. J. M.
 Chimman Lal, Rai Bahadur Lala.
 Clow, Mr. A. G.
 Cox, Mr. A. R.
 Dalal, Dr. R. D.
 Fazal Haq Piracha, Khan Sahib Shaikh.
 Fraser-Tytler, Major W. K.
 Ghose, The Honourable Sir Bepin Behary.
 Graham, Sir Lancelot.
 Grantham, Mr. S. G.
 Haig, The Honourable Sir Harry.
 Harbans Singh Brar, Sirdar.
 Hezlett, Mr. J.
 Hudson, Sir Leslie.
 Ismail Ali Khan, Kunwar Hajee.
 Ismail Khan, Haji Chaudhury Muham-
 mad.
 James, Mr. F. E.
 Jog, Mr. S. G.
 Kamaluddin Ahmad, Shams-ul-Ulema
 Mr.

Lal Chand, Hony. Captain Rao Bahadur
 Chaudhri.
 Lee, Mr. D. J. N.
 Mackenzie, Mr. R. T. H.
 Megaw, Major-General Sir John.
 Millar, Mr. E. S.
 Milligan, Mr. J. A.
 Mitchell, Mr. A.
 Morgan, Mr. G.
 Mukherjee, Rai Bahadur S. C.
 Noyce, The Honourable Sir Frank.
 Rafiuddin Ahmad, Khan Bahadur
 Maulvi.
 Baghubir Singh, Rai Bahadur Kunwar.
 Raisman, Mr. A.
 Rajah, Rao Bahadur M. O.
 Ramakrishna, Mr. V.
 Rastogi, Mr. Badri Lal.
 Rau, Mr. P. R.
 Schuster, The Honourable Sir George.
 Scott, Mr. J. Ramsay.
 Singh, Mr. Pradyumna Prashad.
 Sloan, Mr. T.
 Smith, Mr. R.
 Studd, Mr. E.
 Tottenham, Mr. G. B. F.
 Vazir Muhammad, Khan Bahadur Shaikh
 Yakub.

The motion was negatived.

THE INDIAN COASTAL TRAFFIC (RESERVATION) BILL.

Mr. B. V. Jadhav (Bombay Central Division : Non-Muhammadan Rural) : Sir, I beg to move :

“ That the Bill to reserve the Coastal Traffic of India to Indian Vessels be continued.”

This Bill was introduced in the Assembly and a motion for referring it to a Select Committee was tabled on two occasions, but it could not be moved and, according to the Standing Orders, it has lapsed. I, therefore, make this motion that the House may give me permission to continue the Bill. It is a very important measure, in the interests of the country and I, therefore, request that permission may be granted.

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

“ That the Bill to reserve the Coastal Traffic of India to Indian Vessels be continued.”

The motion was adopted.

Mr. Gaya Prasad Singh (Muzaffarpur *cum* Champaran : Non-Muhammadan) : As all the opinions on this Bill have not yet been received, I do not want to make the motion* today.

Mr. Gaya Prasad Singh (Muzaffarpur *cum* Champaran : Non-Muhammadan) : I do not want to make the motion† today.

THE HINDU WIDOWS' RIGHT OF MAINTENANCE BILL.

Diwan Bahadur Harbilas Sarda (Ajmer-Merwara : General) : Sir, I move :

“ That the Bill to fix the amount of maintenance to which Hindu widows are entitled, be referred to a Select Committee consisting of the Honourable the Law Member, the Honourable Sir Harry Ilgig, Sir Hari Singh Gour, Sir Abdur Rahim, Mr. C. S. Banga Iyer, Pandit Ram Krishna Jha, Mr. Muhammad Yamin Khan, Mr. N. M. Joshi, Mr. A. Das, Mr. S. C. Mitra, Mr. B. R. Puri and the Mover, with instructions to report by the 25th January, 1934, and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five.”

In commending this motion to the favourable consideration of the House, I only wish to say that the object of this Bill is only to ameliorate the lot of the widows. With that object I introduced, in 1929, a Bill which was called the Hindu Widows' Right of Inheritance Bill. That Bill proposed to give a share to the Hindu widows in the

*“ That the Bill to provide for the protection of the names ‘ Khaddar ’ and ‘ Khadi ’ used as trade descriptions of cloth spun and woven by hand in India, be taken into consideration.”

†“ That the Bill to abolish the punishment of death for offences under the Indian Penal Code be circulated for the purpose of eliciting opinion thereon.”

[Diwan Bahadur Harbilas Sarda.]

family and personal properties of their deceased husbands. That Bill did not commend itself to the acceptance of this House, because the Honourable the Law Member, who is the keeper of the legal conscience of the Government of India, opposed it and said that the provision to give the widows a share in property cuts across the Hindu law of inheritance; the Hindu law of inheritance is to him sacrosanct.

Convinced that no Bill would be able to pass this Assembly at the present time, unless it has either the support of the Government or it is able to persuade Government to adopt towards it an attitude of benevolent neutrality, I approached the Law Member and asked him to suggest to me lines on which a Bill should be drawn up, which would aim at ameliorating the lot of the widows and yet be acceptable or at least not unacceptable to the Government of India. He kindly gave me certain suggestions and put them in writing. On those suggestions I have drawn up this Bill, and the provisions of this Bill strictly follow those suggestions. I have not swerved an inch either this way or that.

The principle of the Bill is not a new one. The Hindu Law gives the Hindu widow a right of maintenance and this Bill does nothing more than set up a standard for the purpose.

The Hindu Widows' Right of Inheritance Bill was widely circulated and opinions were received. They were circulated to Members. There was a consensus of opinion with regard to the fact that the lot of Hindu widows was very unsatisfactory and in some cases deplorable, considering that they inherit nothing either from their paternal estate or from their deceased husbands' property. In some quarters, however, an objection was raised that no right of inheritance, that is a share in property, should be given to the widows. This Bill, which I am asking the House to consider favourably, does not give any share in property to the widow. That was the chief objection raised by some people when that Bill was circulated. That objection too now disappears and, therefore, it is quite unnecessary to circulate this Bill.

Even such an orthodox gentleman as my Honourable friend, Pandit Ram Krishna Jha, has introduced a Bill with the same object and with nearly the same provisions as this Bill. Therefore, there can be no objection to referring it to a Select Committee. By circulating it we will only be delaying taking even the first step in doing justice to a very deserving and helpless class of women.

There is no standard at present to guide judges in fixing the amount of maintenance. This Bill only furnishes a standard for that purpose. As I have said, it does not cut across the law of inheritance and, as it fully conforms to the views expressed when public opinion was taken on the former Bill, I appeal to the Honourable Members that they will consider my motion favourably and refer it to a Select Committee. With these words, I commend my motion to the consideration of this August House.

The Assembly then adjourned till Quarter Past Twelve on Wednesday, the 30th August, 1933.